

House Study Bill 745

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 recovery from third parties liable for health
2 care coverage provided to recipients of medical assistance,
3 and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5468DP 82
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1 1 Section 1. Section 249A.2, Code 2007, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 4A. "Entity" includes but is not limited
4 to a carrier as defined in section 514C.13, health insurer,
5 health maintenance organization as defined in section 514B.1,
6 nonprofit health service corporation as specified in chapter
7 514, self-insured plan, group health plan, service benefit
8 plan, managed care organization, pharmacy benefits manager as
9 defined in section 510B.1, preferred provider organization,
10 professional association or society, trust, pool, union,
11 fraternal benefit society, third-party administrator, and any
12 other party that is, by law, contract, or agreement, legally
13 responsible for payment of a claim for a health care item or
14 service.

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

17 249A.6 ASSIGNMENT == LIEN.

18 1. a. As a condition of eligibility for medical
19 assistance, a recipient who has the legal capacity to execute
20 an assignment shall do all of the following:

21 (1) Assign to the department any rights to payment of
22 medical care and services from any third party.

23 (2) Cooperate with the department in obtaining payments
24 described in subparagraph (1).

25 (3) Cooperate with the department in identifying and
26 providing information to assist the department in pursuing any
27 third party who may be liable to pay for medical care and
28 services available under the medical assistance program.

29 b. Any amount collected by the department through an
30 assignment shall be retained by the department as
31 reimbursement for medical assistance payments.

32 c. An assignment under this subsection is in addition to
33 an assignment of medical support payments under any other law,
34 including section 252E.11.

35 2. When payment is made by the department for medical care
1 or expenses through the medical assistance program on behalf
2 of a recipient, the department shall have a lien, to the
3 extent of those payments, upon all monetary claims which the
4 recipient may have against third parties. A lien under this
5 section is not effective unless the department files a notice
6 of lien with the clerk of the district court in the county
7 where the recipient resides and with the recipient's attorney
8 when the recipient's eligibility for medical assistance is
9 established. The notice of lien shall be filed before the
10 third party has concluded a final settlement with the
11 recipient, the recipient's attorney, or other representative.
12 The third party shall obtain a written determination from the
13 department concerning the amount of the lien before a
14 settlement is deemed final for purposes of this section. A
15 compromise, including but not limited to a settlement, waiver
16 or release, of a claim under this section does not defeat the
17 department's lien except pursuant to the written agreement of
18 the director or the director's designee. A settlement, award,

2 19 or judgment structured in any manner not to include medical
2 20 expenses or an action brought by a recipient or on behalf of a
2 21 recipient which fails to state a claim for recovery of medical
2 22 expenses does not defeat the department's lien if there is any
2 23 recovery on the recipient's claim.

2 24 ~~2- 3.~~ The department shall be given notice of monetary
2 25 claims against third parties as follows:

2 26 a. Applicants for medical assistance shall notify the
2 27 department of any possible claims against third parties upon
2 28 submitting the application. Recipients of medical assistance
2 29 shall notify the department of any possible claims when those
2 30 claims arise.

2 31 b. A person who provides health care services to a person
2 32 receiving assistance through the medical assistance program
2 33 shall notify the department whenever the person has reason to
2 34 believe that third parties may be liable for payment of the
2 35 costs of those health care services.

3 1 c. An attorney representing an applicant for or recipient
3 2 of assistance on a claim upon which the department has a lien
3 3 under this section shall notify the department of the claim of
3 4 which the attorney has actual knowledge, prior to filing a
3 5 claim, commencing an action, or negotiating a settlement
3 6 offer. Actual knowledge under this section shall include the
3 7 notice to the attorney pursuant to subsection ~~†~~ 2.

3 8 The mailing and deposit in a United States post office or
3 9 public mailing box of the notice, addressed to the department
3 10 at its state or district office location, is adequate legal
3 11 notice of the claim.

