

House Study Bill 145

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An act relating to the conference of eligibility on and
2 conditions of eligibility for individuals for certain programs
3 under the purview of the department of human services.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1234DP 82
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1 1 Section 1. Section 249A.3, subsection 2, paragraph a, Code
2 2007, is amended to read as follows:

1 3 a. As allowed under 42 U.S.C. } 1396a(a)(10)(A)(ii)(XIII),
1 4 individuals with disabilities, who are less than sixty-five
1 5 years of age, who are members of families whose income is less
1 6 than two hundred fifty percent of the most recently revised
1 7 official poverty guidelines published by the United States
1 8 department of health and human services for the family, who
1 9 have earned income and who are eligible for medical assistance
1 10 or additional medical assistance under this section if
1 11 earnings are disregarded. As allowed by 42 U.S.C. }
1 12 1396a(r)(2), unearned income shall also be disregarded in
1 13 determining whether an individual is eligible for assistance
1 14 under this paragraph. For the purposes of determining the
1 15 amount of an individual's resources under this paragraph and
1 16 as allowed by 42 U.S.C. } 1396a(r)(2), a maximum of ten
1 17 thousand dollars of available resources shall be disregarded,
1 18 and any additional resources held in a retirement account, in
1 19 a medical savings account, or in any other account approved
1 20 under rules adopted by the department shall also be
1 21 disregarded. Individuals eligible for assistance under this
1 22 paragraph, whose individual income exceeds one hundred fifty
1 23 percent of the official poverty guidelines published by the
1 24 United States department of health and human services for an
1 25 individual, shall pay a premium. The amount of the premium
1 26 shall be based on a sliding fee schedule adopted by rule of
1 27 the department and shall be based on a percentage of the
1 28 individual's income. The maximum premium payable by an
1 29 individual whose income exceeds one hundred fifty percent of
1 30 the official poverty guidelines shall be commensurate with the
1 31 cost of state employees' group health insurance in this state.
1 32 The payment to and acceptance by an automated case management
1 33 system or the department of the premium required under this
1 34 paragraph shall not automatically confer initial or continuing
1 35 program eligibility on an individual. A premium paid to and
2 1 accepted by the department's premium payment process that is
2 2 subsequently determined to be untimely or to have been paid on
2 3 behalf of an individual ineligible for the program shall be
2 4 refunded to the remitter in accordance with rules adopted by
2 5 the department.

2 6 Sec. 2. Section 249A.6, Code 2007, is amended to read as
2 7 follows:

2 8 249A.6 ASSIGNMENT == LIEN.

2 9 1. a. As a condition of eligibility for medical

2 10 assistance, a recipient who has the legal capacity to execute
2 11 an assignment shall do all of the following:

2 12 (1) Assign to the department any rights to payments of
2 13 medical care from any third party.

2 14 (2) Cooperate with the department in obtaining payments
2 15 described in paragraph "a".

2 16 (3) Cooperate with the department in identifying and
2 17 providing information to assist the department in pursuing any
2 18 third party who may be liable to pay for medical care and

2 19 services available under the medical assistance program.

2 20 b. Any amount collected by the department through an

2 21 assignment shall be retained by the department as

2 22 reimbursement for medical assistance payments.

2 23 ~~1- 2.~~ When payment is made by the department for medical
2 24 care or expenses through the medical assistance program on
2 25 behalf of a recipient, the department shall have a lien, to
2 26 the extent of those payments, upon all monetary claims which
2 27 the recipient may have against third parties. A lien under
2 28 this section is not effective unless the department files a
2 29 notice of lien with the clerk of the district court in the
2 30 county where the recipient resides and with the recipient's
2 31 attorney when the recipient's eligibility for medical
2 32 assistance is established. The notice of lien shall be filed
2 33 before the third party has concluded a final settlement with
2 34 the recipient, the recipient's attorney, or other
2 35 representative. The third party shall obtain a written
3 1 determination from the department concerning the amount of the
3 2 lien before a settlement is deemed final for purposes of this
3 3 section. A compromise, including but not limited to a
3 4 settlement, waiver or release, of a claim under this section
3 5 does not defeat the department's lien except pursuant to the
3 6 written agreement of the director or the director's designee.
3 7 A settlement, award, or judgment structured in any manner not
3 8 to include medical expenses or an action brought by a
3 9 recipient or on behalf of a recipient which fails to state a
3 10 claim for recovery of medical expenses does not defeat the
3 11 department's lien if there is any recovery on the recipient's
3 12 claim.

