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FEB 19 2002

Place On Calendar

HOUSE FILE 2416

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 2114)

Passed House, Date 3-13-02 (p.781) Passed Senate, Date 4-4-02 (p.962)
Vote: Ayes 94 Nays 0 Vote: Ayes 46 Nays 0
Approved 4/22/02

(p.122) re-passed 4-9-02
vote 98-0

A BILL FOR

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

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

HOUSE FILE 2416

H-8277

1 Amend House File 2416 as follows:

2 1. Page 1, line 10, by striking the words "four
3 five" and inserting the following: "four".

4 2. Page 2, by striking line 29 and inserting the
5 following: "serve at least four individuals or the
6 number of individuals authorized by an exception to
7 policy approved by the department. The rules to be
8 amended".

9 3. Page 3, by striking lines 8 through 10.

10 4. Page 4, line 2, by inserting before the word
11 "The" the following: "A copy of the application shall
12 be sent to the department of human services at the
13 time the application is submitted to the Iowa
14 department of public health."

By CARROLL of Poweshiek

H-8277 FILED MARCH 12, 2002

adopted 3-13-02 (p.780)

HF 2416

1 DIVISION I

2 WAIVER SERVICES

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

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

9 ~~a. A residential program which provides Residential~~
10 ~~programs providing care to not more than four five individuals~~
11 ~~and receives receiving moneys appropriated to the department~~
12 ~~of human services under provisions of a federally approved~~
13 ~~home and community-based services waiver for persons with~~
14 ~~mental retardation or other medical assistance program under~~
15 ~~chapter 249A shall not be required to be licensed as a health~~
16 ~~care facility under this chapter. In approving a residential~~
17 ~~program under this paragraph subsection, the department of~~
18 ~~human services shall consider the geographic location of the~~
19 ~~program so as to avoid an overconcentration of such programs~~
20 ~~in an area. In order to be approved under this paragraph~~
21 ~~subsection, a residential program shall not be required to~~
22 ~~involve the conversion of a licensed residential care facility~~
23 ~~for persons with mental retardation.~~

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

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

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

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

7 1. The base reimbursement rate for a provider of services
8 under a medical assistance program home and community-based
9 waiver for persons with mental retardation shall be
10 recalculated at least every three years to adjust for the
11 changes in costs during the immediately preceding three-year
12 period.

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

19 Sec. 4. RULES.

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

32 a. Supported community living services under 441 IAC
33 78.41(1)(c). In addition, the restrictions in 441 IAC
34 78.41(1)(d), providing that no more than eight consumers shall
35 reside in settings with a maximum of four living units and

1 requiring that in larger settings the majority of living units
2 must be occupied by individuals who do not have a disability,
3 shall be eliminated.

4 b. Supported community living services providers under 441
5 IAC 77.37(14)(e), relating to restrictions on the number of
6 supported community living recipients that may be provided for
7 in a living unit.

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

11 2. The department of human services and the mental health
12 and developmental disabilities commission shall adopt new
13 rules or amend or repeal existing rules so that services
14 provided under provisions of a federally approved medical
15 assistance home and community-based services waiver for
16 persons with mental retardation allow children who are sixteen
17 years of age or older to utilize supported community living
18 services for community vocational training and support. In
19 developing the rules, the department and commission shall
20 consult with the department of education, division of
21 vocational rehabilitation services and area education agencies
22 to determine the best approach or approaches to meet the needs
23 of such children for community vocational training and support
24 throughout the school year and summer while maintaining
25 coverage of the training and support under the medical
26 assistance program. The rules shall take effect on or before
27 September 30, 2002.

