

# Senate File 249 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1107)

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 1234SV 82  
6 pf/es/88

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1 1 Section 1. Section 249A.3, subsection 2, paragraph a, Code  
1 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 1234SV 82  
7 14 pf:nh/es/88