

FEB 9 2006  
HUMAN RESOURCES

HOUSE FILE 2325  
BY CARROLL and KURTENBACH

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act creating a county-based brain injury services program and  
2 providing for allocation of a previously enacted  
3 appropriation.

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

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HF 2325

1 Section 1. NEW SECTION. 135.22B COUNTY-BASED BRAIN  
2 INJURY SERVICES PROGRAM.

3 1. DEFINITIONS. For the purposes of this section:

4 a. "Brain injury services waiver" means the state's  
5 medical assistance home and community-based services waiver  
6 for persons with brain injury implemented under chapter 249A.

7 b. "CPC administrator" means the administrator of a  
8 county's central point of coordination process under section  
9 331.440.

10 2. PROGRAM CREATED.

11 a. A county-based brain injury services program is created  
12 and shall be administered by a division of the Iowa department  
13 of public health in cooperation with counties and the  
14 department of human services.

15 b. The division of the department assigned to administer  
16 the advisory council on brain injuries under section 135.22A  
17 shall be the program administrator. The division duties shall  
18 include but are not limited to serving as the fiscal agent and  
19 contract administrator for the program and providing program  
20 oversight.

21 c. The division shall consult with the advisory council on  
22 brain injuries, established pursuant to section 135.22A,  
23 regarding the program and shall report to the council  
24 concerning the program at least quarterly. The council shall  
25 make recommendations to the department concerning the  
26 program's operation.

27 3. PURPOSE. The purpose of the program is to provide  
28 services to persons with a brain injury who are either on the  
29 waiting list for the brain injury services waiver or have been  
30 determined to be ineligible for the brain injury services  
31 waiver.

32 4. GENERAL REQUIREMENTS. The general requirements for the  
33 program shall include but are not limited to all of the  
34 following:

35 a. Services offered are consistent with the services

1 offered through the brain injury services waiver.

2 b. Each service consumer has a service plan developed  
3 prior to service implementation and the service plan is  
4 reviewed and updated at least quarterly.

5 c. All other funding sources for which the service  
6 consumer is eligible are utilized to the greatest extent  
7 possible. The funding sources potentially available include  
8 but are not limited to community resources and public and  
9 private benefit programs.

10 d. The maximum monthly cost of the services provided shall  
11 be based on the maximum monthly amount authorized for the  
12 brain injury services waiver.

13 e. Assistance under the program shall be made available to  
14 a designated number of service consumers who are eligible, as  
15 determined from the funding available for the program, on a  
16 first-come, first-served basis.

17 f. Nothing in this section shall be construed or is  
18 intended as, or shall imply, a grant of entitlement to  
19 services to persons who are eligible for participation in the  
20 program based upon the eligibility provisions adopted  
21 consistent with the requirements of this section. Any state  
22 or county obligation to provide services pursuant to this  
23 section is limited to the extent of the funds appropriated or  
24 provided for the program.

25 5. ELIGIBILITY. An individual must meet all of the  
26 following requirements to be eligible for the program:

27 a. The individual is age one month through sixty-four  
28 years.

29 b. The individual has a diagnosed brain injury as defined  
30 in section 135.22.

31 c. The individual is a resident of this state and either a  
32 United States citizen or a qualified alien as defined in 8  
33 U.S.C. § 1641.

34 d. The program's financial eligibility requirements shall  
35 be based on the requirements used for the hawk-i program under

1 chapter 514I. The individual must meet the program's  
2 financial eligibility requirements and be willing to pay a  
3 cost-share for the program.

4 e. The individual does not receive services or funding  
5 under any type of medical assistance home and community-based  
6 services waiver.

7 f. A county has agreed to pay a cost-share for the  
8 individual under the program.

9 6. COST-SHARE.

10 a. An individual's cost-share responsibility for services  
11 under the program shall be determined on a sliding scale based  
12 upon the individual's family income. An individual's cost-  
13 share shall be assessed as a copayment, which shall not exceed  
14 thirty percent of the cost payable for the service.

15 b. The service provider shall bill the individual's county  
16 for the portion of the cost payable for the service that is  
17 not covered by the individual's copayment responsibility.

18 c. The county shall bill the department for fifty percent  
19 of the cost payable for the service that is not covered by the  
20 individual's copayment responsibility.

21 d. The county's cost-share responsibility shall be the  
22 remainder of the cost payable after counting the individual's  
23 copayment and the amount billed to the department.

24 7. APPLICATION PROCESS.

25 a. The application form for services under the program  
26 shall be designed so that it may be used for both the county-  
27 based brain injury services program and the brain injury  
28 services waiver.