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

31 DIVISION II

32 INTERMEDIATE CARE FACILITIES

33 FOR PERSONS WITH MENTAL RETARDATION

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

1 4. For the period beginning July 17, 1995, and ending June
2 30, 1998, the The department shall not process applications
3 for and the council shall not consider a new or changed
4 institutional health service for an intermediate care facility
5 for persons with mental retardation ~~except as provided in this~~
6 ~~subsection; unless both of the following conditions are met:~~

7 a. ~~For the period beginning July 17, 1995, and ending June~~
8 ~~30, 1998, the department and council shall process~~
9 ~~applications and consider applications if either of the~~
10 ~~following conditions are met:~~

11 {1} ~~An institutional health facility is reducing the size~~
12 ~~of the facility's intermediate care facility for the persons~~
13 ~~with mental retardation program and wishes to convert an~~
14 ~~existing number of the facility's approved beds in that~~
15 ~~program to smaller living environments in accordance with~~
16 ~~state policies in effect regarding the size and location of~~
17 ~~such facilities:~~

18 {2} ~~An institutional health facility proposes to locate a~~
19 ~~new intermediate care facility for persons with mental~~
20 ~~retardation in an area of the state identified by the~~
21 ~~department of human services as underserved by intermediate~~
22 ~~care facility beds for persons with mental retardation:~~

23 b. ~~Both of the following requirements shall apply to an~~
24 ~~application considered under this section:~~

25 {1} a. The new or changed beds shall not result in an
26 increase in the total number of medical assistance certified
27 intermediate care facility beds for persons with mental
28 retardation in the state as of July 17, 1994, exclusive of
29 those beds at the state resource centers or other state
30 institutions, beyond one thousand six hundred thirty-six beds.

31 {2} b. A letter of support for the application is provided
32 by ~~the director of human services and~~ the county board of
33 supervisors, or the board's designee, in the county in which
34 the beds would be located.

35 Sec. 7. Section 135.64, subsection 4, Code 2001, is

1 amended by striking the subsection.

2

DIVISION III

3

COMMUNITY MENTAL HEALTH CENTERS

4

Sec. 8. MEDICAL ASSISTANCE PROVIDER REQUIREMENTS.

5 Effective July 1, 2002, the department of human services shall
6 revise the medical assistance provider requirements applicable
7 to community mental health centers in the department's policy
8 manuals to implement all of the following:

9 1. Revision of the condition of payment provision relating
10 to services provided by a mental health professional and
11 requiring an initial evaluation to include at least one
12 personal interview with a psychiatrist. Under the revision, a
13 mental health professional, as defined in section 228.1, must
14 conduct a patient's initial evaluation interview and if the
15 evaluation results indicate a need for a referral for an
16 interview with a psychiatrist, then such a referral shall be
17 required.

18 2. Elimination of requirements for holding a patient
19 staffing meeting within four weeks following the date of the
20 patient's initial evaluation interview and for subsequently
21 holding patient staffing meetings every four months. Instead,
22 the purpose of these requirements shall be achieved through
23 the peer review process in effect for community mental health
24 centers.

25 3. Make conforming amendments to policy manuals as
26 necessary to implement subsections 1 and 2.

27

DIVISION IV

28

EMERGENCY RULES

29

Sec. 9. EMERGENCY RULES. Rules adopted, amended, or

30 repealed pursuant to this Act shall be processed as emergency
31 rules under section 17A.4, subsection 2, and section 17A.5,
32 subsection 2, paragraph "b", and the rules shall be effective
33 immediately upon filing, unless the effective date is delayed
34 by the administrative rules review committee, notwithstanding
35 section 17A.4, subsection 5, and section 17A.8, subsection 9,

1 or a later date is specified in the rules. Any rules adopted,
2 amended, or repealed pursuant to this Act shall not take
3 effect before the rules are reviewed by the administrative
4 rules review committee. Any rules adopted, amended, or
5 repealed pursuant to this Act shall also be published as a
6 notice of intended action as provided in section 17A.4.

7

EXPLANATION

8 This bill relates to mental health and developmental
9 disability services requirements including medical assistance
10 waiver services, intermediate care facilities for persons with
11 mental retardation, and community mental health centers.

12 Division I of the bill relates to the requirements
13 involving the home and community-based services under the
14 medical assistance program. Code section 135C.6, relating to
15 an exemption from required licensing of a certain type of
16 residential program as a health care facility, is amended.

17 Under current law, a residential program providing care to not
18 more than four individuals and receiving moneys under such a
19 waiver for persons with mental retardation or other medical
20 assistance program is not required to have a health care
21 facility license. The bill increases the number of
22 individuals from four to five.