3 12 ~~3- 4.~~ The department's lien is valid and binding on an
3 13 attorney, insurer, or other third party only upon notice by
3 14 the department or unless the attorney, insurer, or third party
3 15 has actual notice that the recipient is receiving medical
3 16 assistance from the department and only to the extent to which
3 17 the attorney, insurer, or third party has not made payment to
3 18 the recipient or an assignee of the recipient prior to the
3 19 notice. Payment of benefits by an insurer or third party
3 20 pursuant to the rights of the lienholder in this section
3 21 discharges the attorney, insurer, or third party from
3 22 liability to the recipient or the recipient's assignee to the
3 23 extent of the payment to the department.

3 24 ~~4- 5.~~ If a recipient of assistance through the medical
3 25 assistance program incurs the obligation to pay attorney fees
3 26 and court costs for the purpose of enforcing a monetary claim
3 27 upon which the department has a lien under this section, upon
3 28 the receipt of the judgment or settlement of the total claim,
3 29 of which the lien for medical assistance payments is a part,
3 30 the court costs and reasonable attorney fees shall first be
3 31 deducted from this total judgment or settlement. One-third of
3 32 the remaining balance shall then be deducted and paid to the
3 33 recipient. From the remaining balance, the lien of the
3 34 department shall be paid. Any amount remaining shall be paid
3 35 to the recipient. An attorney acting on behalf of a recipient
4 1 of medical assistance for the purpose of enforcing a claim
4 2 upon which the department has a lien shall not collect from
4 3 the recipient any amount as attorney fees which is in excess
4 4 of the amount which the attorney customarily would collect on
4 5 claims not subject to this section.

4 6 ~~5- 6.~~ For purposes of this section the term "third party"
4 7 includes an attorney, individual, institution, corporation, or
4 8 public or private agency which is or may be liable to pay part
4 9 or all of the medical costs incurred as a result of injury,
4 10 disease, or disability by or on behalf of an applicant for or
4 11 recipient of assistance under the medical assistance program.

4 12 ~~6- 7.~~ The department may enforce its lien by a civil
4 13 action against any liable third party.

4 14 Sec. 3. NEW SECTION. 249A.36 HEALTH CARE INFORMATION
4 15 SHARING.

4 16 1. An entity shall provide on a monthly basis to the
4 17 department, in a format determined by the department,
4 18 information necessary to enable the department or entity to
4 19 determine whether a health care coverage recipient of the
4 20 entity is also a recipient of medical assistance. If the
4 21 department determines that a health care coverage recipient of
4 22 an entity is also a recipient of medical assistance, the
4 23 department shall request any additional information or payment
4 24 from the entity as described in subsection 2.

4 25 2. If the department determines that a health care
4 26 coverage recipient of the entity is also a medical assistance
4 27 recipient, the entity shall do all of the following, as
4 28 applicable, by no later than one hundred eighty days after the
4 29 department's request made pursuant to subsection 1:

4 30 a. Pay the department for, or assign to the department any
4 31 right of recovery owed to the entity for, a covered health
4 32 claim for which medical assistance payment has been made.
4 33 b. Pay the claim submitted by the health care coverage
4 34 recipient in lieu of a medical assistance payment of the
4 35 claim.

5 1 c. Respond to any inquiry by the department concerning a
5 2 claim for payment for any health care item or service that is
5 3 submitted no later than three years after the date the health
5 4 care item or service was provided.

5 5 3. An entity shall not deny a payment to the department
5 6 for any claim submitted by the department on any procedural
5 7 basis, including the date of submission of the claim, the type
5 8 or format of the claim form, or a failure to present proper
5 9 documentation at the time the health care item or service that
5 10 is the basis of the claim was provided, if both of the
5 11 following apply:

5 12 a. The claim is submitted to the entity within three years
5 13 of the date that the health care item or service that is the
5 14 subject of the claim was provided.

5 15 b. Any action by the state to enforce its rights under
5 16 this section is commenced within six years of the date that
5 17 the claim was submitted by the state.

5 18 4. If the department determines that a health care
5 19 coverage recipient of an entity is also a medical assistance
5 20 recipient, both of the following provisions shall apply:

5 21 a. The department may use information received under
5 22 subsection 1 to update the medical assistance database
5 23 maintained by the department.

