

FILED FEB 14 2006

SENATE FILE 2217

BY ADMINISTRATIVE RULES REVIEW
COMMITTEE

Passed Senate, Date 3-21-06

Passed House, Date _____

Vote: Ayes 48 Nays 0

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act requiring the department of human services to maintain
2 compliance with privacy laws applicable to mental health,
3 mental retardation, developmental disabilities, and brain
4 injury services data.

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

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HUMAN RESOURCES

SF 2217

1 Section 1. Section 225C.6A, subsection 2, paragraph c,
2 Code 2005, is amended to read as follows:

3 c. Plan, collect, and analyze data as necessary to issue
4 cost estimates for serving additional populations and
5 providing core disability services statewide. The department
6 shall maintain compliance with applicable federal and state
7 privacy laws to ensure the confidentiality and integrity of
8 individually identifiable disability services data. The
9 department shall regularly assess the status of the compliance
10 in order to assure that data security is protected.

11 EXPLANATION

12 This bill requires the department of human services to
13 maintain compliance with federal and state privacy laws to
14 ensure the confidentiality and integrity of mental health,
15 mental retardation, developmental disabilities, and brain
16 injury (MH/MR/DD/BI) services data addressed in Code section
17 225C.6A, relating to redesign of the system for these
18 services. That statute directs the MH/MR/DD/BI commission to
19 plan, collect, and analyze data as necessary to issue cost
20 estimates for serving additional populations and providing
21 core MH/MR/DD/BI services statewide. In addition, 2004 Iowa
22 Acts, chapter 1090, section 35, paragraph "a", required the
23 commission and the department to propose a new disability
24 services information technology system.

25 As part of the department's compliance duty, the bill
26 requires the department to regularly assess the status of
27 compliance in order to assure that data security is protected.

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SENATE FILE 2217

S-5086

1 Amend Senate File 2217 as follows:
2 1. Page 1, line 3, by inserting after the word
3 "c." the following: "(1)".
4 2. Page 1, by inserting after line 10 the
5 following:
6 "(2) In implementing a system under this paragraph
7 "c" for collecting and analyzing state, county, and
8 private contractor data, the department shall
9 establish a unique identifier for the individuals
10 receiving services. The unique identifier shall
11 consist of the county number, the last four digits of
12 an individual's social security number, the
13 individual's date of birth, and the individual's
14 gender in an order determined by the department."

By KEITH A. KREIMAN

S-5086 FILED MARCH 16, 2006

SENATE FILE 2217

S-5102

1 Amend Senate File 2217 as follows:
2 1. Page 1, line 3, by inserting after the word
3 "c." the following: "(1)".
4 2. Page 1, by inserting after line 10 the
5 following:
6 "(2) In implementing a system under this paragraph
7 "c" for collecting and analyzing state, county, and
8 private contractor data, the department shall
9 establish a client identifier for the individuals
10 receiving services. The client identifier shall be
11 used in lieu of the individual's name or social
12 security number. The client identifier shall consist
13 of the last four digits of an individual's social
14 security number, the first three letters of the
15 individual's last name, the individual's date of
16 birth, and the individual's gender in an order
17 determined by the department."

By KEITH A. KREIMAN

S-5102 FILED MARCH 20, 2006

1 Section 1. Section 225C.6A, subsection 2, paragraph c,
2 Code 2005, is amended to read as follows:

3 c. (1) Plan, collect, and analyze data as necessary to
4 issue cost estimates for serving additional populations and
5 providing core disability services statewide. The department
6 shall maintain compliance with applicable federal and state
7 privacy laws to ensure the confidentiality and integrity of
8 individually identifiable disability services data. The
9 department shall regularly assess the status of the compliance
10 in order to assure that data security is protected.

11 (2) In implementing a system under this paragraph "c" for
12 collecting and analyzing state, county, and private contractor
13 data, the department shall establish a client identifier for
14 the individuals receiving services. The client identifier
15 shall be used in lieu of the individual's name or social
16 security number. The client identifier shall consist of the
17 last four digits of an individual's social security number,
18 the first three letters of the individual's last name, the
19 individual's date of birth, and the individual's gender in an
20 order determined by the department.

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SENATE FILE 2217

H-8388

1 Amend Senate File 2217, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 20 the
4 following:

5 "Sec. ____ . EMERGENCY RULES. The mental health,
6 mental retardation, developmental disabilities, and
7 brain injury commission may adopt administrative rules
8 under section 17A.4, subsection 2, and section 17A.5,
9 subsection 2, paragraph "b", to implement the
10 provisions of this Act, and the rules shall become
11 effective immediately upon filing or on a later
12 effective date specified in the rules, unless the
13 effective date is delayed by the administrative rules
14 review committee. Any rules adopted in accordance
15 with this section shall not take effect before the
16 rules are reviewed by the administrative rules review
17 committee. The delay authority provided to the
18 administrative rules review committee under section
19 17A.4, subsection 5, and section 17A.8, subsection 9,
20 shall be applicable to a delay imposed under this
21 section, notwithstanding a provision in those sections
22 making them inapplicable to section 17A.5, subsection
23 2, paragraph "b". Any rules adopted in accordance
24 with the provisions of this section shall also be
25 published as notice of intended action as provided in
26 section 17A.4.

27 Sec. ____ . USE OF CLIENT IDENTIFIER. The client
28 identifier established pursuant to section 225C.6A,
29 subsection 2, paragraph "c", subparagraph (2), as
30 enacted by this Act, shall be used beginning with the
31 data for disability services provided in the fiscal
32 year beginning July 1, 2005, that is submitted by
33 counties in December 2006."

34 2. By renumbering as necessary.

By HEATON of Henry

H-8388 FILED MARCH 27, 2006

H-8563

1 Amend Senate File 2217, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "DIVISION I

6 DISABILITY SERVICES DATA"

7 2: Page 1, by inserting after line 20 the
8 following:

9 "Sec. _____. EMERGENCY RULES. The mental health,
10 mental retardation, developmental disabilities, and
11 brain injury commission may adopt administrative rules
12 under section 17A.4, subsection 2, and section 17A.5,
13 subsection 2, paragraph "b", to implement the
14 provisions of this division of this Act, and the rules
15 shall become effective immediately upon filing or on a
16 later effective date specified in the rules, unless
17 the effective date is delayed by the administrative
18 rules review committee. Any rules adopted in
19 accordance with this section shall not take effect
20 before the rules are reviewed by the administrative
21 rules review committee. The delay authority provided
22 to the administrative rules review committee under
23 section 17A.4, subsection 5, and section 17A.8,
24 subsection 9, shall be applicable to a delay imposed
25 under this section, notwithstanding a provision in
26 those sections making them inapplicable to section
27 17A.5, subsection 2, paragraph "b". Any rules adopted
28 in accordance with the provisions of this section
29 shall also be published as notice of intended action
30 as provided in section 17A.4.

31 Sec. _____. USE OF CLIENT IDENTIFIER. The client
32 identifier established pursuant to section 225C.6A,
33 subsection 2, paragraph "c", subparagraph (2), as
34 enacted by this division of this Act, shall be used
35 beginning with the data for disability services
36 provided in the fiscal year beginning July 1, 2005,
37 that is submitted by counties in December 2006."

38 3. Page 1, by inserting after line 20 the
39 following:

40 "DIVISION II

41 MEDICAID ELIGIBILITY -- VEHICLE DISREGARD

42 Sec. _____. Section 249A.3, Code Supplement 2005, is
43 amended by adding the following new subsection:

44 NEW SUBSECTION. 5B. In determining eligibility
45 for adults under subsection 1, paragraphs "b", "e",
46 "h", "j", "k", "n", "s", and "t"; subsection 2,
47 paragraphs "d", "e", "h", "i", and "j"; and subsection
48 5, paragraph "b", one motor vehicle per household
49 shall be disregarded."

50 4. Page 1, by inserting after line 20 the

H-8563

1 following:

2 "DIVISION III

3 ELECTRONIC HEALTH RECORDS

4 Sec. ____ . NEW SECTION. 217.41A ELECTRONIC HEALTH
5 RECORDS SYSTEM TASK FORCE.

6 1. The department of human services shall
7 establish an electronic health records system task
8 force to provide a structure that enables the state to
9 act in a leadership role in the development of state
10 and federal standards for and in the implementation
11 and use of an electronic health records system.

12 2. The task force shall consist of no more than
13 nine voting members, selected by the director of human
14 services, who represent entities with expertise in
15 developing or implementing electronic health records,
16 including but not limited to the United States
17 veterans administration facilities in the state,
18 multifacility hospital systems in the state, Des
19 Moines university, the university of Iowa hospitals
20 and clinics, and the Iowa healthcare collaborative.
21 In addition, two members of the senate appointed by
22 the president of the senate after consultation with
23 the majority leader and the minority leader of the
24 senate, two members of the house of representatives
25 appointed by the speaker of the house after
26 consultation with the majority leader and the minority
27 leader of the house of representatives, and the
28 commissioner of insurance shall serve as ex officio,
29 nonvoting members of the task force.

30 3. The task force shall do all of the following:

31 a. Develop an electronic health records system
32 that provides linkages between multiple settings that
33 utilize health records and that is consistent with
34 requirements for community health records and
35 electronic prescribing.

36 b. Evaluate the economic model and the anticipated
37 benefits of electronic health records.

38 c. Provide quarterly updates to the governor and
39 the general assembly regarding progress in the
40 development of national standards and the work of the
41 task force."

42 5. Page 1, by inserting after line 20 the
43 following:

44 "DIVISION IV

45 FOSTER PARENT TRAINING

46 Sec. ____ . Section 237.5A, unnumbered paragraph 1,
47 Code 2005, is amended to read as follows:

48 As a condition for initial licensure, each
49 individual licensee shall complete thirty hours of
50 foster parent training offered or approved by the

1 department. However, if the licensee has completed
2 relevant training or has a combination of completed
3 relevant training and experience, and the department
4 deems such training or combination to be an acceptable
5 equivalent to all or a portion of the initial
6 licensure training requirement, or based upon the
7 circumstances of the child and the licensee the
8 department finds there is other good cause, the
9 department may waive all or a portion of the training
10 requirement. Prior to annual renewal of licensure,
11 each individual licensee shall also complete six hours
12 of foster parent training. The training shall include
13 but is not limited to physical care, education,
14 learning disabilities, referral to and receipt of
15 necessary professional services, behavioral assessment
16 and modification, self-assessment, self-living skills,
17 and biological parent contact. An individual licensee
18 may complete the training as part of an approved
19 training program offered by a public or private agency
20 with expertise in the provision of child foster care
21 or in related subject areas. The department shall
22 adopt rules to implement and enforce this training
23 requirement."

