

SELECTED 1998 DISABILITY RELATED
HEALTH AND HUMAN SERVICES LEGISLATION*

by Anne L. Henry

Minnesota Disability Law Center

I. CHANGES AFFECTING CLIENTS' INCOME AND PROVIDER RATES

A. Medical Assistance Income Standard Increase For Age, Blind, And Disabled Persons, Ch 407, Art. 1, Sec. 13, 15 and 16, Minn. Stat. § 256B.055, Subd. 7; Minn. Stat. § 256B.056, Subd. 1a; and Minn. Stat. § 256B.056, Subd. 4.

Over 12,000 persons who are elderly or disabled on Medical Assistance with spenddowns will get to keep \$47.00 more per month beginning July 1, 1998 (for most persons, \$467 plus \$20 unearned income disregard). All persons who have a spenddown to qualify for Medical Assistance due to disability or age will now have the same income standard.

1. Section 13 eliminates a provision allowing individuals eligible for Medical Assistance with a spenddown who had state and federal taxes deducted from their income, to have a higher income standard than non-working spenddown recipients.
2. Section 15 eliminates an exception in the income standard for persons who had child support payments.

3. Section 16 actually establishes 133 1/3 percent of the AFDC standard in effect July 16, 1996, as the medically needy income standard for all eligible groups: families and children, those who are disabled and the elderly.
4. Section 16 also includes language requiring the Commissioner to consider increasing the income standard each year by the amount allowed by federal law, Consumer Price Index for all Urban (CPI-U).

*All provisions cited are from Minnesota Session Laws, 1998, Chapter 407, The Health and Human Services Omnibus Funding Legislation.

B. Prescription Drug Benefit For Qualified Medicare Beneficiaries (Disabled And Elderly), Ch 407, Art 1, Sec. 2, Subdivision 3(c). Uncodified.

1. If DHS obtains a federal waiver to provide a prescription drug benefit to Medicare beneficiaries with incomes at 100 percent of the federal poverty guidelines (\$672 per month) for QMBs and 120 percent of the federal poverty guidelines (\$806 per month) for SLMBs, the senior citizen drug program (passed in 1997) will not be implemented. This directive establishes September 15, 1998, as the date by which federal approval is to be obtained for the prescription drug benefit for Medicare enrollees. The Commissioner may seek to impose a higher co-payment on eligible persons above 100 percent of FPG. If the federal waiver is not obtained, the senior citizen drug program is to be implemented under previous law.

2. The prescription drug benefit waiver would be very beneficial to a lot of our clients who have Medicare, which does not include prescription drug coverage. Many individuals with chronic illnesses such as M.S., mental illnesses, heart disease, HIV/AIDS, must spend down their Social Security income to get prescription coverage through Medical Assistance. The benefit of implementing the waiver rather than the senior drug program is the inclusion of those under 65 with disabilities on Medicare who are in similar circumstances to the elderly on Medicare without prescription drug coverage.

C. Eligibility For Payment Of Medicare Part B Premium By Medical Assistance, Section 17, Minn. Stat. § 256B.057, Subd. 3a.

The income standard for eligibility for persons to have their Medicare Part B premium paid by Medical Assistance has increased from 110 percent of the Federal Poverty Guidelines to 120 percent of FPG (\$806).

D. Payment Of Medicare Part B Premiums By Medical Assistance, Federal Changes, Section 18, Minn. Stat. § 256B.057, Subd. 3a.

This section contains new categories of eligibility for payment of the Medicare Part B premium for those between 120 percent and 130 percent of the Federal Poverty Guidelines (FPG). In addition, federal funds are available to pay the portion of the Medicare Part B premium increase attributable to the shift of home care services from Part A to Part B due to federal law changes. This will be an extremely complicated calculation for a very small amount of money for those with incomes between 135 percent FPG and 175 percent FPG.

E. Provider Rate Increase, Ch 407, Art. 1, Sec. 2, Subdivision 6(f). Uncodified.

Effective July 1, 1998, all providers (facilities as well as community-based) are to receive a 3% increase at a cost of \$20 million annually. Rider language requires county boards to adjust provider contracts for waived services as needed. The laundry list of providers is thought to be inclusive this year, compared to last year when several types of providers (such as mental health centers) were inadvertently left out. The Legislature states its intent that the three percent go to an increase in "compensation packages of staff."