29 b. An individual must submit an application for the  
30 program through the CPC administrator for the individual's  
31 county of residence.

32 c. An assessment of the individual's needs shall be  
33 performed. The CPC administrator shall file copies of the  
34 individual's application and needs assessment with the medical  
35 assistance program, the department, and the program resource

1 facilitator assigned for that county.

2 d. The CPC administrator shall include with the  
3 application materials a determination as to whether a county  
4 cost-share will be authorized.

5 e. The department's program administrator shall make a  
6 final determination as to whether program funding will be  
7 authorized.

8 8. SERVICE PROVIDERS AND REIMBURSEMENT. All of the  
9 following requirements apply to service providers and  
10 reimbursement rates payable for services under the program:

11 a. A service provider must either be certified to provide  
12 services under the brain injury services waiver or have a  
13 contract with the county to provide services and will become  
14 certified to provide services under such waiver within a  
15 reasonable period of time specified in rule.

16 b. The reimbursement rate payable for the cost of a  
17 service provided under the program is the rate payable under  
18 the medical assistance program. However, if the service  
19 provided does not have a medical assistance program  
20 reimbursement rate, the rate shall be the amount payable under  
21 the county contract.

22 9. RESOURCE FACILITATION. The program shall utilize  
23 resource facilitators to facilitate program services. The  
24 resource facilitator shall be available to provide ongoing  
25 support for individuals with brain injury in coping with the  
26 issues of living with a brain injury and in assisting such  
27 individuals in transitioning back to employment and living in  
28 the community. The resource facilitator is intended to  
29 provide a linkage to existing services and increase the  
30 capacity of the state's providers of services to persons with  
31 brain injury by doing all of the following:

32 a. Providing brain injury-specific information, support,  
33 and resources.

34 b. Enhancing the usage of support commonly available to an  
35 individual with brain injury from the community, family, and

1 personal contacts and linking such individuals to appropriate  
2 services and community resources.

3 c. Training service providers to provide appropriate brain  
4 injury services.

5 d. Accessing, securing, and maximizing the private and  
6 public funding available to support an individual with a brain  
7 injury.

8 Sec. 2. Section 331.424A, Code Supplement 2005, is amended  
9 by adding the following new subsection:

10 NEW SUBSECTION. 6. Beginning July 1, 2006, a county may  
11 pay from the services fund the county cost-share for services  
12 provided under the county-based brain injury services program  
13 created in section 135.22B.

14 Sec. 3. Section 331.439, Code Supplement 2005, is amended  
15 by adding the following new subsection:

16 NEW SUBSECTION. 10. If the county participates in  
17 providing a cost-share for the county-based brain injury  
18 services program created in section 135.22B, the participation  
19 shall be documented in the county's management plan  
20 implemented pursuant to this section.

21 Sec. 4. 2005 Iowa Acts, chapter 179, section 1, subsection  
22 2, paragraph d, is amended to read as follows:

23 d. For distribution to ~~counties-as-cost-share-for-county~~  
24 ~~coverage-of-services-to-adult-persons-with the Iowa department~~  
25 ~~of public health for the county-based brain injury in~~  
26 ~~accordance-with-the-law-enacted-as-a-result-of-the-provisions~~  
27 ~~of-2005-Iowa-Acts, House-File-876, or other law providing for~~  
28 ~~such-coverage-to-commence service program~~ in the fiscal year  
29 beginning July 1, 2006, as provided in accordance with section  
30 135.22B, if enacted by the Eighty-first General Assembly, 2006  
31 Session:

32 ..... \$ 2,426,893

33 The amount allocated in this paragraph "d" shall be  
34 allocated by the Iowa department of public health as follows:

35 (1) For state cost-share of services provided under

1 section 135.22B:  
2 ..... \$ 2,092,665

3 (2) For contract resource facilitator services:  
4 ..... \$ 173,125

5 (3) For a sole source contract with a statewide  
6 association representing community providers of mental health,  
7 mental retardation, and brain injury services to provide, in  
8 collaboration with a statewide organization representing  
9 individuals with a brain injury and their families, brain  
10 injury training services and recruiting of service providers  
11 to increase the capacity within this state to address the  
12 needs of individuals with brain injuries and such individuals'  
13 families:

14 ..... \$ 40,000

15 (4) For reimbursement for needs assessments performed  
16 under section 135.22B:

17 ..... \$ 26,750

18 (5) For match of federal funding, administrative and  
19 personnel costs including salaries, support, maintenance, and  
20 miscellaneous purposes:

21 ..... \$ 94,353

22 Notwithstanding section 8.33, the appropriated moneys  
23 allocated in this paragraph "d" that remain unencumbered or  
24 unobligated at the close of the fiscal year shall not revert  
25 but shall remain available for expenditure for the purposes  
26 designated until the close of the succeeding fiscal year.