5 24 b. The department shall share with that entity only such
5 25 information necessary for claims adjudication activities or to
5 26 recover erroneous medical assistance payments made.

5 27 5. The department may adopt rules pursuant to chapter 17A
5 28 as necessary to implement this section. Rules governing the
5 29 exchange of information under this section shall be consistent
5 30 with all laws, regulations, and rules relating to the
5 31 confidentiality or privacy of personal information or medical
5 32 records, including but not limited to the federal Health
5 33 Insurance Portability and Accountability Act of 1996, Pub. L.
5 34 No. 104-191, and regulations promulgated in accordance with
5 35 that Act, and published in 45 C.F.R. pts. 160 to 164.

6 1 Sec. 4. Section 488.201, subsection 1, Code 2007, is
6 2 amended by adding the following new paragraph:

6 3 NEW PARAGRAPH. dd. An agreement to cooperate with the
6 4 department of human services in complying with section
6 5 249A.36.

6 6 Sec. 5. Section 488.210, subsection 1, Code 2007, is
6 7 amended by adding the following new paragraph:

6 8 NEW PARAGRAPH. e. (1) The street and mailing address of
6 9 any entity, as defined in section 249A.2, legally responsible
6 10 for payment of a claim for a health care item or service
6 11 provided to a health care coverage recipient of the limited
6 12 partnership or foreign limited partnership.

6 13 (2) A statement agreeing to cooperate with the department
6 14 of human services in complying with section 249A.36.

6 15 (3) The secretary of state shall provide the information
6 16 submitted under this lettered paragraph to the department of
6 17 human services in the format determined by the department of
6 18 human services to enable the department of human services to
6 19 determine whether a health care coverage recipient of the
6 20 limited partnership or foreign limited partnership is also a
6 21 medical assistance recipient pursuant to section 249A.36.

6 22 Sec. 6. Section 490.202, subsection 1, Code Supplement
6 23 2007, is amended by adding the following new paragraph:

6 24 NEW PARAGRAPH. e. A statement agreeing to cooperate with
6 25 the department of human services in complying with section
6 26 249A.36.

6 27 Sec. 7. Section 490.1622, subsection 1, Code 2007, is
6 28 amended by adding the following new paragraph:

6 29 NEW PARAGRAPH. e. (1) The street and mailing address of
6 30 any entity, as defined in section 249A.2, legally responsible
6 31 for payment of a claim for a health care item or service
6 32 provided to a health care coverage recipient of the domestic
6 33 corporation or foreign corporation.

6 34 (2) A statement agreeing to cooperate with the department
6 35 of human services in complying with section 249A.36.

7 1 (3) The secretary of state shall provide the information
7 2 submitted under this lettered paragraph to the department of
7 3 human services in the format determined by the department of
7 4 human services to enable the department of human services to
7 5 determine whether a health care coverage recipient of the

7 6 domestic corporation or foreign corporation is also a medical
7 7 assistance recipient pursuant to section 249A.36.

7 8 Sec. 8. Section 490A.131, subsection 1, Code 2007, is
7 9 amended by adding the following new paragraph:

7 10 NEW PARAGRAPH. e. (1) The street and mailing address of
7 11 any entity, as defined in section 249A.2, legally responsible
7 12 for payment of a claim for a health care item or service
7 13 provided to a health care coverage recipient of the limited
7 14 liability company or foreign limited liability company.

7 15 (2) A statement agreeing to cooperate with the department
7 16 of human services in complying with section 249A.36.

7 17 (3) The secretary of state shall provide the information
7 18 submitted in this lettered paragraph to the department of
7 19 human services in the format determined by the department of
7 20 human services to enable the department of human services to
7 21 determine whether a health care coverage recipient of the
7 22 limited liability company or foreign limited liability company
7 23 is also a medical assistance recipient pursuant to section
7 24 249A.36.

7 25 Sec. 9. Section 490A.303, subsection 1, Code 2007, is
7 26 amended by adding the following new paragraph:

7 27 NEW PARAGRAPH. e. A statement agreeing to cooperate with
7 28 the department of human services in complying with section
7 29 249A.36.