24 6. Page 1, by inserting after line 20 the
25 following:

26 "DIVISION V

27 PREPARATION FOR ADULT LIVING PROGRAM

28 Sec. ____ . NEW SECTION. 234.46 PREPARATION FOR
29 ADULT LIVING PROGRAM.

30 1. For the purposes of this section, "young adult"
31 means a person who is described by all of the
32 following conditions:

33 a. The person is a resident of this state.

34 b. The person is age eighteen, nineteen, or
35 twenty.

36 c. At the time the person became age eighteen, the
37 person received foster care services that were paid
38 for by the state under section 234.35 and the person
39 is no longer receiving such services.

40 d. The person enters into and participates in an
41 individual self-sufficiency plan that complements the
42 person's own efforts for achieving self-sufficiency
43 and the plan provides for one or more of the
44 following:

45 (1) The person attends an accredited school full-
46 time pursuing a course of study leading to a high
47 school diploma.

48 (2) The person attends an instructional program
49 leading to a high school equivalency diploma.

50 (3) The person is enrolled in or pursuing

1 enrollment in a postsecondary education or training
2 program or work training.

3 (4) The person is employed or seeking employment.

4 2. The division shall establish a preparation for
5 adult living program directed to young adults. The
6 purpose of the program is to assist persons who are
7 leaving foster care services at age eighteen or older
8 in making the transition to self-sufficiency. The
9 department shall adopt rules necessary for

10 administration of the program, including but not
11 limited to eligibility criteria for young adult
12 participation and the services and other support
13 available under the program. The services and other
14 support available under the program may include but
15 are not limited to any of the following:

16 a. Support for the young adult continuing to
17 reside with the family that provided family foster
18 care to the young adult.

19 b. Support for a supervised apartment living
20 arrangement.

21 c. Support for participation in education,
22 training, or employment activities.

23 d. Other assistance to enhance the young adult's
24 ability to achieve self-sufficiency.

25 3. This section shall not be construed as granting
26 an entitlement for any program, services, or other
27 support for the persons described in this section.
28 Any state obligation to provide a program, services,
29 or other support pursuant to this section is limited
30 to the extent of the funds appropriated for the
31 purposes of the program.

32 Sec. ____ Section 249A.3, subsection 2, Code
33 Supplement 2005, is amended by adding the following
34 new paragraph:

35 NEW PARAGRAPH. k. As allowed under 42 U.S.C. §
36 1396a(a)(10)(A)(ii)(XVII), individuals under twenty-
37 one years of age who were in foster care under the
38 responsibility of the state on the individuals'
39 eighteenth birthday, and whose income is less than two
40 hundred percent of the most recently revised official
41 poverty guidelines published by the United States
42 department of health and human services. Medical
43 assistance may be provided for an individual described
44 by this paragraph regardless of the individual's
45 resources."

46 7. Page 1, by inserting after line 20 the
47 following:

48 "DIVISION VI
49 FAMILY SUPPORT SUBSIDY AND COMPREHENSIVE FAMILY
50 SUPPORT PROGRAMS

1 Sec. _____. Section 216E.1, subsection 1, Code 2005,
2 is amended to read as follows:

3 1. "Assistive device" means any item, piece of
4 equipment, or product system which is purchased, or
5 whose transfer is accepted in this state, and which is
6 used to increase, maintain, or improve the functional
7 capabilities of individuals with disabilities
8 concerning a major life activity ~~as defined in section~~
9 ~~225C.46.~~ "Assistive device" does not mean any medical
10 device, surgical device, or organ implanted or
11 transplanted into or attached directly to an
12 individual. "Assistive device" does not mean any
13 device for which a certificate of title is issued by
14 the state department of transportation but does mean
15 any item, piece of equipment, or product system
16 otherwise meeting the definition of "assistive device"
17 that is incorporated, attached, or included as a
18 modification in or to such a certificated device.

19 Sec. _____. Section 216E.1, Code 2005, is amended by
20 adding the following new subsection:

21 NEW SUBSECTION. 9A. "Major life activity"
22 includes functions such as caring for one's self,
23 performing manual tasks, walking, seeing, hearing,
24 speaking, breathing, learning, or working.

25 Sec. _____. Section 225C.37, subsection 2, Code
26 2005, is amended to read as follows:

27 2. Verification that the family member meets the
28 definitional requirements of section 225C.35,
29 subsection 3. Along with the verification, the
30 application shall identify an age when the family
31 member's eligibility for the family support subsidy
32 under such definitional requirements will end. The
33 age identified is subject to approval by the
34 department.

35 Sec. _____. Section 225C.38, subsection 1,
36 paragraphs b and c, Code Supplement 2005, are amended
37 to read as follows:

38 b. A family support subsidy shall be used to meet
39 the special needs of the family. This subsidy is
40 intended to complement but not supplant public
41 assistance or social service benefits based on
42 economic need, available through governmental programs
43 or other means available to the family.

44 c. Except as provided in section 225C.41, a family
45 support subsidy for a fiscal year shall be in an
46 amount ~~equivalent to the monthly maximum supplemental~~
47 ~~security income payment available in Iowa on July 1 of~~
48 ~~that fiscal year for an adult recipient living in the~~
49 ~~household of another, as formulated under federal~~
50 ~~regulations. .In addition, the parent or legal~~

~~1 guardian of a family member who is in an out-of-home~~
~~2 placement at the time of application may receive a~~
~~3 one-time lump-sum advance payment of twice the monthly~~
~~4 family support subsidy amount for the purpose of~~
~~5 meeting the special needs of the family in preparing~~
~~6 for in-home care determined by the department in~~
~~7 consultation with the comprehensive family support~~
~~8 council created in section 225C.48. The parent or~~
~~9 legal guardian receiving a family support subsidy may~~
10 elect to receive a payment amount which is less than
11 the amount determined in accordance with this
12 paragraph.

13 Sec. ____ . Section 225C.38, subsection 2, Code
14 Supplement 2005, is amended by adding the following
15 new paragraph:

16 NEW PARAGRAPH. c. Unless there are exceptional
17 circumstances and the family requests and receives
18 approval from the department for an exception to
19 policy, a family is not eligible to receive the family
20 support subsidy if any of the following are applicable
21 to the family or the family member for whom the
22 application was submitted:

23 (1) The family member is a special needs child who
24 was adopted by the family and the family is receiving
25 financial assistance under section 600.17.

26 (2) Medical assistance home and community-based
27 waiver services are provided for the family member and
28 the family lives in a county in which comprehensive
29 family support program services are available.

30 (3) Medical assistance home and community-based
31 waiver services are provided for the family member
32 under a consumer choices option.

33 Sec. ____ . Section 225C.40, subsection 3, Code
34 2005, is amended to read as follows:

35 3. If an application for a family support subsidy
36 is denied, the family member end-of-eligibility age
37 identified in the application is not approved by the
38 department, or a family support subsidy is terminated
39 by the department, the parent or legal guardian of the
40 affected family member may request, in writing, a
41 hearing before an impartial hearing officer.

42 Sec. ____ . Section 225C.41, unnumbered paragraph 2,
43 Code 2005, is amended to read as follows:

44 Notwithstanding section 8.33, funds remaining
45 unexpended on June 30 of any fiscal year shall not
46 revert to the general fund of the state but shall
47 remain available to provide family support subsidy
48 payments or to expand the comprehensive family support
49 program in the succeeding fiscal year.

50 Sec. ____ . Section 225C.42, subsection 1, Code

1 Supplement 2005, is amended to read as follows:

2 1. The department shall conduct ~~a periodic~~ an
3 annual evaluation of the family support subsidy
4 program in conjunction with the comprehensive family
5 support council and shall submit the evaluation report
6 with recommendations to the governor and general
7 assembly. The report shall be submitted on or before
8 October 30 and provide an evaluation of the latest
9 completed fiscal year.

10 Sec. _____. Section 225C.47, subsection 4, Code
11 2005, is amended to read as follows:

12 4. A family may apply to the department or to a
13 family support center developed pursuant to this
14 section for assistance under the comprehensive family
15 support program. The department or family support
16 center shall determine eligibility for the program in
17 accordance with the provisions of this section.

18 Sec. _____. Section 225C.47, subsection 5,
19 unnumbered paragraph 1, Code 2005, is amended to read
20 as follows:

21 The department shall design the program in
22 consultation with the ~~personal assistance and~~
23 comprehensive family support ~~services~~ council created
24 in section 225C.48. The department shall adopt rules
25 to implement the program which provide for all of the
26 following:

27 Sec. _____. Section 225C.47, subsection 5, paragraph
28 e, Code 2005, is amended to read as follows:

29 e. A process is available to appeal the
30 department's or family support center's decisions
31 involving families ~~which~~ that apply for the
32 comprehensive family support program and are denied
33 services and support under the comprehensive family
34 support program. The department shall make reasonable
35 efforts to utilize telecommunications so that a family
36 initiating an appeal may complete the appeal process
37 in the family's local geographic area.

38 Sec. _____. Section 225C.47, subsection 5, paragraph
39 i, Code 2005, is amended to read as follows:

40 i. The utilization of a voucher system for payment
41 provisions for the ~~children-at-home~~ family support
42 center component of the program developed under
43 subsection 7.