3 13 ~~2- 3.~~ The department shall be given notice of monetary
3 14 claims against third parties as follows:

3 15 a. Applicants for medical assistance shall notify the
3 16 department of any possible claims against third parties upon
3 17 submitting the application. Recipients of medical assistance
3 18 shall notify the department of any possible claims when those
3 19 claims arise.

3 20 b. A person who provides health care services to a person
3 21 receiving assistance through the medical assistance program
3 22 shall notify the department whenever the person has reason to
3 23 believe that third parties may be liable for payment of the
3 24 costs of those health care services.

3 25 c. An attorney representing an applicant for or recipient
3 26 of assistance on a claim upon which the department has a lien
3 27 under this section shall notify the department of the claim of
3 28 which the attorney has actual knowledge, prior to filing a
3 29 claim, commencing an action or negotiating a settlement offer.
3 30 Actual knowledge under this section shall include the notice
3 31 to the attorney pursuant to subsection ~~1- 2.~~

3 32 The mailing and deposit in a United States post office or
3 33 public mailing box of the notice, addressed to the department
3 34 at its state or district office location, is adequate legal
3 35 notice of the claim.

4 1 ~~3- 4.~~ The department's lien is valid and binding on an
4 2 attorney, insurer, or other third party only upon notice by
4 3 the department or unless the attorney, insurer, or third party
4 4 has actual notice that the recipient is receiving medical
4 5 assistance from the department and only to the extent to which
4 6 the attorney, insurer, or third party has not made payment to
4 7 the recipient or an assignee of the recipient prior to the
4 8 notice. Payment of benefits by an insurer or third party
4 9 pursuant to the rights of the lienholder in this section
4 10 discharges the attorney, insurer, or third party from
4 11 liability to the recipient or the recipient's assignee to the
4 12 extent of the payment to the department.

4 13 ~~4- 5.~~ If a recipient of assistance through the medical
4 14 assistance program incurs the obligation to pay attorney fees
4 15 and court costs for the purpose of enforcing a monetary claim
4 16 upon which the department has a lien under this section, upon
4 17 the receipt of the judgment or settlement of the total claim,
4 18 of which the lien for medical assistance payments is a part,
4 19 the court costs and reasonable attorney fees shall first be
4 20 deducted from this total judgment or settlement. One-third of
4 21 the remaining balance shall then be deducted and paid to the
4 22 recipient. From the remaining balance, the lien of the
4 23 department shall be paid. Any amount remaining shall be paid
4 24 to the recipient. An attorney acting on behalf of a recipient
4 25 of medical assistance for the purpose of enforcing a claim
4 26 upon which the department has a lien shall not collect from
4 27 the recipient any amount as attorney fees which is in excess
4 28 of the amount which the attorney customarily would collect on
4 29 claims not subject to this section.

4 30 5- 6. For purposes of this section the term "third party"
4 31 includes an attorney, individual, institution, corporation, or
4 32 public or private agency which is or may be liable to pay part
4 33 or all of the medical costs incurred as a result of injury,
4 34 disease, or disability by or on behalf of an applicant for or
4 35 recipient of assistance under the medical assistance program.

5 1 6- 7. The department may enforce its lien by a civil
5 2 action against any liable third party.