23 In addition, the bill deletes a related provision in
24 current law that allows up to 40 residential care facilities
25 for persons with mental retardation serving not more than five
26 persons to convert to a waiver program facility serving not
27 more than five persons.

28 Division I of the bill includes new Code section 249A.30,
29 establishing new reimbursement requirements for home and
30 community-based services providers to persons with mental
31 retardation under the medical assistance program. The bill
32 amends Code section 249A.29 to utilize existing definitions
33 for waiver providers in the new section. Under the bill, such
34 a waiver services provider's base reimbursement rate is
35 required to be recalculated at least every three years. The

1 annual inflation factor used to adjust these waiver services
2 providers' reimbursement rate for a fiscal year is limited to
3 the percentage increase in the employment cost index for
4 private industry compensation issued for the most recently
5 completed calendar year by the federal department of labor,
6 bureau of labor statistics. These provisions may include a
7 state mandate as defined in Code section 25B.3. The bill
8 makes inapplicable Code section 25B.2, subsection 3, which
9 would relieve a political subdivision from complying with a
10 state mandate if funding for the cost of the state mandate is
11 not provided or specified. Therefore, political subdivisions
12 are required to comply with any state mandate included in
13 these provisions of the bill.

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

31 Division II of the bill relates to certificate of need
32 requirements for intermediate care facilities for persons with
33 mental retardation (ICFMR). The bill amends Code section
34 135.63, subsection 4, which under current law was only
35 applicable to the period beginning July 1, 1995, and ending

1 June 30, 1998, to make the requirements permanent. In
2 addition the bill eliminates requirements that an ICFMR
3 applicant must have a letter of support from the director of
4 human services and must meet standards for family scale and
5 size, location, and community inclusion in rules adopted by
6 the department of human services.

7 Division III of the bill relates to medical assistance
8 provider requirements involving community mental health
9 centers in the department of human services' policy manuals.
10 Effective July 1, 2002, the bill directs the department to
11 revise the provision that requires a patient to have an
12 interview with a psychiatrist in order for a mental health
13 professional's services to be reimbursable. The bill instead
14 requires the initial evaluation interview to be performed by a
15 mental health professional as the term is defined in Code
16 chapter 228, relating to psychological information, and if
17 that evaluation indicates a need for referral for an interview
18 with a psychiatrist, that referral is required. The bill also
19 provides for elimination of a requirement for a patient
20 staffing meeting to be held within four weeks of the initial
21 interview and for subsequent staffing meetings every four
22 months, providing that this purpose is to be achieved through
23 the peer review process in effect for community mental health
24 centers.

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

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35

HOUSE FILE 2416

H-8189

- 1 Amend House File 2416 as follows:
- 2 1. Page 3, by striking lines 28 through 30.
- 3 2. By renumbering as necessary.

By KREIMAN of Davis

H-8189 FILED MARCH 5, 2002

W/P 3/13/02

HOUSE FILE 2416

H-8190

- 1 Amend House File 2416 as follows:
- 2 1. Page 4, by striking line 6, and inserting the
- 3 following: "~~subsection.~~"
- 4 2. Page 4, by striking lines 25 through 31 and
- 5 inserting the following:
- 6 "~~(1) The new or changed beds shall not result in~~
- 7 ~~an increase in the total number of medical assistance~~
- 8 ~~certified intermediate care facility beds for persons~~
- 9 ~~with mental retardation in the state as of July 1,~~
- 10 ~~1994.~~
- 11 "~~(2) A unless a letter of support for the~~
- 12 ~~application is provided.~~"

By KREIMAN of Davis

H-8190 FILED MARCH 5, 2002

W/D 3-13-02

HOUSE FILE 2416

H-8288

- 1 Amend the amendment, H-8277, to House File 2416 as
- 2 follows:
- 3 1. Page 1, by inserting after line 14 the
- 4 following:
- 5 " Page 5, by inserting after line 1 the
- 6 following:
- 7 "Sec. . ICFMR CERTIFICATE OF NEED -- FY 2002-
- 8 2003 IMPLEMENTATION. For the fiscal year beginning
- 9 July 1, 2002, and ending June 30, 2003, the health
- 10 facilities council shall not approve applications for
- 11 new or changed institutional health service resulting
- 12 in more than ten new or changed beds for the
- 13 intermediate care facility for persons with mental
- 14 retardation classification.""
- 15 2. By renumbering as necessary.

