

JAN 24 2002

HUMAN RESOURCES

HOUSE FILE 2114

BY CARROLL and GREIMANN

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to mental health and developmental disability
2 services and involuntary hospitalization requirements.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
WAIVER SERVICES

Section 1. Section 135C.6, subsection 8, Code 2001, is amended to read as follows:

8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. A residential program ~~which~~ that provides care to not more than ~~four~~ six individuals and receives moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. A total of forty residential care facilities for persons with mental retardation ~~which~~ that are licensed to serve no more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program is subject to the conditions stated in paragraph "a" ~~except that the program shall not serve more than five individuals. The department of human services shall allocate conversion authorizations to provide for eight conversions in each of the department's five service regions.~~

Sec. 2. Section 249A.29, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

1 For purposes of this section and section 249A.30 unless the
2 context otherwise requires:

3 Sec. 3. NEW SECTION. 249A.30 HOME AND COMMUNITY-BASED
4 WAIVER SERVICES REIMBURSEMENT.

5 1. The base reimbursement rate for a provider shall be
6 recalculated at least every three years to adjust for the
7 changes in costs during the immediately preceding three-year
8 period.

9 2. The annual inflation factor used to adjust a provider's
10 reimbursement rate for a fiscal year shall not exceed the
11 percentage increase in the employment cost index for private
12 industry compensation issued by the federal department of
13 labor, bureau of labor statistics, for the most recently
14 completed calendar year.

15 Sec. 4. RULES.

16 1. The department of human services and the mental health
17 and developmental disabilities commission shall adopt new
18 rules or amend or repeal existing rules so that services
19 provided to a person with a developmental disability under
20 provisions of a federally approved medical assistance home and
21 community-based services waiver for persons with mental
22 retardation, supported community living services, and any
23 other funding or program providing support to persons with a
24 developmental disability allows for residential programs to
25 serve not more than six individuals. The rules to be amended
26 or repealed shall include but are not limited to all of the
27 following:

28 a. Supported community living services under 441 IAC
29 78.41(1)(c). In addition, the restrictions in 441 IAC
30 78.41(1)(d), providing that no more than eight consumers shall
31 reside in settings with a maximum of four living units and
32 requiring that in larger settings the majority of living units
33 must be occupied by individuals who do not have a disability,
34 shall be eliminated.

35 b. Supported community living services providers under 441

1 IAC 77.37(14)(e), relating to restrictions on the number of
2 supported community living recipients that may be provided for
3 in a living unit.

4 c. Residential-based supported community living service
5 providers under 441 IAC 77.37(23)(e), relating to a general
6 limit of four beds allowed in a living unit.

7 2. The department of human services and the mental health
8 and developmental disabilities commission shall adopt new
9 rules or amend or repeal existing rules so that services
10 provided under provisions of a federally approved medical
11 assistance home and community-based services waiver for
12 persons with mental retardation allow children who are sixteen
13 years of age or older to utilize supported community living
14 services for community vocational training and support.

15 Sec. 5. IMPLEMENTATION OF ACT. Section 25B.2, subsection
16 3, shall not apply to sections 249A.29 and 249A.30 as amended
17 or enacted by this division of this Act.

18 DIVISION II

19 INTERMEDIATE CARE FACILITIES

20 FOR PERSONS WITH MENTAL RETARDATION

21 Sec. 6. Section 135.63, subsection 4, Code 2001, is
22 amended to read as follows:

23 4. ~~For the period beginning July 17, 1995, and ending June~~
24 ~~30, 1998, the~~ The department shall not process applications
25 for and the council shall not consider a new or changed
26 institutional health service for an intermediate care facility
27 for persons with mental retardation except as provided in this
28 subsection.

29 a. ~~For the period beginning July 17, 1995, and ending June~~
30 ~~30, 1998, the~~ The department and council shall process
31 applications and consider applications if either of the
32 following conditions are met:

33 (1) An institutional health facility is reducing the size
34 of the facility's intermediate care facility for the persons
35 with mental retardation program and wishes to convert an

1 existing number of the facility's approved beds in that
2 program to smaller living environments in accordance with
3 state policies in effect regarding the size and location of
4 such facilities.