44 Sec. _____. Section 225C.47, subsection 7, Code
45 2005, is amended to read as follows:

46 7. The comprehensive family support program shall
47 include a ~~children-at-home~~ family support center
48 component developed by the department in accordance
49 with this subsection. ~~A family eligible for the~~
50 ~~comprehensive family support program may choose the~~

1 ~~children at home component.~~ Under the ~~children at~~
 2 ~~home component,~~ a family member of an individual with
 3 a disability shall be assisted by ~~department staff~~ a
 4 family support center in identifying the services and
 5 support to be provided to the family under the family
 6 support subsidy program or the comprehensive family
 7 support program. The identification of services and
 8 support shall be based upon the specific needs of the
 9 individual and the individual's family which are not
 10 met by other service programs available to the
 11 individual and the individual's family. ~~Based upon~~
 12 ~~the services and support identified, the department~~
 13 ~~shall develop a contract for direct payment of the~~
 14 ~~services and support provided to the family.~~

15 Sec. ____ . Section 225C.48, Code 2005, is amended
 16 to read as follows:

17 225C.48 ~~PERSONAL ASSISTANCE AND~~ COMPREHENSIVE
 18 FAMILY SUPPORT SERVICES COUNCIL.

19 1. a. An eleven-member ~~personal assistance and~~
 20 comprehensive family support ~~services~~ council is
 21 created in the department. The members of the council
 22 shall be appointed by the following officials as
 23 follows: governor, five members; majority leader of
 24 the senate, three members; and speaker of the house,
 25 three members. At least three of the governor's
 26 appointments and one of each legislative chamber's
 27 appointments shall be a family member of an individual
 28 with a disability as defined in section 225C.47. At
 29 least five of the members shall be current or former
 30 service consumers of personal services or family
 31 members of such service consumers. Members shall
 32 serve for three-year staggered terms. A vacancy on
 33 the council shall be filled in the same manner as the
 34 original appointment.

35 b. The members of the council ~~shall be~~ are
 36 entitled to reimbursement of actual and necessary
 37 expenses incurred in the performance of their official
 38 duties. In addition, the members who are current or
 39 former service consumers or family members of such
 40 service consumers are entitled to a stipend of fifty
 41 dollars for each council meeting attended, subject to
 42 a limit of one meeting per month. The expenses and
 43 stipend shall be paid from the appropriation made for
 44 purposes of the comprehensive family support program.

45 c. The council shall elect officers from among the
 46 council's members.

47 2. The council shall provide ongoing guidance,
 48 advice, and direction to the department and other
 49 agencies working with the department in the
 50 development and implementation of the ~~personal~~

1 ~~assistance services~~ family support subsidy program
 2 created in section ~~225C.46~~ 225C.36 and the
 3 comprehensive family support program created in
 4 section 225C.47. The council shall perform an annual
 5 evaluation of each program, and annually make
 6 recommendations concerning each program to the
 7 governor and general assembly. The evaluation and
 8 recommendations shall be prepared and submitted in
 9 conjunction with the evaluation report submitted by
 10 the department pursuant to section 225C.42. The
 11 department shall provide sufficient staff support to
 12 the council to enable the council to carry out its
 13 responsibilities.

14 3. The council shall perform the following duties
 15 in consultation with the department and any department
 16 staff with duties associated with the ~~personal-~~
 17 ~~assistance services~~ family support subsidy and
 18 comprehensive family support programs:

- 19 a. Oversee the operations of the programs.
- 20 b. Coordinate with the department of education and
 21 programs administered by the department of education
 22 to individuals with a disability, in providing
 23 information to individuals and families eligible for
 24 the programs ~~under sections 225C.46 and 225C.47.~~
- 25 c. Work with the department and counties regarding
 26 managed care provisions utilized by the department and
 27 counties for services to individuals with a disability
 28 to advocate the inclusion of ~~personal assistance-~~
 29 ~~services~~ family support subsidy and the comprehensive
 30 family support ~~program~~ programs as approved service
 31 provisions under managed care.
- 32 d. Develop and oversee implementation of
 33 evaluation processes for the programs.
- 34 e. Oversee statewide training of department and
 35 family support center staff regarding the ~~two~~
 36 programs.
- 37 f. Oversee efforts to promote public awareness of
 38 the programs.

39 4. The department shall consider recommendations
 40 from the council in developing and implementing each
 41 program, including the development of administrative
 42 rules. The department shall regularly report to the
 43 council on the status of each program and any actions
 44 planned or taken by the department related to each
 45 program.

46 Sec. _____. Section 225C.49, subsection 3, paragraph
 47 b, Code 2005, is amended to read as follows:

- 48 b. Utilize internal training resources or contract
 49 for additional training of staff concerning the
 50 information under paragraph "a" and training of

1 families and individuals as necessary to ~~develop plans~~
2 ~~and contracts~~ implement the family support subsidy and
3 comprehensive family support programs under sections
4 225C.46 and 225C.47 this chapter.

5 Sec. _____. Section 225C.49, subsection 4, Code
6 2005, is amended to read as follows:

7 4. The department shall designate one individual
8 whose sole duties are to provide central coordination
9 of the programs under sections ~~225C.46~~ 225C.36 and
10 225C.47 and to work with the ~~personal assistance and~~
11 comprehensive family support services council to
12 oversee development and implementation of the
13 programs.

14 Sec. _____. Section 422.11E, subsection 4, paragraph
15 b, Code 2005, is amended to read as follows:

16 b. "Disability" means the same as defined in
17 section ~~225C.46~~ 15.102 except that it does not include
18 alcoholism.

19 Sec. _____. Section 422.33, subsection 9, paragraph
20 c, subparagraph (2), Code Supplement 2005, is amended
21 to read as follows:

22 (2) "Disability" means the same as defined in
23 section ~~225C.46~~ 15.102, except that it does not
24 include alcoholism.

25 Sec. _____. Section 225C.46, Code 2005, is repealed.

26 Sec. _____. CODE EDITOR DIRECTIVE. The Code editor
27 shall revise the headnote to section 225C.42 to change
28 the word "periodic" to "annual".

29 Sec. _____. TRANSITION PROVISIONS -- EFFECTIVE DATE.

30 1. If a family that adopted a special needs child
31 receives the family support subsidy under section
32 225C.38 and also receives financial assistance under
33 section 600.17 for the same child as of July 1, 2006,
34 the department of human services shall provide notice
35 to the family that effective January 1, 2007, the
36 family will no longer be eligible for the family
37 support subsidy. The department shall notify the
38 families affected by this subsection on before July 1,
39 2006. This subsection, being deemed of immediate
40 importance, takes effect upon enactment.

41 2. If a family that receives the family support
42 subsidy under section 225C.38 as of July 1, 2006, also
43 receives medical assistance home and community-based
44 waiver services and lives in a county in which the
45 comprehensive family support program services are
46 available, effective January 1, 2007, the family is
47 not eligible to receive the family support subsidy.
48 The department of human services shall notify the
49 families affected by this subsection on or before July
50 1, 2006. This subsection, being deemed of immediate

1 importance, takes effect upon enactment.

2 3. a. The provision of this division of this Act
3 enacting section 225C.38, subsection 2, paragraph "c",
4 subparagraph (3), relating to medical assistance home
5 and community-based waiver services provided under a
6 consumer choices option, is contingent upon receipt of
7 federal approval of a waiver authorizing utilization
8 of the consumer choices option. The department of
9 human services shall notify the Code editor regarding
10 the receipt of the federal approval and the
11 implementation date.

12 b. A family receiving family support services that
13 also receives medical assistance home and community-
14 based waiver services and resides in an area in which
15 the consumer choices option is available under the
16 waiver is ineligible to receive the family support
17 subsidy. The department shall notify a family
18 affected by this subsection six months prior to
19 terminating the family support subsidy.

20 c. This subsection, being deemed of immediate
21 importance, takes effect upon enactment.

22 4. Any savings generated by the requirements of
23 this section and the program changes implemented
24 pursuant to this Act during the fiscal year beginning
25 July 1, 2006, shall be used by the department of human
26 services to provide eligibility for families on the
27 waiting list for the family support subsidy program.
28 If the waiting list is eliminated, any remaining funds
29 shall be used to expand the comprehensive family
30 support program during that fiscal year."

31 8. Title page, by striking line 1 and inserting
32 the following: "An Act relating to health and human
33 services programs and procedures involving".

34 9. Title page, line 4, by inserting after the
35 word "data" the following: ", medical assistance
36 program eligibility, creation of an electronic health
37 records system task force, foster parent training,
38 young adults transitioning from foster care, and
39 persons with a developmental disability or other
40 special need and the person's families".

41 10. By renumbering as necessary.

By HEATON of Henry

SENATE FILE 2217

H-8570

1 Amend Senate File 2217, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 20 the
4 following:

5 "DIVISION

6 INVOLUNTARY HOSPITALIZATION PROCEEDINGS

7 Sec. ____ . Section 125.82, subsection 3, Code 2005,
8 as amended by 2006 Iowa Acts, Senate File 2362,
9 section 1, if enacted, is amended to read as follows:

10 3. The person who filed the application and a
11 licensed physician or qualified mental health
12 professional as defined in section 229.1 who has
13 examined the respondent in connection with the
14 commitment hearing shall be present at the hearing,
15 unless ~~prior to the hearing~~ the court for good cause
16 finds that their presence or testimony is not
17 necessary. The applicant, respondent, and the
18 respondent's attorney may waive the presence or
19 telephonic appearance of the licensed physician or
20 qualified mental health professional who examined the
21 respondent and agree to submit as evidence the written
22 report of the licensed physician or qualified mental
23 health professional. The respondent's attorney shall
24 inform the court if the respondent's attorney
25 reasonably believes that the respondent, due to
26 diminished capacity, cannot make an adequately
27 considered waiver decision. "Good cause" for finding
28 that the testimony of the licensed physician or
29 qualified mental health professional who examined the
30 respondent is not necessary may include, but is not
31 limited to, such a waiver. If the court determines
32 that the testimony of the licensed physician or
33 qualified mental health professional is necessary, the
34 court may allow the licensed physician or qualified
35 mental health professional to testify by telephone.
36 The respondent shall be present at the hearing unless
37 prior to the hearing the respondent's attorney
38 stipulates in writing that the attorney has conversed
39 with the respondent, and that in the attorney's
40 judgment the respondent cannot make a meaningful
41 contribution to the hearing, or that the respondent
42 has waived the right to be present, and the basis for
43 the attorney's conclusions. A stipulation to the
44 respondent's absence shall be reviewed by the court
45 before the hearing, and may be rejected if it appears
46 that insufficient grounds are stated or that the
47 respondent's interests would not be served by the
48 respondent's absence.