5 3 Sec. 3. Section 249J.8, subsection 1, Code 2007, is
5 4 amended to read as follows:

5 5 1. Beginning July 1, 2005, each expansion population
5 6 member whose family income equals or exceeds one hundred
5 7 percent of the federal poverty level as defined by the most
5 8 recently revised poverty income guidelines published by the
5 9 United States department of health and human services shall
5 10 pay a monthly premium not to exceed one-twelfth of five
5 11 percent of the member's annual family income, and each
5 12 expansion population member whose family income is less than
5 13 one hundred percent of the federal poverty level as defined by
5 14 the most recently revised poverty income guidelines published
5 15 by the United States department of health and human services
5 16 shall pay a monthly premium not to exceed one-twelfth of two
5 17 percent of the member's annual family income. All premiums
5 18 shall be paid on the last day of the month of coverage. The
5 19 department shall deduct the amount of any monthly premiums
5 20 paid by an expansion population member for benefits under the
5 21 healthy and well kids in Iowa program when computing the
5 22 amount of monthly premiums owed under this subsection. An
5 23 expansion population member shall pay the monthly premium
5 24 during the entire period of the member's enrollment.

5 25 Regardless of the length of enrollment, the member is subject
5 26 to payment of the premium for a minimum of four consecutive
5 27 months. However, an expansion population member who complies
5 28 with the requirement of payment of the premium for a minimum
5 29 of four consecutive months during a consecutive twelve-month
5 30 period of enrollment shall be deemed to have complied with
5 31 this requirement for the subsequent consecutive twelve-month
5 32 period of enrollment and shall only be subject to payment of
5 33 the monthly premium on a month-by-month basis. Timely payment
5 34 of premiums, including any arrearages accrued from prior
5 35 enrollment, is a condition of receiving any expansion

6 1 population services. The payment to and acceptance by an
6 2 automated case management system or the department of the
6 3 premium required under this subsection shall not automatically
6 4 confer initial or continuing program eligibility on an
6 5 individual. A premium paid to and accepted by the
6 6 department's premium payment process that is subsequently
6 7 determined to be untimely or to have been paid on behalf of an
6 8 individual ineligible for the program shall be refunded to the
6 9 remitter in accordance with rules adopted by the department.

6 10 Premiums collected under this subsection shall be deposited in
6 11 the premiums subaccount of the account for health care
6 12 transformation created pursuant to section 249J.23. An
6 13 expansion population member shall also pay the same copayments
6 14 required of other adult recipients of medical assistance.

6 15 Sec. 4. Section 514I.10, Code 2007, is amended by adding
6 16 the following new subsection:

6 17 NEW SUBSECTION. 3. The payment to and acceptance by an
6 18 automated case management system or the department of the
6 19 premium required under this section shall not automatically
6 20 confer initial or continuing program eligibility on an
6 21 individual. A premium paid to and accepted through the
6 22 department's premium payment process that is subsequently
6 23 determined to be untimely or to have been paid on behalf of an
6 24 individual ineligible for the program shall be refunded to the
6 25 remitter in accordance with rules adopted by the department.

6 26 EXPLANATION

6 27 This bill provides that the payment of a premium made under
6 28 the Medicaid, IowaCare, or hawk=i program that is accepted by
6 29 an automated case management system or the department does not
6 30 automatically confer initial or continuing program eligibility
6 31 to an individual. If a premium is paid to and accepted
6 32 through the department's premium payment process and is
6 33 subsequently determined to be untimely or to have been paid on
6 34 behalf of an individual ineligible for the program, the bill
6 35 requires the payment to be refunded to the remitter in
7 1 accordance with rules adopted by the department.

7 2 The bill also provides that as a condition of eligibility,
7 3 a Medicaid recipient who has legal capacity to execute an
7 4 assignment shall assign to the department any rights to
7 5 payments of medical care from any third party, cooperate with

7 6 the department in obtaining such payments, and cooperate with
7 7 the department in identifying and providing information to
7 8 assist the department in pursuing any third party who may be
7 9 liable to pay for medical care and services available under
7 10 Medicaid. Any amount collected by the department through an
7 11 assignment is to be retained by the department as
7 12 reimbursement for Medicaid payments.
7 13 LSB 1234DP 82
7 14 pf:nh/es/88