5 (2) An institutional health facility proposes to locate a
6 new intermediate care facility for persons with mental
7 retardation in an area of the state identified by the
8 department of human services as underserved by intermediate
9 care facility beds for persons with mental retardation.

10 b. Both of the following requirements shall apply to an
11 application considered under this section:

12 (1) The new or changed beds shall not result in an
13 increase in the total number of medical assistance certified
14 intermediate care facility beds for persons with mental
15 retardation in the state as of July 1, 1994.

16 (2) A letter of support for the application is provided by
17 ~~the director of human services and~~ the county board of
18 supervisors, or the board's designee, in the county in which
19 the beds would be located.

20 Sec. 7. Section 135.64, subsection 4, Code 2001, is
21 amended by striking the subsection.

22 DIVISION III

23 COMMUNITY MENTAL HEALTH CENTERS

24 Sec. 8. MEDICAL ASSISTANCE PROVIDER REQUIREMENTS.

25 Effective July 1, 2002, the department of human services shall
26 revise the medical assistance provider requirements applicable
27 to community mental health centers in the department's policy
28 manuals to implement all of the following:

29 1. Revision of the condition of payment provision relating
30 to services provided by a qualified mental health
31 professional, as defined in section 229.1, and requiring an
32 initial evaluation to include at least one personal interview
33 with a psychiatrist. Under the revision, a qualified staff
34 person must conduct a patient's initial evaluation interview
35 and if the evaluation results indicate a need for a referral

1 for an interview with a psychiatrist, then such a referral
2 shall be required.

3 2. Elimination of the requirement for a patient staffing
4 meeting to be held within four weeks following the date of the
5 patient's initial evaluation interview. Instead, the purpose
6 of this requirement shall be achieved through the peer review
7 process in effect for community mental health centers.

8 3. Make conforming amendments to policy manuals as
9 necessary to implement subsections 1 and 2.

10 DIVISION IV

11 SINGLE ENTRY POINT PROCESS

12 Sec. 9. Section 331.440, subsection 1, Code 2001, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. d. The single entry point process staff in
15 a county shall assist the court with the involuntary
16 hospitalization of persons with mental illness under chapter
17 229.

18 DIVISION V

19 EMERGENCY RULES

20 Sec. 10. EMERGENCY RULES. Rules adopted, amended, or
21 repealed pursuant to this Act shall be processed as emergency
22 rules under section 17A.4, subsection 2, and section 17A.5,
23 subsection 2, paragraph "b", and the rules shall be effective
24 immediately upon filing, unless the effective date is delayed
25 by the administrative rules review committee, notwithstanding
26 section 17A.4, subsection 5, and section 17A.8, subsection 9,
27 or a later date is specified in the rules. Any rules adopted,
28 amended, or repealed pursuant to this Act shall not take
29 effect before the rules are reviewed by the administrative
30 rules review committee. Any rules adopted, amended, or
31 repealed pursuant to this Act shall also be published as a
32 notice of intended action as provided in section 17A.4.

33 EXPLANATION

34 This bill relates to mental health and developmental
35 disability services and involuntary hospitalization

1 requirements including medical assistance waiver services,
2 intermediate care facilities for persons with mental
3 retardation, community mental health centers, and the county
4 single entry point process.

5 Division I of the bill relates to the requirements
6 involving the home and community-based services under the
7 medical assistance program. Code section 135C.6, relating to
8 an exemption from required licensing of a certain type of
9 residential program as a health care facility, is amended.
10 Under current law, a residential program providing care to not
11 more than four individuals and receiving moneys under such a
12 waiver for persons with mental retardation or other medical
13 assistance program is not required to have a health care
14 facility license. The bill increases the number of
15 individuals from four to six.