By CARROLL of Poweshiek
SMITH of Marshall

H-8288 FILED MARCH 13, 2002

adapted 3-13-02 (p. 780)

Legislative Fiscal Bureau

Fiscal Note

HF 2416 - Assistance to Court in Civil Commitments (LSB 5581 HV)
Analyst: Sam Leto (Phone: (515) 281-6764) (sam.letto@legis.state.ia.us)
Fiscal Note Version - New
Requested by Representative Danny Carroll

Description

House File 2416 modifies requirements to obtain Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injured services under the Medical Assistance Program. This Bill requires review of existing policies and rules relating to services provided and reimbursement to providers of the Home and Community-Based Services Waiver Program, the Intermediate Care Facilities for persons with Mental Retardation, and Community Mental Health Centers. The Bill amends the Iowa Code relating to licensing residential programs, and establishes new reimbursement requirements under the Medical Assistance Program.

Assumptions

1. Residential Programs providing care to no more than five individuals under 249A, Code of Iowa, are not required to be licensed as a health facility.
2. The base reimbursement rate for a service provider under the Home and Community-Based waiver for persons with mental retardation shall be recalculated every three years.
3. The annual inflation factor used to adjust provider rates for Supported Community Living and Supported Employment under the Mental Retardation and Brain Injury waiver shall not exceed the percentage increase in the Employment Cost Index for Private Industry Compensation issued by the federal Department of Labor for the most recently completed calendar year.
4. The Bill requires that political subdivisions comply with any State mandate included in the provisions of the Bill.
5. The Bill requires revision of rules involving Supported Community Living Services by eliminating restrictions requiring the majority of living units be occupied by individuals who do not have a disability.
6. The Bill requires changes in waiver rules for persons with Mental Retardation to allow children age 16 and 17 to utilize Supported Community Living Services during the school year and summer months.
7. The total number of beds at certified Intermediate Care Facilities for persons with Mental Retardation in the State, exclusive of beds at the State Resource Centers or other State institutions shall not exceed 1,636 beds. There are 85 beds currently vacant, and all vacant beds would be filled by July 1, 2002.
8. Revises the requirements for Community Mental Health Centers for a patient psychiatric interview and eliminates patient staffing meetings as a condition of reimbursement under Medical Assistance.

Fiscal Impact

House File 2416 will result in increased General Fund costs of between \$900,000 to \$1.3 million annually.

S. 3/13/02 Human Res.
S. 3/14/02 Reassigned to
Loc. Mod.
S. 3/14/02 Do Pass

HOUSE FILE 2416
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 2114)

(As Amended and Passed by the House March 13, 2002)

Passed House, ^(P. 1221) Date 4-8-02 Passed Senate, ^(P. 962) Date 4-4-02
Vote: Ayes 98 Nays 0 Vote: Ayes 46 Nays 0
Approved 4/22/02

A BILL FOR

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

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

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House Amendments _____
Deleted Language *

1 DIVISION I

2 WAIVER SERVICES

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

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

9 ~~a. A residential program which provides Residential~~
10 ~~programs providing care to not more than four individuals and~~
11 ~~receives receiving moneys appropriated to the department of~~
12 ~~human services under provisions of a federally approved home~~
13 ~~and community-based services waiver for persons with mental~~
14 ~~retardation or other medical assistance program under chapter~~
15 ~~249A shall not be required to be licensed as a health care~~
16 ~~facility under this chapter. In approving a residential~~
17 ~~program under this paragraph subsection, the department of~~
18 ~~human services shall consider the geographic location of the~~
19 ~~program so as to avoid an overconcentration of such programs~~
20 ~~in an area. In order to be approved under this paragraph~~
21 ~~subsection, a residential program shall not be required to~~
22 ~~involve the conversion of a licensed residential care facility~~
23 ~~for persons with mental retardation.~~

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

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

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

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

7 1. The base reimbursement rate for a provider of services
8 under a medical assistance program home and community-based
9 waiver for persons with mental retardation shall be
10 recalculated at least every three years to adjust for the
11 changes in costs during the immediately preceding three-year
12 period.