7 30 Sec. 10. Section 496C.21, Code 2007, is amended by adding
7 31 the following new subsection:

7 32 NEW SUBSECTION. 5. a. The street and mailing address of
7 33 any entity, as defined in section 249A.2, legally responsible
7 34 for payment of a claim for a health care item or service
7 35 provided to a health care coverage recipient of the domestic

8 1 professional corporation or foreign professional corporation.
8 2 b. A statement agreeing to cooperate with the department

8 3 of human services in complying with section 249A.36.
8 4 c. The secretary of state shall provide the information

8 5 submitted in this lettered paragraph to the department of
8 6 human services in the format determined by the department of
8 7 human services to enable the department of human services to
8 8 determine whether a health care coverage recipient of the
8 9 professional corporation or foreign professional corporation
8 10 is also a medical assistance recipient pursuant to section
8 11 249A.36.

8 12 Sec. 11. Section 497.22, Code 2007, is amended to read as
8 13 follows:

8 14 497.22 BIENNIAL REPORT == PENALTY.

8 15 1. Section 504.1613 applies to a cooperative association
8 16 organized under this chapter in the same manner as that
8 17 section applies to a corporation organized under chapter 504.
8 18 In addition to the information required to be set forth in the
8 19 biennial report under section 504.1613, the cooperative
8 20 association shall also set forth the total amount of business
8 21 transacted, number of members, total expense of operation,
8 22 total amount of indebtedness, and total profits or losses for
8 23 each calendar or fiscal year of the two-year period which
8 24 ended immediately preceding the first day of January of the
8 25 year in which the report is filed.

8 26 2. a. The cooperative association shall also include in
8 27 the biennial report all of the following:

8 28 (1) The street and mailing address of any entity, as
8 29 defined in section 249A.2, legally responsible for payment of
8 30 a claim for a health care item or service provided to a health
8 31 care coverage recipient of the cooperative association.

8 32 (2) A statement agreeing to cooperate with the department
8 33 of human services in complying with section 249A.36.

8 34 b. The secretary of state shall provide the information
8 35 submitted under this subsection to the department of human
9 1 services in the format determined by the department of human
9 2 services to enable the department of human services to
9 3 determine whether a health care coverage recipient of the
9 4 cooperative association is also a medical assistance recipient
9 5 pursuant to section 249A.36.

9 6 3. A cooperative association which fails to comply with
9 7 this section before April 1 of the year in which the report is
9 8 due is subject to a penalty of ten dollars.

9 9 Sec. 12. Section 498.24, Code 2007, is amended to read as
9 10 follows:

9 11 498.24 BIENNIAL REPORT == PENALTY.

9 12 1. Section 504.1613 applies to a cooperative association
9 13 organized under this chapter in the same manner as that
9 14 section applies to a corporation organized under chapter 504.
9 15 In addition to the information required to be set forth in the
9 16 biennial report under section 504.1613, the cooperative

9 17 association shall also set forth the total amount of business
9 18 transacted, number of members, total expense of operation,
9 19 total amount of indebtedness, and total profits or losses for
9 20 each calendar or fiscal year of the two-year period which
9 21 ended immediately preceding the first day of January of the
9 22 year in which the report is filed.

9 23 2. a. The nonprofit cooperative association shall also
9 24 include in the biennial report all of the following:

9 25 (1) The street and mailing address of any entity, as
9 26 defined in section 249A.2, legally responsible for payment of
9 27 a claim for a health care item or service provided to a health
9 28 care coverage recipient of the nonprofit cooperative
9 29 association.

9 30 (2) A statement agreeing to cooperate with the department
9 31 of human services in complying with section 249A.36.

9 32 b. The secretary of state shall provide the information
9 33 submitted under this subsection to the department of human
9 34 services in the format determined by the department of human
9 35 services to enable the department of human services to

10 1 determine whether a health care coverage recipient of the
10 2 nonprofit cooperative association is also a medical assistance
10 3 recipient pursuant to section 249A.36.

10 4 3. A cooperative association which fails to comply with
10 5 this section before April 1 of the year in which the report is
10 6 due is subject to a penalty of ten dollars.