II. PROVISIONS AFFECTING CHILDREN

A. Medical Assistance For Children Who Lost SSI Benefits, Ch 407, Art. 4, Sec. 14, Minn. Stat. § 256B.055, Subd. 7a.

As federal law now requires, children who lost SSI due to changes in the disability standards enacted by Congress in 1996 as a part of welfare reform, but who still meet the income and asset requirements of the SSI program, will continue to be eligible for Medical Assistance until the age of 18. This will only apply to children who actually were receiving SSI before the changes in 1996. As these children become adults, this eligibility category will apply to fewer and fewer individuals until it applies to no one by the year 2015.

B. Public School Billing To Obtain Medical Assistance Funding For Eligible Students, Ch 407, Art. IV, Sec. Sec. 21, 24, Minn. Stat. § 256B.0625, Subd. 7 and 19a.

1. Federal provisions adopted in 1997 as part of the reauthorization of IDEA (Individuals with Disabilities Education Act) establish that Medicaid and other publicly funded health care programs are to be the first source of payment for otherwise covered health services provided to eligible children at school. This change will have a major impact on special education funding and will affect many low-income children. Currently, only about 20 of Minnesota's 350 school districts bill MA.
2. Because some M.A. services are limited, new provisions were written to try to assure that children didn't suffer a loss of health care as a result of schools billing their M.A. coverage. This language assures that the parent and child have control over the school's use of their private duty nursing and personal care assistance services during school hours. The language requires that in order to use private duty nursing at school, the recipient or responsible party must provide written authorization identifying the provider and the amount of service to be used at school.
3. In addition, language was included in the education bill which prohibits a school district from becoming a home care provider (PCA, PDN) or personal care provider until DHS issues a bulletin instructing county public health nurses on how to assess for the needs of students during school hours. Language repeating the requirements to use PDN or PCA services at school is included in the education bill as well. These provisions are found at Minn. Stat. § 120.031, Subd. 3.

C. Federal State Children's Health Insurance Program, (CHIP) Title XXI

1. New Children's Health Insurance Funding, Ch 407, Art V, Sec. 46.
Uncodified.

- a. Language establishing authority with the Commissioner of DHS to use state and local expenditures as state match to obtain federal Title XXI money is provided in this section. The section directs that any federal funds received as a result of providing health coverage must be deposited in the Health Care Access Fund and any enhanced federal matching funds received as a result of outreach activities are to be dedicated back to DHS for continued outreach purposes.
- b. DHS is directed to submit waiver requests to HCFA to obtain federal Title XXI money for expenditures on MinnesotaCare coverage, MinnesotaCare outreach activities and other expenditures or health initiatives under MinnesotaCare and Medical Assistance, including subsidizing employer-based coverage. DHS is to present legislation needed to obtain enhanced federal matching funds by January 15, 1999.

- c. Federal Title XXI funding is considered "enhanced" because Minnesota can obtain \$2 in federal funds for every \$1 of state money expended, compared to Medicaid (Title XIX) which provides about \$1 in federal funds for each \$1 of state funds spent on Medical Assistance.

2. Employers' Subsidized Health Coverage For Children, Ch 407, Art V, Sec. 45. Uncodified.

- a. This uncodified language requires DHS to submit a federal funding plan to the Health Care Financing Administration (HCFA) to obtain Title XXI funding for children whose families are ineligible for MinnesotaCare due to the availability of employers' subsidized insurance. DHS is to develop proposed legislation to implement this subsidized employer-based insurance program which could charge a maximum of five percent of the family's income for premiums. The draft legislation is due to the Legislature by December 15, 1998.
- b. Part of the legislation must include a phase-out of MinnesotaCare coverage for children who have transferred from the old children's health plan to MinnesotaCare prior to 1992 and children who are below 150 percent of poverty, underinsured, and thus allowed to have MinnesotaCare coverage despite having other insurance.

III. PERSONAL CARE ASSISTANCE SERVICES

A. Personal Care Assistant (PCA) Services; Shared Care, Ch 407, Art. IV, Sec. 31, Minn. Stat. § 256B.0627, Subd. 8.

1. New language allows recipients to share a PCA, who is then paid at one and one-half times the rate for assisting two persons, or twice the rate for assisting three people at one time. The shared PCA option passed last year, but DHS was concerned about documentation and safety requirements, and consequently, threatened to delay the implementation of shared care until rulemaking could occur. Rather than a rulemaking delay, the needed language was included in statute so that the shared care PCA option could begin as soon as possible. The section is effective the day after enactment. (April 22, 1998)
2. This new option could provide additional resources for child care for MFIP (Minnesota Family Investment Plan) families whose children with disabilities need more help in a child care setting.