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

19 Sec. 4. RULES.

20 1. The department of human services and the mental health
21 and developmental disabilities commission shall adopt new
22 rules or amend or repeal existing rules so that services
23 provided to a person with a developmental disability under
24 provisions of a federally approved medical assistance home and
25 community-based services waiver for persons with mental
26 retardation, supported community living services, and any
27 other funding or program providing support to persons with a
28 developmental disability allows for residential programs to
29 serve at least four individuals or the number of individuals
30 authorized by an exception to policy approved by the
31 department. The rules to be amended or repealed shall include
32 but are not limited to all of the following:

33 a. Supported community living services under 441 IAC
34 78.41(1)(c). In addition, the restrictions in 441 IAC
35 78.41(1)(d), providing that no more than eight consumers shall

1 reside in settings with a maximum of four living units and
2 requiring that in larger settings the majority of living units
3 must be occupied by individuals who do not have a disability,
4 shall be eliminated.

5 b. Supported community living services providers under 441
6 IAC 77.37(14)(e), relating to restrictions on the number of
7 supported community living recipients that may be provided for
8 in a living unit.

* 9 2. The department of human services and the mental health
10 and developmental disabilities commission shall adopt new
11 rules or amend or repeal existing rules so that services
12 provided under provisions of a federally approved medical
13 assistance home and community-based services waiver for
14 persons with mental retardation allow children who are sixteen
15 years of age or older to utilize supported community living
16 services for community vocational training and support. In
17 developing the rules, the department and commission shall
18 consult with the department of education, division of
19 vocational rehabilitation services and area education agencies
20 to determine the best approach or approaches to meet the needs
21 of such children for community vocational training and support
22 throughout the school year and summer while maintaining
23 coverage of the training and support under the medical
24 assistance program. The rules shall take effect on or before
25 September 30, 2002.

26 Sec. 5. IMPLEMENTATION OF ACT. Section 25B.2, subsection
27 3, shall not apply to sections 249A.29 and 249A.30 as amended
28 or enacted by this division of this Act.

29 DIVISION II

30 INTERMEDIATE CARE FACILITIES

31 FOR PERSONS WITH MENTAL RETARDATION

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

34 4. ~~For the period beginning July 17, 1995, and ending June~~
35 ~~30, 1998, the~~ A copy of the application shall be sent to the

1 department of human services at the time the application is
2 submitted to the Iowa department of public health. The
3 department shall not process applications for and the council
4 shall not consider a new or changed institutional health
5 service for an intermediate care facility for persons with
6 mental retardation ~~except as provided in this subsection:~~
7 unless both of the following conditions are met:

8 a. ~~For the period beginning July 17, 1995, and ending June~~
9 ~~30, 1998, the department and council shall process~~
10 ~~applications and consider applications if either of the~~
11 ~~following conditions are met:~~

12 (1) ~~An institutional health facility is reducing the size~~
13 ~~of the facility's intermediate care facility for the persons~~
14 ~~with mental retardation program and wishes to convert an~~
15 ~~existing number of the facility's approved beds in that~~
16 ~~program to smaller living environments in accordance with~~
17 ~~state policies in effect regarding the size and location of~~
18 ~~such facilities.~~

19 (2) ~~An institutional health facility proposes to locate a~~
20 ~~new intermediate care facility for persons with mental~~
21 ~~retardation in an area of the state identified by the~~
22 ~~department of human services as underserved by intermediate~~
23 ~~care facility beds for persons with mental retardation.~~

24 b. ~~Both of the following requirements shall apply to an~~
25 ~~application considered under this section:~~

26 (1) a. The new or changed beds shall not result in an
27 increase in the total number of medical assistance certified
28 intermediate care facility beds for persons with mental
29 retardation in the state ~~as of July 17, 1994, exclusive of~~
30 those beds at the state resource centers or other state
31 institutions, beyond one thousand six hundred thirty-six beds.