16 In addition, the bill expands a related provision in
17 current law that allows up to 40 residential care facilities
18 for persons with mental retardation serving not more than five
19 persons to convert to a waiver program facility. The bill
20 would allow those converted facilities to serve up to six
21 individuals and eliminates obsolete language referring to the
22 five regions of the department of human services.

23 Division I of the bill includes new Code section 249A.30,
24 establishing new reimbursement requirements for home and
25 community-based services providers under the medical
26 assistance program. The bill amends Code section 249A.29 to
27 utilize existing definitions for waiver providers in the new
28 section. Under the bill, a waiver provider's base
29 reimbursement rate is required to be recalculated at least
30 every three years. The annual inflation factor used to adjust
31 a waiver provider's reimbursement rate for a fiscal year is
32 limited to the percentage increase in the employment cost
33 index for private industry compensation issued for the most
34 recently completed calendar year by the federal department of
35 labor, bureau of labor statistics. These provisions may

1 include a state mandate as defined in Code section 25B.3. The
2 bill makes inapplicable Code section 25B.2, subsection 3,
3 which would relieve a political subdivision from complying
4 with a state mandate if funding for the cost of the state
5 mandate is not provided or specified. Therefore, political
6 subdivisions are required to comply with any state mandate
7 included in these provisions of the bill.

8 Division I of the bill requires the department of human
9 services and the mental health and developmental disabilities
10 commission to adopt new rules or amend existing rules so that
11 residential services for a person with a developmental
12 disability under the waiver program and other funding or
13 programs for such persons allow residential programs to serve
14 up to six individuals. In addition the bill lists existing
15 rules that must be revised involving supported community
16 living services in order to eliminate restrictions limiting
17 the number of consumers to fewer than allowed by the bill and
18 a requirement that the majority of living units must be
19 occupied by individuals who do not have a disability. In
20 addition, the bill requires a change in waiver rules for
21 persons with mental retardation so that children who are age
22 16 or older may utilize supported community living services
23 for community vocational training and support.

24 Division II of the bill relates to certificate of need
25 requirements for intermediate care facilities for persons with
26 mental retardation (ICFMR). The bill amends Code section
27 135.63, subsection 4, which under current law was only
28 applicable to the period beginning July 1, 1995, and ending
29 June 30, 1998, to make the requirements permanent. In
30 addition the bill eliminates requirements that an ICFMR
31 applicant must have a letter of support from the director of
32 human services and must meet standards for family scale and
33 size, location, and community inclusion in rules adopted by
34 the department of human services.

35 Division III of the bill relates to medical assistance

1 provider requirements involving community mental health
2 centers in the department's policy manual. Effective July 1,
3 2002, the bill directs the department of human services to
4 revise the provision that requires a patient to have an
5 interview with a psychiatrist in order for a qualified mental
6 health professional's services to be reimbursable. The bill
7 instead requires the initial evaluation interview to be
8 performed by a qualified staff person and if that evaluation
9 indicates a need for referral for an interview with a
10 psychiatrist, that referral is required. The bill also
11 provides for elimination of a requirement for a patient
12 staffing meeting to be held within four weeks of the initial
13 interview, providing that this purpose is to be achieved
14 through the peer review process in effect for community mental
15 health centers.

16 Division IV of the bill amends the requirements applicable
17 to the single entry point process established under Code
18 section 331.440 by counties for the delivery of mental health,
19 mental retardation, and developmental disabilities services
20 which are paid for in whole or in part by county funds. The
21 bill requires the single entry point process staff in a county
22 to assist the court with involuntary hospitalization of
23 persons with mental illness under Code chapter 229.

24 Division V of the bill provides that rules adopted,
25 amended, or repealed pursuant to the bill are to be processed
26 through the emergency provisions of Code chapter 17A so that
27 notice and comment periods are not required. However, the
28 rules cannot take effect before the rules are reviewed by the
29 administrative rules review committee. Unless the committee
30 delays the effective date or the rules include a later
31 effective date, the rules take effect immediately upon
32 adoption.

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