10 7 Sec. 13. Section 499.40, Code 2007, is amended by adding
10 8 the following new subsection:

10 9 NEW SUBSECTION. 9. A statement agreeing to cooperate with
10 10 the department of human services in complying with section
10 11 249A.36.

10 12 Sec. 14. Section 499.49, Code 2007, is amended to read as
10 13 follows:

10 14 499.49 BIENNIAL REPORT.

10 15 1. Section 504.1613 applies to a cooperative organized
10 16 under this chapter in the same manner as that section applies
10 17 to a corporation organized under chapter 504. In addition to
10 18 the information required to be set forth in the biennial
10 19 report under section 504.1613, the cooperative shall also set
10 20 forth the number of members of the cooperative, the percentage
10 21 of the cooperative's business done with or for its own members
10 22 during each of the fiscal or calendar years of the preceding
10 23 two-year period, the percentage of the cooperative's business
10 24 done with or for each class of nonmembers specified in section
10 25 499.3, and any other information deemed necessary by the
10 26 secretary of state to advise the secretary whether the
10 27 cooperative is actually functioning as a cooperative.

10 28 2. a. The cooperative association shall also include in
10 29 the biennial report all of the following:

10 30 (1) The street and mailing address of any entity, as
10 31 defined in section 249A.2, legally responsible for payment of
10 32 a claim for a health care item or service provided to a health
10 33 care coverage recipient of the cooperative association.

10 34 (2) A statement agreeing to cooperate with the department
10 35 of human services in complying with section 249A.36.

11 1 b. The secretary of state shall provide the information
11 2 submitted under this subsection to the department of human
11 3 services in the format determined by the department of human
11 4 services to enable the department of human services to

11 5 determine whether a health care coverage recipient of the
11 6 cooperative association is also a medical assistance recipient
11 7 pursuant to section 249A.36.

11 8 Sec. 15. Section 501.202, subsection 2, Code 2007, is
11 9 amended by adding the following new paragraph:

11 10 NEW PARAGRAPH. g. A statement agreeing to cooperate with
11 11 the department of human services in complying with section
11 12 249A.36.

11 13 Sec. 16. Section 501.713, subsection 1, Code 2007, is
11 14 amended by adding the following new paragraph:

11 15 NEW PARAGRAPH. e. (1) The street and mailing address of
11 16 any entity, as defined in section 249A.2, legally responsible
11 17 for payment of a claim for a health care item or service
11 18 provided to a health care coverage recipient of the closed
11 19 cooperative.

11 20 (2) A statement agreeing to cooperate with the department
11 21 of human services in complying with section 249A.36.

11 22 (3) The secretary of state shall provide the information
11 23 submitted under this lettered paragraph to the department of
11 24 human services in the format determined by the department of
11 25 human services to enable the department of human services to
11 26 determine whether a health care coverage recipient of the
11 27 closed cooperative is also a medical assistance recipient

11 28 pursuant to section 249A.36.

11 29 Sec. 17. Section 501A.231, subsection 1, Code 2007, is
11 30 amended by adding the following new paragraph:

11 31 NEW PARAGRAPH. e. (1) The street and mailing address of
11 32 any entity, as defined in section 249A.2, legally responsible
11 33 for payment of a claim for a health care item or service
11 34 provided to a health care coverage recipient of the
11 35 cooperative.

12 1 (2) A statement agreeing to cooperate with the department
12 2 of human services in complying with section 249A.36.

12 3 (3) The secretary of state shall provide the information
12 4 submitted under this lettered paragraph to the department of
12 5 human services in the format determined by the department of
12 6 human services to enable the department of human services to
12 7 determine whether a health care coverage recipient of the
12 8 cooperative is also a medical assistance recipient pursuant to
12 9 section 249A.36.

12 10 Sec. 18. Section 501A.503, subsection 1, paragraph a, Code
12 11 2007, is amended by adding the following new subparagraph:

12 12 NEW SUBPARAGRAPH. (6) A statement agreeing to cooperate
12 13 with the department of human services in complying with
12 14 section 249A.36.