32 (2) b. A letter of support for the application is provided
33 by the ~~director of human services and~~ the county board of
34 supervisors, or the board's designee, in the county in which
35 the beds would be located.

1 Sec. 7. Section 135.64, subsection 4, Code 2001, is
2 amended by striking the subsection.

3 Sec. 8. ICFMR CERTIFICATE OF NEED -- FY 2002-2003
4 IMPLEMENTATION. For the fiscal year beginning July 1, 2002,
5 and ending June 30, 2003, the health facilities council shall
6 not approve applications for new or changed institutional
7 health service resulting in more than ten new or changed beds
8 for the intermediate care facility for persons with mental
9 retardation classification.

10 DIVISION III

11 COMMUNITY MENTAL HEALTH CENTERS

12 Sec. 9. MEDICAL ASSISTANCE PROVIDER REQUIREMENTS.

13 Effective July 1, 2002, the department of human services shall
14 revise the medical assistance provider requirements applicable
15 to community mental health centers in the department's policy
16 manuals to implement all of the following:

17 1. Revision of the condition of payment provision relating
18 to services provided by a mental health professional and
19 requiring an initial evaluation to include at least one
20 personal interview with a psychiatrist. Under the revision, a
21 mental health professional, as defined in section 228.1, must
22 conduct a patient's initial evaluation interview and if the
23 evaluation results indicate a need for a referral for an
24 interview with a psychiatrist, then such a referral shall be
25 required.

26 2. Elimination of requirements for holding a patient
27 staffing meeting within four weeks following the date of the
28 patient's initial evaluation interview and for subsequently
29 holding patient staffing meetings every four months. Instead,
30 the purpose of these requirements shall be achieved through
31 the peer review process in effect for community mental health
32 centers.

33 3. Make conforming amendments to policy manuals as
34 necessary to implement subsections 1 and 2.

35 DIVISION IV

EMERGENCY RULES

1
2 Sec. 10. EMERGENCY RULES. Rules adopted, amended, or
3 repealed pursuant to this Act shall be processed as emergency
4 rules under section 17A.4, subsection 2, and section 17A.5,
5 subsection 2, paragraph "b", and the rules shall be effective
6 immediately upon filing, unless the effective date is delayed
7 by the administrative rules review committee, notwithstanding
8 section 17A.4, subsection 5, and section 17A.8, subsection 9,
9 or a later date is specified in the rules. Any rules adopted,
10 amended, or repealed pursuant to this Act shall not take
11 effect before the rules are reviewed by the administrative
12 rules review committee. Any rules adopted, amended, or
13 repealed pursuant to this Act shall also be published as a
14 notice of intended action as provided in section 17A.4.

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HOUSE FILE 2416

S-5339

1 Amend House File 2416, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 35 the
4 following:

5 "Sec. _____. Section 249A.20, Code 2001, is amended
6 by adding the following new unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. A provider reimbursed
8 under section 249A.31 is not a noninstitutional health
9 provider.

10 Sec. _____. Section 249A.26, Code Supplement 2001,
11 is amended by adding the following new subsection:
12 NEW SUBSECTION. 4. The county of legal settlement
13 shall pay for one hundred percent of the nonfederal
14 share of the cost of services provided to persons with
15 chronic mental illness implemented under the adult
16 rehabilitation option of the state medical assistance
17 plan. The state shall pay for one hundred percent of
18 the nonfederal share of the cost of such services
19 provided to such persons without a county of legal
20 settlement."

21 2. Page 2, by inserting after line 18 the
22 following:

23 "Sec. _____. NEW SECTION. 249A.31 COST-BASED
24 REIMBURSEMENT -- MENTAL HEALTH AND DEVELOPMENTAL
25 DISABILITIES PROVIDERS.

26 All of the following shall receive cost-based
27 reimbursement for one hundred percent of the
28 reasonable costs for the provision of services to
29 recipients of medical assistance:

30 1. Providers of individual case management
31 services for persons with mental retardation, a
32 developmental disability, or chronic mental illness in
33 accordance with standards adopted by the mental health
34 and developmental disabilities commission pursuant to
35 section 225C.6.