49 Sec. ____ . Section 229.12, subsection 3, Code 2005,
50 as amended by 2006 Iowa Acts, Senate File 2362,

H-8570

1 section 3, if enacted is amended to read as follows:
2 3. The respondent's welfare shall be paramount and
3 the hearing shall be conducted in as informal a manner
4 as may be consistent with orderly procedure, but
5 consistent therewith the issue shall be tried as a
6 civil matter. Such discovery as is permitted under
7 the Iowa rules of civil procedure shall be available
8 to the respondent. The court shall receive all
9 relevant and material evidence which may be offered
10 and need not be bound by the rules of evidence. There
11 shall be a presumption in favor of the respondent, and
12 the burden of evidence in support of the contentions
13 made in the application shall be upon the applicant.
14 The licensed physician or qualified mental health
15 professional who examined the respondent shall be
16 present at the hearing unless ~~prior to the hearing~~ the
17 court for good cause finds that the licensed
18 physician's or qualified mental health professional's
19 presence or testimony is not necessary. The
20 applicant, respondent, and the respondent's attorney
21 may waive the presence or the telephonic appearance of
22 the licensed physician or qualified mental health
23 professional who examined the respondent and agree to
24 submit as evidence the written report of the licensed
25 physician or qualified mental health professional.
26 The respondent's attorney shall inform the court if
27 the respondent's attorney reasonably believes that the
28 respondent, due to diminished capacity, cannot make an
29 adequately considered waiver decision. "Good cause"
30 for finding that the testimony of the licensed
31 physician or qualified mental health professional who
32 examined the respondent is not necessary may include,
33 but is not limited to, such a waiver. If the court
34 determines that the testimony of the licensed
35 physician or qualified mental health professional is
36 necessary, the court may allow the licensed physician
37 or the qualified mental health professional to testify
38 by telephone. If upon completion of the hearing the
39 court finds that the contention that the respondent is
40 seriously mentally impaired has not been sustained by
41 clear and convincing evidence, it shall deny the
42 application and terminate the proceeding."
43 2. Title page, line 4, by inserting after the
44 word "data" the following: ", and involuntary
45 hospitalization proceedings".
46 3. By renumbering as necessary.

By CARROLL of Poweshiek
EICHORN of Hamilton

Fiscal Services Division
Legislative Services Agency
Fiscal Note

SF 2217 – Client Unique Identifier (LSB 5026 AS)
Analyst: Sue Lerdal (Phone: [515] 281-7794) (slerdal@legis.state.ia.us)
Fiscal Note Version – New – Amendment H 8563

Description

Amendment H-8563 to Senate File 2217:

- Revises the existing Senate File language regarding use of the client identifier for mental health data.
- Requires the Department of Human Services (DHS) to disregard one motor vehicle per household when determining Medicaid eligibility.
- Allows the DHS to waive the initial 30-hour training requirement for foster parent licensees.
- Requires the DHS to establish an Electronic Health Records System Task Force.

The Amendment also establishes a new Preparation for Adult Living Services (PALS) Program for residents of the State who are age 18, 19, or 20, and, at the time of becoming age 18, were receiving foster care services that were paid for by the State, but are no longer receiving these services. Under the Program, the DHS will provide continued support for qualified young adults who develop and comply with a self-sufficiency plan and are either working toward the completion of a high school diploma or high school equivalency diploma; participating in a postsecondary educational or training program; or are employed or seeking employment. This may include, but is not limited to, support to allow a young adult to continue residing with the family that provided family foster care or for a supervised apartment living arrangement.

In addition, Amendment H-8563 to SF 2217 permits continued Medicaid coverage for young adults up to their 21st birthday for individuals who had been in foster care under the responsibility of the State on their 18th birthday regardless of participation in the PALS Program.

Assumptions

1. Participation in the Preparation for Adult Services (PALS) Program and continuation of Medicaid coverage for eligible young adults will be on a voluntary basis.
2. The basic daily foster care maintenance rate of \$23.90 per day will be paid for young adults whose eligibility for foster care is expanded. This will include 130 young adults in FY 2007, and 260 in FY 2008.
3. The State match rate for Medicaid will be an average of 37.6% in FY 2007 and an average of 38.5% in FY 2008.
4. The State share of Medicaid coverage will be an average of \$212 per month for 413 eligible young adults in FY 2007, and an average of \$217 per month for 826 young adults in FY 2008.

Fiscal Impact

The estimated cost of Amendment H-8563 to Senate File 2217 is a total increase in General Fund expenditures of \$2.2 million in Child Welfare and Medicaid expenditures for the DHS beginning in FY 2007. The cost increases to \$4.4 million in FY 2008. The total costs are summarized in the Table below.

	<u>FY 2007</u>	<u>FY 2008</u>
Child Welfare - PALS	\$1,120,000	\$2,240,000
State Medicaid Share	1,050,000	2,155,000
	<u>\$2,170,000</u>	<u>\$4,395,000</u>

House File 2734 (FY 2007 Health and Human Services Appropriations Bill) currently provides an increase of \$854,012 in the Child and Family Services appropriation for implementation of the PALS Program, as well as an increase of \$789,765 in the Medicaid appropriation for continued coverage of this population. The amounts provided in the Bill are not annualized since a delay in full implementation is expected. House File 2734 has not yet been enacted.

Source

Department of Human Services

/s/ Holly M. Lyons

April 20, 2006

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE AMENDMENT TO
SENATE FILE 2217

S-5223

1 Amend Senate File 2217, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "DIVISION I
6 DISABILITY SERVICES DATA"

7 2. Page 1, by inserting after line 20 the
8 following:

9 "Sec. ____ . EMERGENCY RULES. The mental health,
10 mental retardation, developmental disabilities, and
11 brain injury commission may adopt administrative rules
12 under section 17A.4, subsection 2, and section 17A.5,
13 subsection 2, paragraph "b", to implement the
14 provisions of this division of this Act, and the rules
15 shall become effective immediately upon filing or on a
16 later effective date specified in the rules, unless
17 the effective date is delayed by the administrative
18 rules review committee. Any rules adopted in
19 accordance with this section shall not take effect
20 before the rules are reviewed by the administrative
21 rules review committee. The delay authority provided
22 to the administrative rules review committee under
23 section 17A.4, subsection 5, and section 17A.8,
24 subsection 9, shall be applicable to a delay imposed
25 under this section, notwithstanding a provision in
26 those sections making them inapplicable to section
27 17A.5, subsection 2, paragraph "b". Any rules adopted
28 in accordance with the provisions of this section
29 shall also be published as notice of intended action
30 as provided in section 17A.4.

31 Sec. ____ . USE OF CLIENT IDENTIFIER. The client
32 identifier established pursuant to section 225C.6A,
33 subsection 2, paragraph "c", subparagraph (2), as
34 enacted by this division of this Act, shall be used
35 beginning with the data for disability services
36 provided in the fiscal year beginning July 1, 2005,
37 that is submitted by counties in December 2006."

38 3. Page 1, by inserting after line 20 the
39 following:

40 "DIVISION II
41 MEDICAID ELIGIBILITY -- VEHICLE DISREGARD

42 Sec. ____ . Section 249A.3, Code Supplement 2005, is
43 amended by adding the following new subsection:

44 NEW SUBSECTION. 5B. In determining eligibility
45 for adults under subsection 1, paragraphs "b", "e",
46 "h", "j", "k", "n", "s", and "t"; subsection 2,
47 paragraphs "d", "e", "h", "i", and "j"; and subsection
48 5, paragraph "b", one motor vehicle per household
49 shall be disregarded."

50 4. Page 1, by inserting after line 20 the

S-5223

1 following:

2 "DIVISION III
 3 ELECTRONIC HEALTH RECORDS
 4 Sec. ____ . NEW SECTION. 217.41A ELECTRONIC HEALTH
 5 RECORDS SYSTEM TASK FORCE.

6 1. The department of human services shall
 7 establish an electronic health records system task
 8 force to provide a structure that enables the state to
 9 act in a leadership role in the development of state
 10 and federal standards for and in the implementation
 11 and use of an electronic health records system.

12 2. The task force shall consist of no more than
 13 nine voting members, selected by the director of human
 14 services, who represent entities with expertise in
 15 developing or implementing electronic health records,
 16 including but not limited to the United States
 17 veterans administration facilities in the state,
 18 multifacility hospital systems in the state, Des
 19 Moines university, the university of Iowa hospitals
 20 and clinics, and the Iowa healthcare collaborative.
 21 In addition, two members of the senate appointed by
 22 the president of the senate after consultation with
 23 the majority leader and the minority leader of the
 24 senate, two members of the house of representatives
 25 appointed by the speaker of the house after
 26 consultation with the majority leader and the minority
 27 leader of the house of representatives, and the
 28 commissioner of insurance shall serve as ex officio,
 29 nonvoting members of the task force.

30 3. The task force shall do all of the following:
 31 a. Develop an electronic health records system
 32 that provides linkages between multiple settings that
 33 utilize health records and that is consistent with
 34 requirements for community health records and
 35 electronic prescribing.
 36 b. Evaluate the economic model and the anticipated
 37 benefits of electronic health records.
 38 c. Provide quarterly updates to the governor and
 39 the general assembly regarding progress in the
 40 development of national standards and the work of the
 41 task force."

42 5. Page 1, by inserting after line 20 the
 43 following:

44 "DIVISION IV
 45 FOSTER PARENT TRAINING
 46 Sec. ____ . Section 237.5A, unnumbered paragraph 1,
 47 Code 2005, is amended to read as follows:

48 As a condition for initial licensure, each
 49 individual licensee shall complete thirty hours of
 50 foster parent training offered or approved by the

1 department. However, if the licensee has completed
 2 relevant training or has a combination of completed
 3 relevant training and experience, and the department
 4 deems such training or combination to be an acceptable
 5 equivalent to all or a portion of the initial
 6 licensure training requirement, or based upon the
 7 circumstances of the child and the licensee the
 8 department finds there is other good cause, the
 9 department may waive all or a portion of the training
 10 requirement. Prior to annual renewal of licensure,
 11 each individual licensee shall also complete six hours
 12 of foster parent training. The training shall include
 13 but is not limited to physical care, education,
 14 learning disabilities, referral to and receipt of
 15 necessary professional services, behavioral assessment
 16 and modification, self-assessment, self-living skills,
 17 and biological parent contact. An individual licensee
 18 may complete the training as part of an approved
 19 training program offered by a public or private agency
 20 with expertise in the provision of child foster care
 21 or in related subject areas. The department shall
 22 adopt rules to implement and enforce this training
 23 requirement."