B. Additional PCA Covered Service, Ch 407, Art IV, Sec. 29, Minn. Stat. § 256B.0627, Subd. 4(18).

PCAs will now be able to assist with tracheostomy suctioning if it is a "clean procedure" and the PCA has been taught by a registered nurse and observed.

- C. PCA Services, Simplified Reassessment, Ch 407, Art IV, Sec. 30, Minn. Stat. § 256B.0627, Subd. 5.

DHS added language to allow reassessment after the first year by the recipient or responsible party, in conjunction with the public health nurse, on a service update form developed by DHS. The service update may substitute for the annual reassessment now required. Language is deleted which allowed a simple reassessment on an annual basis for up to three years. DHS had never implemented the prior language but now apparently will develop a form to accomplish a simple reassessment for our clients.

- D. Personal Care Assistant Providers License Requirements, Ch 407, Art. IV, Sec. 55. Uncodified.

Uncodified language from last session was amended to add provisions that licensure standards to be developed by the Commissioner of Health must include requirements that providers give consumers advance written notice of service termination, and develop transition plans. An appeal process is required. Prior to promulgating the licensing rule, the Commissioner of Health must submit the proposed rule to the Legislature by January 15, 1999.

IV. MENTAL HEALTH CHANGES

- A. Mental Health Case Management Qualifications, Ch 407, Art. IV, Sec. 2, Minn. Stat. § 245.462, Subd. 4.

The case manager qualifications for mental health case management have been changed. Upon DHS approval of a waiver requested by counties, a case manager no longer needs a bachelor's degree, but must have 6,000 hours of supervised experience and 40 hours of training. This controversial provision was limited by requiring counties to request waivers in order to have case managers meet lesser standards of training, rather than simply allow all case managers to meet lower standards.

- B. Mental Health Case Management For Children, Ch 407, Art IV, Sec. 4, Minn. Stat. § 245.4871, Subd. 4.

This section allows counties to request waivers to employ case managers without a bachelor's degree under similar circumstances to the adult case management changes described above.

- C. Mental Health Case Management Funding, Ch 407, Art. IV, Sec. 25, Minn. Stat. § 256B.0625, Subd. 20.

This section changes mental health case management from a Medical Assistance covered service paid for with state and federal dollars to a Medical Assistance covered service paid for using a state block grant and county dollars to obtain federal Medicaid match. Implementation of this financing change was delayed from January 1, 1999 to July 1, 1999. It is hoped that the task force to maximize federal funding in mental health (see D below) will examine whether or not the use of local dollars to obtain federal match is the best that can be done to fund mental health case management.

D. Mental Health Federal Funding Maximization Report, Ch 407, Art. IV, Sec. 62. Uncodified.

DHS is required to report to the Legislature on recommendations to maximize federal funding for mental health services for children and adults by December 1, 1998. The language also requires recommendations on whether or not the state should directly participate in Medical Assistance mental health case management funding rather than move to the block grant case management funding which has been delayed until July 1, 1999. (See C above.)

V. LONGTERM CARE PROVISIONS RELATED TO THE REPEAL OF THE BOREN AMENDMENT

- A. New Nursing Facility Reimbursement System, Ch 407, Art. III, Sec. 14, Minn. Stat. § 256B.435.

A new method to pay for nursing homes must be established by July 1, 2000.

The new method will be based on a performance-based contract with two different methods to pay for property-related costs. An inflation factor based upon the Consumer Price Index -- All Items is to be used for annual increases "within the limits of appropriations."

- B. New ICF/MR Reimbursement System, Ch 407, Art. III, Sec. 16, Minn. Stat. § 256B.5011.

A new reimbursement system to pay for ICF/MR services will be developed for implementation by October 1, 2000. The current reimbursement method is no longer needed due to the repeal of the Boren Amendment by Congress last year.

The new system will implement a performance-based contracting method to pay for ICF/MR services. An inflation factor based on the Consumer Price Index -- all items (CPI-U) will be used in the first quarter of each calendar year to provide an increase for ICF/MR services.

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