36 2. Providers of services to persons with chronic
37 mental illness implemented under the adult
38 rehabilitation option of the state medical assistance
39 plan."

40 3. Page 3, by inserting before line 29 the
41 following:

42 "Sec. _____. EFFECTIVE DATE. The provisions of this
43 division of this Act amending and enacting sections
44 249A.20, 249A.26, and 249A.31, being deemed of
45 immediate importance, take effect upon enactment."

46 4. Title page, line 2, by inserting after the
47 word "requirements" the following: "and providing an
48 effective date".

49 5. By renumbering as necessary.

By JOHNIE HAMMOND
HUBERT M. HOUSER

S-5339 FILED APRIL 2, 2002

Adopted 4/4/02
(P.962)

SENATE AMENDMENT TO HOUSE FILE 2416

H-8528

1 Amend House File 2416, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 35 the
4 following:

5 "Sec. ____ . Section 249A.20, Code 2001, is amended
6 by adding the following new unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. A provider reimbursed
8 under section 249A.31 is not a noninstitutional health
9 provider.

10 Sec. ____ . Section 249A.26, Code Supplement 2001,
11 is amended by adding the following new subsection:

12 NEW SUBSECTION. 4. The county of legal settlement
13 shall pay for one hundred percent of the nonfederal
14 share of the cost of services provided to persons with
15 chronic mental illness implemented under the adult
16 rehabilitation option of the state medical assistance
17 plan. The state shall pay for one hundred percent of
18 the nonfederal share of the cost of such services
19 provided to such persons without a county of legal
20 settlement."

21 2. Page 2, by inserting after line 18 the
22 following:

23 "Sec. ____ . NEW SECTION. 249A.31 COST-BASED
24 REIMBURSEMENT -- MENTAL HEALTH AND DEVELOPMENTAL
25 DISABILITIES PROVIDERS.

26 All of the following shall receive cost-based
27 reimbursement for one hundred percent of the
28 reasonable costs for the provision of services to
29 recipients of medical assistance:

30 1. Providers of individual case management
31 services for persons with mental retardation, a
32 developmental disability, or chronic mental illness in
33 accordance with standards adopted by the mental health
34 and developmental disabilities commission pursuant to
35 section 225C.6.

36 2. Providers of services to persons with chronic
37 mental illness implemented under the adult
38 rehabilitation option of the state medical assistance
39 plan."

40 3. Page 3, by inserting before line 29 the
41 following:

42 "Sec. ____ . EFFECTIVE DATE. The provisions of this
43 division of this Act amending and enacting sections
44 249A.20, 249A.26, and 249A.31, being deemed of
45 immediate importance, take effect upon enactment."

46 4. Title page, line 2, by inserting after the
47 word "requirements" the following: "and providing an
48 effective date".

49 5. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8528 FILED APRIL 4, 2002

*House Amended
H-8528
(P. 1221)*

HOUSE FILE 2416

AN ACT
RELATING TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITY
SERVICES REQUIREMENTS AND PROVIDING AN EFFECTIVE DATE.

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

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 provides Residential programs providing care to not more than four individuals and receives receiving 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 shall not be required to be licensed as a health care facility under this chapter. In approving a residential program under this paragraph subsection, 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 subsection, 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 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.20, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A provider reimbursed under section 249A.31 is not a noninstitutional health provider.

Sec. 3. Section 249A.26, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the cost of services provided to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan. The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons without a county of legal settlement.

Sec. 4. Section 249A.29, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

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

Sec. 5. NEW SECTION. 249A.30 HOME AND COMMUNITY-BASED WAIVER SERVICES REIMBURSEMENT.

1. The base reimbursement rate for a provider of services under a medical assistance program home and community-based waiver for persons with mental retardation shall be recalculated at least every three years to adjust for the changes in costs during the immediately preceding three-year period.

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

Sec. 6. NEW SECTION. 249A.31 COST-BASED REIMBURSEMENT --
MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES PROVIDERS.

All of the following shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of services to recipients of medical assistance:

1. Providers of individual case management services for persons with mental retardation, a developmental disability, or chronic mental illness in accordance with standards adopted by the mental health and developmental disabilities commission pursuant to section 225C.6.