27 Sec. 5. EMERGENCY RULES. The Iowa department of public  
28 health may adopt administrative rules under section 17A.4,  
29 subsection 2, and section 17A.5, subsection 2, paragraph "b",  
30 to implement the provisions of this Act, and the rules shall  
31 become effective immediately upon filing or on a later  
32 effective date specified in the rules, unless the effective  
33 date is delayed by the administrative rules review committee.  
34 Any rules adopted in accordance with this section shall not  
35 take effect before the rules are reviewed by the

1 administrative rules review committee. The delay authority  
2 provided to the administrative rules review committee under  
3 section 17A.4, subsection 5, and section 17A.8, subsection 9,  
4 shall be applicable to a delay imposed under this section,  
5 notwithstanding a provision in those sections making them  
6 inapplicable to section 17A.5, subsection 2, paragraph "b".  
7 Any rules adopted in accordance with the provisions of this  
8 section shall also be published as notice of intended action  
9 as provided in section 17A.4.

10

## EXPLANATION

11 This bill creates a new county-based brain injury services  
12 program and provides for funding of the program through  
13 allocation of a previously enacted appropriation.

14 The new program is created in new Code section 135.22B to  
15 be administered by the division of the Iowa department of  
16 public health assigned to administer the advisory council on  
17 brain injuries.

18 The bill provides definitions and states the program's  
19 purpose. The bill addresses general requirements, including a  
20 provision that the program is not an entitlement but is  
21 limited to the extent of the funding provided. Program  
22 eligibility is limited to individuals with a diagnosed brain  
23 injury who are willing to pay cost-share under the program,  
24 are not receiving services under a medical assistance  
25 (Medicaid) home and community-based services waiver, and have  
26 a county that agrees to provide a cost-share under the  
27 program. The program's financial eligibility requirements are  
28 required to be based on those applicable under the hawk-i  
29 program for providing health coverage for low-income children.

30 Various cost-share requirements are applicable, including a  
31 sliding scale for individual cost-share, state cost-share for  
32 50 percent of the portion not covered by the individual cost-  
33 share, and county cost-share for the remainder.

34 The program's application provisions include a requirement  
35 for an application that can be used both by this program and

1 the Medicaid program's home and community-based brain injury  
2 services waiver. The application is required to be submitted  
3 through the administrator of the county central point of  
4 coordination (CPC) process for mental health, mental  
5 retardation, and developmental disabilities (MH/MR/DD)  
6 services of the individual's county of residence. The CPC  
7 administrator is required to file copies of the needs  
8 assessment and application materials and include a  
9 determination as to whether the county will authorize a cost-  
10 share. The department administrator has final authority in  
11 determining whether program funding will be authorized.

12 Service provider and reimbursement provisions include  
13 requirements that service providers must be certified to  
14 provide services under the brain injury services waiver or  
15 have a county contract to provide services and become  
16 certified to provide services under the waiver. Reimbursement  
17 rates payable under the program are the same as the Medicaid  
18 rates. If there is not a Medicaid rate, the county contract  
19 rate applies.

20 The program includes a resource facilitator component to  
21 assist individuals with the program and to enhance the service  
22 system available to individuals in the state with brain  
23 injury. The bill addresses the duties of resource  
24 facilitators.

25 Code section 331.424A, relating to the county MH/MR/DD  
26 services fund, is amended to authorize counties to pay the  
27 brain injury program cost-share from that fund.

28 Code section 331.439, relating to county management plans  
29 for MH/MR/DD services, is amended to require a county that  
30 participates in the brain injury program to document the  
31 participation in the management plan.

32 The provisions of an appropriation made for MH/MR/DD  
33 allowed growth for fiscal year 2006-2007 in a contingent  
34 allocation made for brain injury services are amended. The  
35 language is revised to refer to the program created in the

1 bill and to allocate the appropriation to the Iowa department  
2 of public health for various purposes associated with the  
3 brain injury services program created in the bill. Moneys in  
4 the allocation that remain unencumbered or unobligated at the  
5 close of the fiscal year do not revert but remain available  
6 for expenditure for the brain injury program in the succeeding  
7 fiscal year.

8 The Iowa department of public health is authorized to adopt  
9 rules to implement the county-based brain injury services  
10 program utilizing emergency procedures that forego various  
11 public comment periods, but the rules remain subject to review  
12 by the administrative rules review committee before being  
13 adopted.

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