24 6. Page 1, by inserting after line 20 the
 25 following:

26 "DIVISION V

27 PREPARATION FOR ADULT LIVING PROGRAM

28 Sec. ____ . NEW SECTION. 234.46 PREPARATION FOR
 29 ADULT LIVING PROGRAM.

30 1. For the purposes of this section, "young adult"
 31 means a person who is described by all of the
 32 following conditions:

- 33 a. The person is a resident of this state.
- 34 b. The person is age eighteen, nineteen, or
 35 twenty.
- 36 c. At the time the person became age eighteen, the
 37 person received foster care services that were paid
 38 for by the state under section 234.35 and the person
 39 is no longer receiving such services.
- 40 d. The person enters into and participates in an
 41 individual self-sufficiency plan that complements the
 42 person's own efforts for achieving self-sufficiency
 43 and the plan provides for one or more of the
 44 following:
 - 45 (1) The person attends an accredited school full-
 46 time pursuing a course of study leading to a high
 47 school diploma.
 - 48 (2) The person attends an instructional program
 49 leading to a high school equivalency diploma.
 - 50 (3) The person is enrolled in or pursuing

1 enrollment in a postsecondary education or training
2 program or work training.

3 (4) The person is employed or seeking employment.

4 2. The division shall establish a preparation for
5 adult living program directed to young adults. The
6 purpose of the program is to assist persons who are
7 leaving foster care services at age eighteen or older
8 in making the transition to self-sufficiency. The
9 department shall adopt rules necessary for
10 administration of the program, including but not
11 limited to eligibility criteria for young adult
12 participation and the services and other support
13 available under the program. The services and other
14 support available under the program may include but
15 are not limited to any of the following:

16 a. Support for the young adult continuing to
17 reside with the family that provided family foster
18 care to the young adult.

19 b. Support for a supervised apartment living
20 arrangement.

21 c. Support for participation in education,
22 training, or employment activities.

23 d. Other assistance to enhance the young adult's
24 ability to achieve self-sufficiency.

25 3. This section shall not be construed as granting
26 an entitlement for any program, services, or other
27 support for the persons described in this section.
28 Any state obligation to provide a program, services,
29 or other support pursuant to this section is limited
30 to the extent of the funds appropriated for the
31 purposes of the program.

32 Sec. _____. Section 249A.3, subsection 2, Code
33 Supplement 2005, is amended by adding the following
34 new paragraph:

35 NEW PARAGRAPH. k. As allowed under 42 U.S.C. §
36 1396a(a)(10)(A)(ii)(XVII), individuals under twenty-
37 one years of age who were in foster care under the
38 responsibility of the state on the individuals'
39 eighteenth birthday, and whose income is less than two
40 hundred percent of the most recently revised official
41 poverty guidelines published by the United States
42 department of health and human services. Medical
43 assistance may be provided for an individual described
44 by this paragraph regardless of the individual's
45 resources."

46 7. Page 1, by inserting after line 20 the
47 following:

48 "DIVISION VI
49 FAMILY SUPPORT SUBSIDY AND COMPREHENSIVE FAMILY
50 SUPPORT PROGRAMS

1 Sec. ____ . Section 216E.1, subsection 1, Code 2005,
2 is amended to read as follows:

3 1. "Assistive device" means any item, piece of
4 equipment, or product system which is purchased, or
5 whose transfer is accepted in this state, and which is
6 used to increase, maintain, or improve the functional
7 capabilities of individuals with disabilities
8 concerning a major life activity ~~as defined in section~~
9 ~~225C.46~~. "Assistive device" does not mean any medical
10 device, surgical device, or organ implanted or
11 transplanted into or attached directly to an
12 individual. "Assistive device" does not mean any
13 device for which a certificate of title is issued by
14 the state department of transportation but does mean
15 any item, piece of equipment, or product system
16 otherwise meeting the definition of "assistive device"
17 that is incorporated, attached, or included as a
18 modification in or to such a certificated device.

19 Sec. ____ . Section 216E.1, Code 2005, is amended by
20 adding the following new subsection:

21 NEW SUBSECTION. 9A. "Major life activity"
22 includes functions such as caring for one's self,
23 performing manual tasks, walking, seeing, hearing,
24 speaking, breathing, learning, or working.

25 Sec. ____ . Section 225C.37, subsection 2, Code
26 2005, is amended to read as follows:

27 2. Verification that the family member meets the
28 definitional requirements of section 225C.35,
29 subsection 3. Along with the verification, the
30 application shall identify an age when the family
31 member's eligibility for the family support subsidy
32 under such definitional requirements will end. The
33 age identified is subject to approval by the
34 department.

35 Sec. ____ . Section 225C.38, subsection 1,
36 paragraphs b and c, Code Supplement 2005, are amended
37 to read as follows:

38 b. A family support subsidy shall be used to meet
39 the special needs of the family. This subsidy is
40 intended to complement but not supplant public
41 assistance or social service benefits based on
42 economic need, available through governmental programs
43 or other means available to the family.

44 c. Except as provided in section 225C.41, a family
45 support subsidy for a fiscal year shall be in an
46 amount ~~equivalent to the monthly maximum supplemental~~
47 ~~security income payment available in Iowa on July 1 of~~
48 ~~that fiscal year for an adult recipient living in the~~
49 ~~household of another, as formulated under federal~~
50 ~~regulations. In addition, the parent or legal~~

1 ~~guardian of a family member who is in an out-of-home~~
 2 ~~placement at the time of application may receive a~~
 3 ~~one-time lump-sum advance payment of twice the monthly~~
 4 ~~family support subsidy amount for the purpose of~~
 5 ~~meeting the special needs of the family in preparing~~
 6 ~~for in-home care determined by the department in~~
 7 ~~consultation with the comprehensive family support~~
 8 ~~council created in section 225C.48. The parent or~~
 9 ~~legal guardian receiving a family support subsidy may~~
 10 ~~elect to receive a payment amount which is less than~~
 11 ~~the amount determined in accordance with this~~
 12 ~~paragraph.~~

13 Sec. ____ . Section 225C.38, subsection 2, Code
 14 Supplement 2005, is amended by adding the following
 15 new paragraph:

16 NEW PARAGRAPH. c. Unless there are exceptional
 17 circumstances and the family requests and receives
 18 approval from the department for an exception to
 19 policy, a family is not eligible to receive the family
 20 support subsidy if any of the following are applicable
 21 to the family or the family member for whom the
 22 application was submitted:

23 (1) The family member is a special needs child who
 24 was adopted by the family and the family is receiving
 25 financial assistance under section 600.17.

26 (2) Medical assistance home and community-based
 27 waiver services are provided for the family member and
 28 the family lives in a county in which comprehensive
 29 family support program services are available.

30 (3) Medical assistance home and community-based
 31 waiver services are provided for the family member
 32 under a consumer choices option.

33 Sec. ____ . Section 225C.40, subsection 3, Code
 34 2005, is amended to read as follows:

35 3. If an application for a family support subsidy
 36 is denied, the family member end-of-eligibility age
 37 identified in the application is not approved by the
 38 department, or a family support subsidy is terminated
 39 by the department, the parent or legal guardian of the
 40 affected family member may request, in writing, a
 41 hearing before an impartial hearing officer.

42 Sec. ____ . Section 225C.41, unnumbered paragraph 2,
 43 Code 2005, is amended to read as follows:

44 Notwithstanding section 8.33, funds remaining
 45 unexpended on June 30 of any fiscal year shall not
 46 revert to the general fund of the state but shall
 47 remain available to provide family support subsidy
 48 payments or to expand the comprehensive family support
 49 program in the succeeding fiscal year.

50 Sec. ____ . Section 225C.42, subsection 1, Code

1 Supplement 2005, is amended to read as follows:

2 1. The department shall conduct ~~a periodic~~ an
3 annual evaluation of the family support subsidy
4 program in conjunction with the comprehensive family
5 support council and shall submit the evaluation report
6 with recommendations to the governor and general
7 assembly. The report shall be submitted on or before
8 October 30 and provide an evaluation of the latest
9 completed fiscal year.

10 Sec. _____. Section 225C.47, subsection 4, Code
11 2005, is amended to read as follows:

12 4. A family may apply to the department or to a
13 family support center developed pursuant to this
14 section for assistance under the comprehensive family
15 support program. The department or family support
16 center shall determine eligibility for the program in
17 accordance with the provisions of this section.

18 Sec. _____. Section 225C.47, subsection 5,
19 unnumbered paragraph 1, Code 2005, is amended to read
20 as follows:

21 The department shall design the program in
22 consultation with the ~~personal assistance and~~
23 comprehensive family support ~~services~~ council created
24 in section 225C.48. The department shall adopt rules
25 to implement the program which provide for all of the
26 following:

27 Sec. _____. Section 225C.47, subsection 5, paragraph
28 e, Code 2005, is amended to read as follows:

29 e. A process is available to appeal the
30 department's or family support center's decisions
31 involving families ~~which~~ that apply for the
32 comprehensive family support program and are denied
33 services and support under the comprehensive family
34 support program. The department shall make reasonable
35 efforts to utilize telecommunications so that a family
36 initiating an appeal may complete the appeal process
37 in the family's local geographic area.

38 Sec. _____. Section 225C.47, subsection 5, paragraph
39 i, Code 2005, is amended to read as follows:

40 i. The utilization of a voucher system for payment
41 provisions for the ~~children-at-home~~ family support
42 center component of the program developed under
43 subsection 7.