2. Providers of services to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan.

Sec. 7. RULES.

1. The department of human services and the mental health and developmental disabilities commission shall adopt new rules or amend or repeal existing rules so that services provided to a person with a developmental disability under provisions of a federally approved medical assistance home and community-based services waiver for persons with mental retardation, supported community living services, and any other funding or program providing support to persons with a developmental disability allows for residential programs to serve at least four individuals or the number of individuals authorized by an exception to policy approved by the department. The rules to be amended or repealed shall include but are not limited to all of the following:

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

b. Supported community living services providers under 441 IAC 77.37(14)(e), relating to restrictions on the number of supported community living recipients that may be provided for in a living unit.

2. The department of human services and the mental health and developmental disabilities commission shall adopt new rules or amend or repeal existing rules so that services provided under provisions of a federally approved medical assistance home and community-based services waiver for persons with mental retardation allow children who are sixteen years of age or older to utilize supported community living services for community vocational training and support. In developing the rules, the department and commission shall consult with the department of education, division of vocational rehabilitation services and area education agencies to determine the best approach or approaches to meet the needs of such children for community vocational training and support throughout the school year and summer while maintaining coverage of the training and support under the medical assistance program. The rules shall take effect on or before September 30, 2002.

Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to sections 249A.29 and 249A.30 as amended or enacted by this division of this Act.

Sec. 9. EFFECTIVE DATE. The provisions of this division of this Act amending and enacting sections 249A.20, 249A.26, and 249A.31, being deemed of immediate importance, take effect upon enactment.

DIVISION II

INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL RETARDATION

Sec. 10. Section 135.63, subsection 4, Code 2001, is amended to read as follows:

4. ~~For the period beginning July 17, 1995, and ending June 30, 1998, the~~ A copy of the application shall be sent to the department of human services at the time the application is submitted to the Iowa department of public health. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with mental retardation except as provided in this subsection, unless both of the following conditions are met:

~~a. -- For the period beginning July 1, 1995, and ending June 30, 1998, the department and council shall process applications and consider applications if either of the following conditions are met:~~

~~(1) -- An institutional health facility is reducing the size of the facility's intermediate care facility for the persons with mental retardation program and wishes to convert an existing number of the facility's approved beds in that program to smaller living environments in accordance with state policies in effect regarding the size and location of such facilities.~~

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

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

~~(1) a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility beds for persons with mental retardation in the state as of July 1, 1994, exclusive of those beds at the state resource centers or other state institutions, beyond one thousand six hundred thirty-six beds.~~

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

Sec. 11. Section 135.64, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 12. ICFMR CERTIFICATE OF NEED -- FY 2002-2003 IMPLEMENTATION. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, the health facilities council shall not approve applications for new or changed institutional health service resulting in more than ten new or changed beds for the intermediate care facility for persons with mental retardation classification.

DIVISION III
COMMUNITY MENTAL HEALTH CENTERS

Sec. 13. MEDICAL ASSISTANCE PROVIDER REQUIREMENTS.

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

1. Revision of the condition of payment provision relating to services provided by a mental health professional and requiring an initial evaluation to include at least one personal interview with a psychiatrist. Under the revision, a mental health professional, as defined in section 228.1, must conduct a patient's initial evaluation interview and if the evaluation results indicate a need for a referral for an interview with a psychiatrist, then such a referral shall be required.

2. Elimination of requirements for holding a patient staffing meeting within four weeks following the date of the patient's initial evaluation interview and for subsequently holding patient staffing meetings every four months. Instead, the purpose of these requirements shall be achieved through the peer review process in effect for community mental health centers.

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

DIVISION IV
EMERGENCY RULES

Sec. 14. EMERGENCY RULES. Rules adopted, amended, or repealed pursuant to this Act shall be processed as emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", and the rules shall be effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later date is specified in the rules. Any rules adopted, amended, or repealed pursuant to this Act shall not take effect before the rules are reviewed by the administrative

rules review committee. Any rules adopted, amended, or repealed pursuant to this Act shall also be published as a notice of intended action as provided in section 17A.4.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2416, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/22, 2002

THOMAS J. VILSACK
Governor