12 15 Sec. 19. Section 504.202, subsection 1, Code 2007, is
12 16 amended by adding the following new paragraph:

12 17 NEW PARAGRAPH. f. A statement agreeing to cooperate with
12 18 the department of human services in complying with section
12 19 249A.36.

12 20 Sec. 20. Section 504.1613, subsection 1, Code 2007, is
12 21 amended by adding the following new paragraph:

12 22 NEW PARAGRAPH. f. (1) The street and mailing address of
12 23 any entity, as defined in section 249A.2, legally responsible
12 24 for payment of a claim for a health care item or service
12 25 provided to a health care coverage recipient of the domestic
12 26 nonprofit corporation or foreign nonprofit corporation.

12 27 (2) A statement agreeing to cooperate with the department
12 28 of human services in complying with section 249A.36.

12 29 (3) The secretary of state shall provide the information
12 30 submitted under this lettered paragraph to the department of
12 31 human services in the format determined by the department of
12 32 human services to enable the department of human services to
12 33 determine whether a health care coverage recipient of the
12 34 domestic nonprofit corporation or foreign nonprofit
12 35 corporation is also a medical assistance recipient pursuant to
13 1 section 249A.36.

13 2 Sec. 21. Section 505.25, Code 2007, is amended to read as
13 3 follows:

13 4 505.25 INFORMATION PROVIDED TO MEDICAL ASSISTANCE PROGRAM,
13 5 HAWK=I PROGRAM, AND CHILD SUPPORT RECOVERY UNIT.

13 6 1. A carrier, as defined in section 514C.13, shall enter
13 7 into a health insurance data match program with the department
13 8 of human services for the sole purpose of comparing the names
13 9 of the carrier's insureds with the names of recipients of the
13 10 medical assistance program under chapter 249A, individuals
13 11 under the purview of the child support recovery unit pursuant
13 12 to chapter 252B, or enrollees of the hawk=i program under
13 13 chapter 514I.

13 14 2. An entity as defined in section 249A.2 shall enter into
13 15 a health insurance data match program with the department of
13 16 human services requiring the entity to provide on a monthly
13 17 basis to the department, in the format determined by the
13 18 department, information necessary to enable the department to
13 19 determine whether a health care coverage recipient of the
13 20 entity is also a recipient of medical assistance under chapter
13 21 249A.

13 22 3. The division of insurance of the department of commerce
13 23 shall make information available to the department of human
13 24 services for the purpose of identifying carriers and entities
13 25 subject to the health insurance data match program.

13 26 Sec. 22. EFFECTIVE DATE. This Act takes effect March 1,
13 27 2008.

13 28 EXPLANATION

13 29 This bill provides for the sharing of information between
13 30 entities that have health care coverage information and the
13 31 Iowa Medicaid Enterprise (IME) to determine if a medical
13 32 assistance recipient has third-party coverage through an
13 33 entity that would be responsible for the costs of health care
13 34 services and items which would be provided through the medical
13 35 assistance program.

14 1 The bill defines "entity" for the purpose of identifying
14 2 these third-party payors, provides for the establishment of
14 3 cooperative agreements and information sharing between the

14 4 entities and the IME to enable the IME to determine if a
14 5 health care coverage recipient of the entity is also a medical
14 6 assistance recipient, and provides a process for payment of
14 7 claims by the entities if the health care coverage recipient
14 8 is also a recipient of medical assistance. The bill requires
14 9 business entities, as a requirement of doing business in the
14 10 state, to agree to cooperate with the department of human
14 11 services in sharing information with IME for the purposes of
14 12 this bill.

14 13 The bill requires that, as a condition of eligibility for
14 14 medical assistance, a recipient who has the legal capacity to
14 15 execute an assignment shall assign to the department of human
14 16 services any rights to payments of medical care and services
14 17 from any third party, cooperate with the department in
14 18 obtaining payment, and cooperate with the department in
14 19 identifying and providing information to assist the department
14 20 in pursuing any third party who may be liable to pay for
14 21 medical care and services available under the medical
14 22 assistance program.

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