44 Sec. _____. Section 225C.47, subsection 7, Code
45 2005, is amended to read as follows:

46 7. The comprehensive family support program shall
47 include a ~~children-at-home~~ family support center
48 component developed by the department in accordance
49 with this subsection. ~~A family eligible for the~~
50 ~~comprehensive family support program may choose the~~

1 ~~children at home component.~~ Under the ~~children at~~
 2 ~~home~~ component, a family member of an individual with
 3 a disability shall be assisted by ~~department staff~~ a
 4 family support center in identifying the services and
 5 support to be provided to the family under the family
 6 support subsidy program or the comprehensive family
 7 support program. The identification of services and
 8 support shall be based upon the specific needs of the
 9 individual and the individual's family which are not
 10 met by other service programs available to the
 11 individual and the individual's family. ~~Based upon~~
 12 ~~the services and support identified, the department~~
 13 ~~shall develop a contract for direct payment of the~~
 14 ~~services and support provided to the family.~~

15 Sec. ____ . Section 225C.48, Code 2005, is amended
 16 to read as follows:

17 225C.48 ~~PERSONAL ASSISTANCE AND~~ COMPREHENSIVE
 18 FAMILY SUPPORT SERVICES COUNCIL.

19 1. a. An eleven-member ~~personal assistance and~~
 20 comprehensive family support services council is
 21 created in the department. The members of the council
 22 shall be appointed by the following officials as
 23 follows: governor, five members; majority leader of
 24 the senate, three members; and speaker of the house,
 25 three members. At least three of the governor's
 26 appointments and one of each legislative chamber's
 27 appointments shall be a family member of an individual
 28 with a disability as defined in section 225C.47. At
 29 least five of the members shall be current or former
 30 service consumers of personal services or family
 31 members of such service consumers. Members shall
 32 serve for three-year staggered terms. A vacancy on
 33 the council shall be filled in the same manner as the
 34 original appointment.

35 b. The members of the council ~~shall be~~ are
 36 entitled to reimbursement of actual and necessary
 37 expenses incurred in the performance of their official
 38 duties. In addition, the members who are current or
 39 former service consumers or family members of such
 40 service consumers are entitled to a stipend of fifty
 41 dollars for each council meeting attended, subject to
 42 a limit of one meeting per month. The expenses and
 43 stipend shall be paid from the appropriation made for
 44 purposes of the comprehensive family support program.

45 c. The council shall elect officers from among the
 46 council's members.

47 2. The council shall provide ongoing guidance,
 48 advice, and direction to the department and other
 49 agencies working with the department in the
 50 development and implementation of the ~~personal-~~

1 ~~assistance services~~ family support subsidy program
2 created in section ~~225C.46~~ 225C.36 and the
3 comprehensive family support program created in
4 section 225C.47. The council shall perform an annual
5 evaluation of each program, and annually make
6 recommendations concerning each program to the
7 governor and general assembly. The evaluation and
8 recommendations shall be prepared and submitted in
9 conjunction with the evaluation report submitted by
10 the department pursuant to section 225C.42. The
11 department shall provide sufficient staff support to
12 the council to enable the council to carry out its
13 responsibilities.

14 3. The council shall perform the following duties
15 in consultation with the department and any department
16 staff with duties associated with the ~~personal-~~
17 ~~assistance services~~ family support subsidy and
18 comprehensive family support programs:

19 a. Oversee the operations of the programs.

20 b. Coordinate with the department of education and
21 programs administered by the department of education
22 to individuals with a disability, in providing
23 information to individuals and families eligible for
24 the programs ~~under sections 225C.46 and 225C.47.~~

25 c. Work with the department and counties regarding
26 managed care provisions utilized by the department and
27 counties for services to individuals with a disability
28 to advocate the inclusion of ~~personal assistance~~
29 ~~services~~ family support subsidy and the comprehensive
30 family support ~~program~~ programs as approved service
31 provisions under managed care.

32 d. Develop and oversee implementation of
33 evaluation processes for the programs.

34 e. Oversee statewide training of department and
35 family support center staff regarding the ~~two~~
36 programs.

37 f. Oversee efforts to promote public awareness of
38 the programs.

39 4. The department shall consider recommendations
40 from the council in developing and implementing each
41 program, including the development of administrative
42 rules. The department shall regularly report to the
43 council on the status of each program and any actions
44 planned or taken by the department related to each
45 program.

46 Sec. _____. Section 225C.49, subsection 3, paragraph
47 b, Code 2005, is amended to read as follows:

48 b. Utilize internal training resources or contract
49 for additional training of staff concerning the
50 information under paragraph "a" and training of

1 families and individuals as necessary to ~~develop plans~~
2 ~~and contracts~~ implement the family support subsidy and
3 comprehensive family support programs under sections
4 225C.46 and 225C.47 this chapter.

5 Sec. _____. Section 225C.49, subsection 4, Code
6 2005, is amended to read as follows:

7 4. The department shall designate one individual
8 whose sole duties are to provide central coordination
9 of the programs under sections ~~225C.46~~ 225C.36 and
10 225C.47 and to work with the ~~personal assistance and~~
11 comprehensive family support services council to
12 oversee development and implementation of the
13 programs.

14 Sec. _____. Section 422.11E, subsection 4, paragraph
15 b, Code 2005, is amended to read as follows:

16 b. "Disability" means the same as defined in
17 section ~~225C.46~~ 15.102 except that it does not include
18 alcoholism.

19 Sec. _____. Section 422.33, subsection 9, paragraph
20 c, subparagraph (2), Code Supplement 2005, is amended
21 to read as follows:

22 (2) "Disability" means the same as defined in
23 section ~~225C.46~~ 15.102, except that it does not
24 include alcoholism.

25 Sec. _____. Section 225C.46, Code 2005, is repealed.

26 Sec. _____. CODE EDITOR DIRECTIVE: The Code editor
27 shall revise the headnote to section 225C.42 to change
28 the word "periodic" to "annual".

29 Sec. _____. TRANSITION PROVISIONS -- EFFECTIVE DATE.

30 1. If a family that adopted a special needs child
31 receives the family support subsidy under section
32 225C.38 and also receives financial assistance under
33 section 600.17 for the same child as of July 1, 2006,
34 the department of human services shall provide notice
35 to the family that effective January 1, 2007, the
36 family will no longer be eligible for the family
37 support subsidy. The department shall notify the
38 families affected by this subsection on before July 1,
39 2006. This subsection, being deemed of immediate
40 importance, takes effect upon enactment.

41 2. If a family that receives the family support
42 subsidy under section 225C.38 as of July 1, 2006, also
43 receives medical assistance home and community-based
44 waiver services and lives in a county in which the
45 comprehensive family support program services are
46 available, effective January 1, 2007, the family is
47 not eligible to receive the family support subsidy.
48 The department of human services shall notify the
49 families affected by this subsection on or before July
50 1, 2006. This subsection, being deemed of immediate

1 importance, takes effect upon enactment.

2 3. a. The provision of this division of this Act
3 enacting section 225C.38, subsection 2, paragraph "c",
4 subparagraph (3), relating to medical assistance home
5 and community-based waiver services provided under a
6 consumer choices option, is contingent upon receipt of
7 federal approval of a waiver authorizing utilization
8 of the consumer choices option. The department of
9 human services shall notify the Code editor regarding
10 the receipt of the federal approval and the
11 implementation date.

12 b. A family receiving family support services that
13 also receives medical assistance home and community-
14 based waiver services and resides in an area in which
15 the consumer choices option is available under the
16 waiver is ineligible to receive the family support
17 subsidy. The department shall notify a family
18 affected by this subsection six months prior to
19 terminating the family support subsidy.

20 c. This subsection, being deemed of immediate
21 importance, takes effect upon enactment.

22 4. Any savings generated by the requirements of
23 this section and the program changes implemented
24 pursuant to this Act during the fiscal year beginning
25 July 1, 2006, shall be used by the department of human
26 services to provide eligibility for families on the
27 waiting list for the family support subsidy program.
28 If the waiting list is eliminated, any remaining funds
29 shall be used to expand the comprehensive family
30 support program during that fiscal year."

31 8. Page 1, by inserting after line 20 the
32 following:

33 "DIVISION

34 INVOLUNTARY HOSPITALIZATION PROCEEDINGS

35 Sec. ____ . Section 125.82, subsection 3, Code 2005,
36 as amended by 2006 Iowa Acts, Senate File 2362,
37 section 1, if enacted, is amended to read as follows:

38 3. The person who filed the application and a
39 licensed physician or qualified mental health
40 professional as defined in section 229.1 who has
41 examined the respondent in connection with the
42 commitment hearing shall be present at the hearing,
43 ~~unless prior to the hearing~~ the court for good cause
44 finds that their presence or testimony is not
45 necessary. The applicant, respondent, and the
46 respondent's attorney may waive the presence or
47 telephonic appearance of the licensed physician or
48 qualified mental health professional who examined the
49 respondent and agree to submit as evidence the written
50 report of the licensed physician or qualified mental

1 health professional. The respondent's attorney shall
2 inform the court if the respondent's attorney
3 reasonably believes that the respondent, due to
4 diminished capacity, cannot make an adequately
5 considered waiver decision. "Good cause" for finding
6 that the testimony of the licensed physician or
7 qualified mental health professional who examined the
8 respondent is not necessary may include, but is not
9 limited to, such a waiver. If the court determines
10 that the testimony of the licensed physician or
11 qualified mental health professional is necessary, the
12 court may allow the licensed physician or qualified
13 mental health professional to testify by telephone.
14 The respondent shall be present at the hearing unless
15 prior to the hearing the respondent's attorney
16 stipulates in writing that the attorney has conversed
17 with the respondent, and that in the attorney's
18 judgment the respondent cannot make a meaningful
19 contribution to the hearing, or that the respondent
20 has waived the right to be present, and the basis for
21 the attorney's conclusions. A stipulation to the
22 respondent's absence shall be reviewed by the court
23 before the hearing, and may be rejected if it appears
24 that insufficient grounds are stated or that the
25 respondent's interests would not be served by the
26 respondent's absence.

27 Sec. ____ . Section 229.12, subsection 3, Code 2005,
28 as amended by 2006 Iowa Acts, Senate File 2362,
29 section 3, if enacted is amended to read as follows:

30 3. The respondent's welfare shall be paramount and
31 the hearing shall be conducted in as informal a manner
32 as may be consistent with orderly procedure, but
33 consistent therewith the issue shall be tried as a
34 civil matter. Such discovery as is permitted under
35 the Iowa rules of civil procedure shall be available
36 to the respondent. The court shall receive all
37 relevant and material evidence which may be offered
38 and need not be bound by the rules of evidence. There
39 shall be a presumption in favor of the respondent, and
40 the burden of evidence in support of the contentions
41 made in the application shall be upon the applicant.
42 The licensed physician or qualified mental health
43 professional who examined the respondent shall be
44 present at the hearing unless ~~prior to the hearing~~ the
45 court for good cause finds that the licensed
46 physician's or qualified mental health professional's
47 presence or testimony is not necessary. The
48 applicant, respondent, and the respondent's attorney
49 may waive the presence or the telephonic appearance of
50 the licensed physician or qualified mental health

1 professional who examined the respondent and agree to
 2 submit as evidence the written report of the licensed
 3 physician or qualified mental health professional.
 4 The respondent's attorney shall inform the court if
 5 the respondent's attorney reasonably believes that the
 6 respondent, due to diminished capacity, cannot make an
 7 adequately considered waiver decision. "Good cause"
 8 for finding that the testimony of the licensed
 9 physician or qualified mental health professional who
 10 examined the respondent is not necessary may include,
 11 but is not limited to, such a waiver. If the court
 12 determines that the testimony of the licensed
 13 physician or qualified mental health professional is
 14 necessary, the court may allow the licensed physician
 15 or the qualified mental health professional to testify
 16 by telephone. If upon completion of the hearing the
 17 court finds that the contention that the respondent is
 18 seriously mentally impaired has not been sustained by
 19 clear and convincing evidence, it shall deny the
 20 application and terminate the proceeding."

21 9. Title page, by striking line 1 and inserting
 22 the following: "An Act relating to health and human
 23 services programs and procedures involving".

24 10. Title page, line 4, by inserting after the
 25 word "data" the following: ", medical assistance
 26 program eligibility, creation of an electronic health
 27 records system task force, foster parent training,
 28 young adults transitioning from foster care, and
 29 persons with a developmental disability or other
 30 special need and the person's families".

31 11. Title page, line 4, by inserting after the
 32 word "data" the following: ", and involuntary
 33 hospitalization proceedings".

34 12. By renumbering, relettering, or redesignating
 35 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

SENATE FILE 2217

AN ACT

RELATING TO HEALTH AND HUMAN SERVICES PROGRAMS AND PROCEDURES INVOLVING COMPLIANCE WITH PRIVACY LAWS APPLICABLE TO MENTAL HEALTH, MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, AND BRAIN INJURY SERVICES DATA, MEDICAL ASSISTANCE PROGRAM ELIGIBILITY, CREATION OF AN ELECTRONIC HEALTH RECORDS SYSTEM TASK FORCE, FOSTER PARENT TRAINING, YOUNG ADULTS TRANSITIONING FROM FOSTER CARE, AND PERSONS WITH A DEVELOPMENTAL DISABILITY OR OTHER SPECIAL NEED AND THE PERSONS' FAMILIES, AND INVOLUNTARY HOSPITALIZATION PROCEEDINGS.

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

DIVISION I

DISABILITY SERVICES DATA

Section 1. Section 225C.6A, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. (1) Plan, collect, and analyze data as necessary to issue cost estimates for serving additional populations and providing core disability services statewide. The department shall maintain compliance with applicable federal and state privacy laws to ensure the confidentiality and integrity of individually identifiable disability services data. The department shall regularly assess the status of the compliance in order to assure that data security is protected.

(2) In implementing a system under this paragraph "c" for collecting and analyzing state, county, and private contractor data, the department shall establish a client identifier for the individuals receiving services. The client identifier shall be used in lieu of the individual's name or social security number. The client identifier shall consist of the

last four digits of an individual's social security number, the first three letters of the individual's last name, the individual's date of birth, and the individual's gender in an order determined by the department.

Sec. 2. EMERGENCY RULES. The mental health, mental retardation, developmental disabilities, and brain injury commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 3. USE OF CLIENT IDENTIFIER. The client identifier established pursuant to section 225C.6A, subsection 2, paragraph "c", subparagraph (2), as enacted by this division of this Act, shall be used beginning with the data for disability services provided in the fiscal year beginning July 1, 2005, that is submitted by counties in December 2006.

DIVISION II

MEDICAID ELIGIBILITY -- VEHICLE DISREGARD

Sec. 4. Section 249A.3, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5B. In determining eligibility for adults under subsection 1, paragraphs "b", "e", "h", "j", "k", "n",

"s", and "t"; subsection 2, paragraphs "d", "e", "h", "i", and "j"; and subsection 5, paragraph "b", one motor vehicle per household shall be disregarded.

DIVISION III

ELECTRONIC HEALTH RECORDS

Sec. 5. NEW SECTION. 217.41A ELECTRONIC HEALTH RECORDS SYSTEM TASK FORCE.

1. The department of human services shall establish an electronic health records system task force to provide a structure that enables the state to act in a leadership role in the development of state and federal standards for and in the implementation and use of an electronic health records system.

2. The task force shall consist of no more than nine voting members, selected by the director of human services, who represent entities with expertise in developing or implementing electronic health records, including but not limited to the United States veterans administration facilities in the state, multifacility hospital systems in the state, Des Moines university, the university of Iowa hospitals and clinics, and the Iowa healthcare collaborative. In addition, two members of the senate appointed by the president of the senate after consultation with the majority leader and the minority leader of the senate, two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house of representatives, and the commissioner of insurance shall serve as ex officio, nonvoting members of the task force.

3. The task force shall do all of the following:

a. Develop an electronic health records system that provides linkages between multiple settings that utilize health records and that is consistent with requirements for community health records and electronic prescribing.

b. Evaluate the economic model and the anticipated benefits of electronic health records.

c. Provide quarterly updates to the governor and the general assembly regarding progress in the development of national standards and the work of the task force.

DIVISION IV

FOSTER PARENT TRAINING

Sec. 6. Section 237.5A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

As a condition for initial licensure, each individual licensee shall complete thirty hours of foster parent training offered or approved by the department. However, if the licensee has completed relevant training or has a combination of completed relevant training and experience, and the department deems such training or combination to be an acceptable equivalent to all or a portion of the initial licensure training requirement, or based upon the circumstances of the child and the licensee the department finds there is other good cause, the department may waive all or a portion of the training requirement. Prior to annual renewal of licensure, each individual licensee shall also complete six hours of foster parent training. The training shall include but is not limited to physical care, education, learning disabilities, referral to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas. The department shall adopt rules to implement and enforce this training requirement.

DIVISION V

PREPARATION FOR ADULT LIVING PROGRAM

Sec. 7. NEW SECTION. 234.46 PREPARATION FOR ADULT LIVING PROGRAM.

1. For the purposes of this section, "young adult" means a person who is described by all of the following conditions:

- a. The person is a resident of this state.
- b. The person is age eighteen, nineteen, or twenty.
- c. At the time the person became age eighteen, the person received foster care services that were paid for by the state under section 234.35 and the person is no longer receiving such services.
- d. The person enters into and participates in an individual self-sufficiency plan that complements the person's own efforts for achieving self-sufficiency and the plan provides for one or more of the following:

- (1) The person attends an accredited school full-time pursuing a course of study leading to a high school diploma.
- (2) The person attends an instructional program leading to a high school equivalency diploma.
- (3) The person is enrolled in or pursuing enrollment in a postsecondary education or training program or work training.
- (4) The person is employed or seeking employment.

2. The division shall establish a preparation for adult living program directed to young adults. The purpose of the program is to assist persons who are leaving foster care services at age eighteen or older in making the transition to self-sufficiency. The department shall adopt rules necessary for administration of the program, including but not limited to eligibility criteria for young adult participation and the services and other support available under the program. The services and other support available under the program may include but are not limited to any of the following:

- a. Support for the young adult continuing to reside with the family that provided family foster care to the young adult.
- b. Support for a supervised apartment living arrangement.
- c. Support for participation in education, training, or employment activities.

d. Other assistance to enhance the young adult's ability to achieve self-sufficiency.

3. This section shall not be construed as granting an entitlement for any program, services, or other support for the persons described in this section. Any state obligation to provide a program, services, or other support pursuant to this section is limited to the extent of the funds appropriated for the purposes of the program.

Sec. 8. Section 249A.3, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVII), individuals under twenty-one years of age who were in foster care under the responsibility of the state on the individuals' eighteenth birthday, and whose income is less than two hundred percent of the most recently revised official poverty guidelines published by the United States department of health and human services. Medical assistance may be provided for an individual described by this paragraph regardless of the individual's resources.

DIVISION VI

FAMILY SUPPORT SUBSIDY AND COMPREHENSIVE FAMILY SUPPORT PROGRAMS

Sec. 9. Section 216E.1, subsection 1, Code 2005, is amended to read as follows:

1. "Assistive device" means any item, piece of equipment, or product system which is purchased, or whose transfer is accepted in this state, and which is used to increase, maintain, or improve the functional capabilities of individuals with disabilities concerning a major life activity ~~as defined in section 225C-46~~. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not mean any device for which a certificate of title is issued by the state department of transportation but does mean any item, piece of equipment, or

product system otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a certificated device.

Sec. 10. Section 216E.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "Major life activity" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

Sec. 11. Section 225C.37, subsection 2, Code 2005, is amended to read as follows:

2. Verification that the family member meets the definitional requirements of section 225C.35, subsection 3. Along with the verification, the application shall identify an age when the family member's eligibility for the family support subsidy under such definitional requirements will end. The age identified is subject to approval by the department.

Sec. 12. Section 225C.38, subsection 1, paragraphs b and c, Code Supplement 2005, are amended to read as follows:

b. A family support subsidy shall be used to meet the special needs of the family. This subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs or other means available to the family.

c. Except as provided in section 225C.41, a family support subsidy for a fiscal year shall be in an amount equivalent to ~~the monthly maximum supplemental security income payment available in Iowa on July 1 of that fiscal year for an adult recipient living in the household of another as formulated under federal regulations. In addition, the parent or legal guardian of a family member who is in an out-of-home placement at the time of application may receive a one-time lump-sum advance payment of twice the monthly family support subsidy amount for the purpose of meeting the special needs of the family in preparing for in-home care determined by the~~

department in consultation with the comprehensive family support council created in section 225C.48. The parent or legal guardian receiving a family support subsidy may elect to receive a payment amount which is less than the amount determined in accordance with this paragraph.

Sec. 13. Section 225C.38, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Unless there are exceptional circumstances and the family requests and receives approval from the department for an exception to policy, a family is not eligible to receive the family support subsidy if any of the following are applicable to the family or the family member for whom the application was submitted:

(1) The family member is a special needs child who was adopted by the family and the family is receiving financial assistance under section 600.17.

(2) Medical assistance home and community-based waiver services are provided for the family member and the family lives in a county in which comprehensive family support program services are available.

(3) Medical assistance home and community-based waiver services are provided for the family member under a consumer choices option.

Sec. 14. Section 225C.40, subsection 3, Code 2005, is amended to read as follows:

3. If an application for a family support subsidy is denied, the family member end-of-eligibility age identified in the application is not approved by the department, or a family support subsidy is terminated by the department, the parent or legal guardian of the affected family member may request, in writing, a hearing before an impartial hearing officer.

Sec. 15. Section 225C.41, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Notwithstanding section 8.33, funds remaining unexpended on June 30 of any fiscal year shall not revert to the general

fund of the state but shall remain available to provide family support subsidy payments or to expand the comprehensive family support program in the succeeding fiscal year.

Sec. 16. Section 225C.42, subsection 1, Code Supplement 2005, is amended to read as follows:

1. The department shall conduct ~~a periodic~~ an annual evaluation of the family support subsidy program in conjunction with the comprehensive family support council and shall submit the evaluation report with recommendations to the governor and general assembly. The report shall be submitted on or before October 30 and provide an evaluation of the latest completed fiscal year.

Sec. 17. Section 225C.47, subsection 4, Code 2005, is amended to read as follows:

4. A family may apply to the department or to a family support center developed pursuant to this section for assistance under the comprehensive family support program. The department or family support center shall determine eligibility for the program in accordance with the provisions of this section.

Sec. 18. Section 225C.47, subsection 5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department shall design the program in consultation with the ~~personal-assistance-and~~ comprehensive family support services council created in section 225C.48. The department shall adopt rules to implement the program which provide for all of the following:

Sec. 19. Section 225C.47, subsection 5, paragraph e, Code 2005, is amended to read as follows:

e. A process is available to appeal the department's or family support center's decisions involving families which that apply for the comprehensive family support program and are denied services and support under the comprehensive family support program. The department shall make reasonable efforts to utilize telecommunications so that a family initiating an

appeal may complete the appeal process in the family's local geographic area.

Sec. 20. Section 225C.47, subsection 5, paragraph 1, Code 2005, is amended to read as follows:

1. The utilization of a voucher system for payment provisions for the ~~children-at-home~~ family support center component of the program developed under subsection 7.

Sec. 21. Section 225C.47, subsection 7, Code 2005, is amended to read as follows:

7. The comprehensive family support program shall include a ~~children-at-home~~ family support center component developed by the department in accordance with this subsection. A ~~family-eligible-for-the-comprehensive-family-support-program~~ may-choose-the-children-at-home-component. Under the ~~children-at-home~~ component, a family member of an individual with a disability shall be assisted by ~~department-staff~~ a family support center in identifying the services and support to be provided to the family under the family support subsidy program or the comprehensive family support program. The identification of services and support shall be based upon the specific needs of the individual and the individual's family which are not met by other service programs available to the individual and the individual's family. ~~Based-upon-the services-and-support-identified, the department shall develop a contract-for-direct-payment-of-the-services-and-support provided-to-the-family.~~

Sec. 22. Section 225C.48, Code 2005, is amended to read as follows:

225C.48 ~~PERSONAL-ASSISTANCE-AND~~ COMPREHENSIVE FAMILY SUPPORT SERVICES COUNCIL.

1. a. An eleven-member ~~personal-assistance-and~~ comprehensive family support services council is created in the department. The members of the council shall be appointed by the following officials as follows: governor, five members; majority leader of the senate, three members; and

speaker of the house, three members. At least three of the governor's appointments and one of each legislative chamber's appointments shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the members shall be current or former service consumers of personal-services or family members of such service consumers. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment.

b. The members of the council shall be are entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. In addition, the members who are current or former service consumers or family members of such service consumers are entitled to a stipend of fifty dollars for each council meeting attended, subject to a limit of one meeting per month. The expenses and stipend shall be paid from the appropriation made for purposes of the comprehensive family support program.

c. The council shall elect officers from among the council's members.

2. The council shall provide ongoing guidance, advice, and direction to the department and other agencies working with the department in the development and implementation of the personal-assistance-services family support subsidy program created in section ~~225C.46~~ 225C.36 and the comprehensive family support program created in section 225C.47. The council shall perform an annual evaluation of each program, and annually make recommendations concerning each program to the governor and general assembly. The evaluation and recommendations shall be prepared and submitted in conjunction with the evaluation report submitted by the department pursuant to section 225C.42. The department shall provide sufficient staff support to the council to enable the council to carry out its responsibilities.

3. The council shall perform the following duties in consultation with the department and any department staff with duties associated with the personal-assistance-services family support subsidy and comprehensive family support programs:

a. Oversee the operations of the programs.

b. Coordinate with the department of education and programs administered by the department of education to individuals with a disability, in providing information to individuals and families eligible for the programs under sections-225C-46-and-225C-47.

c. Work with the department and counties regarding managed care provisions utilized by the department and counties for services to individuals with a disability to advocate the inclusion of personal-assistance-services family support subsidy and the comprehensive family support program programs as approved service provisions under managed care.

d. Develop and oversee implementation of evaluation processes for the programs.

e. Oversee statewide training of department and family support center staff regarding the two programs.

f. Oversee efforts to promote public awareness of the programs.

4. The department shall consider recommendations from the council in developing and implementing each program, including the development of administrative rules. The department shall regularly report to the council on the status of each program and any actions planned or taken by the department related to each program.

Sec. 23. Section 225C.49, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. Utilize internal training resources or contract for additional training of staff concerning the information under paragraph "a" and training of families and individuals as necessary to develop-plans-and-contracts implement the family support subsidy and comprehensive family support programs under sections-225C-46-and-225C-47 this chapter.

Sec. 24. Section 225C.49, subsection 4, Code 2005, is amended to read as follows:

4. The department shall designate one individual whose sole duties are to provide central coordination of the programs under sections ~~225E.46~~ 225C.36 and 225C.47 and to work with the ~~personal-assistance-and~~ comprehensive family support services council to oversee development and implementation of the programs.

Sec. 25. Section 422.11E, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. "Disability" means the same as defined in section ~~225E.46~~ 15.102 ~~except that it does not include alcoholism.~~

Sec. 26. Section 422.33, subsection 9, paragraph c, subparagraph (2), Code Supplement 2005, is amended to read as follows:

(2) "Disability" means the same as defined in section ~~225E.46~~ 15.102, ~~except that it does not include alcoholism.~~

Sec. 27. Section 225C.46, Code 2005, is repealed.

Sec. 28. CODE EDITOR DIRECTIVE. The Code editor shall revise the headnote to section 225C.42 to change the word "periodic" to "annual".

Sec. 29. TRANSITION PROVISIONS -- EFFECTIVE DATE.

1. If a family that adopted a special needs child receives the family support subsidy under section 225C.38 and also receives financial assistance under section 600.17 for the same child as of July 1, 2006, the department of human services shall provide notice to the family that effective January 1, 2007, the family will no longer be eligible for the family support subsidy. The department shall notify the families affected by this subsection on before July 1, 2006. This subsection, being deemed of immediate importance, takes effect upon enactment.

2. If a family that receives the family support subsidy under section 225C.38 as of July 1, 2006, also receives medical assistance home and community-based waiver services

and lives in a county in which the comprehensive family support program services are available, effective January 1, 2007, the family is not eligible to receive the family support subsidy. The department of human services shall notify the families affected by this subsection on or before July 1, 2006. This subsection, being deemed of immediate importance, takes effect upon enactment.

3. a. The provision of this division of this Act enacting section 225C.38, subsection 2, paragraph "c", subparagraph (3), relating to medical assistance home and community-based waiver services provided under a consumer choices option, is contingent upon receipt of federal approval of a waiver authorizing utilization of the consumer choices option. The department of human services shall notify the Code editor regarding the receipt of the federal approval and the implementation date.

b. A family receiving family support services that also receives medical assistance home and community-based waiver services and resides in an area in which the consumer choices option is available under the waiver is ineligible to receive the family support subsidy. The department shall notify a family affected by this subsection six months prior to terminating the family support subsidy.

c. This subsection, being deemed of immediate importance, takes effect upon enactment.

4. Any savings generated by the requirements of this section and the program changes implemented pursuant to this Act during the fiscal year beginning July 1, 2006, shall be used by the department of human services to provide eligibility for families on the waiting list for the family support subsidy program. If the waiting list is eliminated, any remaining funds shall be used to expand the comprehensive family support program during that fiscal year.

DIVISION VII
INVOLUNTARY HOSPITALIZATION PROCEEDINGS

Sec. 30. Section 125.82, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362, section 1, if enacted, is amended to read as follows:

3. The person who filed the application and a licensed physician or qualified mental health professional as defined in section 229.1 who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless ~~prior-to-the-hearing~~ the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or telephonic appearance of the licensed physician or qualified mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or qualified mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or qualified mental health professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician or qualified mental health professional is necessary, the court may allow the licensed physician or qualified mental health professional to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.

Sec. 31. Section 229.12, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362, section 3, if enacted is amended to read as follows:

3. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant. The licensed physician or qualified mental health professional who examined the respondent shall be present at the hearing unless ~~prior-to-the-hearing~~ the court for good cause finds that the licensed physician's or qualified mental health professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the licensed physician or qualified mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or qualified mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or qualified mental health professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician or qualified mental health professional is necessary, the court may allow the licensed physician or the qualified mental health professional to testify by telephone. If upon

completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2217, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor