

**2003 Disability and Mental Health Legislative Report**  
**Anne Henry, Minnesota Disability Law Center**  
**June 30, 2003**

Here are several paragraphs which you are free to edit and/or add to LSAP's report:

**HEALTH CARE**

1.     **Home and Community Waiver Services Reductions**

The Legislature limited access to home and community waiver services for three of the waivers serving persons with disabilities:

- a.     The Legislature eliminated 600 new waiver-funded slots for persons with developmental disabilities in the waiver program for mental retardation/related conditions (MR/RC) for the next biennium.
- b.     The waiver for persons with traumatic injury (TBI) has been limited to serving 150 new persons per year for the next biennium, which means there will likely be a waiting list for these community services for the first time.
- c.     The community alternatives for disabled individuals (CADI) waiver which provides community services to persons who would otherwise be eligible for nursing home care, has been limited to no more than the cost of serving 95 new persons per month. This is the first time the CADI waiver program has been limited, which will also likely result in a waiting list for these services.

In addition, improvements for home and community-based waiver services, including the development of a common service menu and the implementation of home care targeted case management have been delayed for two years until July 1, 2005.

The sum of the home and community waiver case load reductions and improvement delays add up to a cut of \$27 million in state funds, which means \$54 million in services when federal Medicaid matching funds are added.

*Chapter 14, Article 13C, Section 2, Subdivision 9(f).*  
*Effective July 1, 2003.*

2. **Community Service Provider Rate Cuts**

Community service providers, including home and community waiver providers, intermediate care facilities for persons with mental retardation, deaf and hard of hearing grants, alternative care grants, day training and habilitation services, chemical dependency residential and nonresidential services, and consumer support grants all had their rates reduced one percent. Adult mental health grants, personal care assistance, private duty nursing and home health care services were not reduced.

*Chapter 14, Article 13C, Section 2, Subdivision 9.*

*Effective July 1, 2003.*

3. **Consumer Support Exception Grants Eliminated**

Consumer support exception grants for 200 families who care for their disabled family member at home will have their exception grants cut to a regular grant amount on January 1, 2004.

*Chapter 14, Article 3, Sections 11-15.*

*Effective January 1, 2004.*

4. **Personal Care Assistance (PCA), Responsible Party Change**

The responsible party for a person who receives PCA services no longer has to live with the person, but must be actively involved in planning and directing the PCA services and monitor the services at least weekly.

*Chapter 14, Article 3, Section 26.*

*Effective July 1, 2003.*

5. **Parent Fee Increases for Children with Disabilities Receiving In-Home or Out-of-Home Services**

Parents with incomes above the Medical Assistance (MA) income limit whose children use MA-TEFRA or home and community-based waiver services or are in out-of-home residential treatment will have their fees increased. In order to save money due to the state budget deficit, the legislature will require about 7,000 families with children with disabilities to pay \$4.2 million more in fees over the next 2 years.

*Chapter 14, Article 6, Section 39.*

*Effective July 1, 2003.*

6. **Medical Assistance for Employed Persons with Disabilities (MA/EPD) Eligibility Changes.**

The MA/EPD program will be changed in a number of significant ways:

- a. Everyone will have to earn more than \$65 per month in order to participate in MA/EPD, beginning July 1, 2004.
- b. A minimum premium of \$35 will have to be paid for those who now pay less than \$35 per month, beginning January 1, 2004.
- c. MA/EPD enrollees must have taxes withheld from their earnings or pay quarterly self-employment taxes in order to remain eligible, beginning July 1, 2004.
- d. One-half percent of unearned income must be paid on a monthly basis for those who have Social Security or other unearned income, beginning November 1, 2003.
- e. Beginning November 1, 2003, persons over 200 percent of the Federal Poverty Guidelines (FPG), \$1,498/month, will have to pay their Medicare Part B premium if they have Medicare. The Medicare Part B premium is now about \$58 per month and will rise to \$65 per month next January.
- f. Effective January 1, 2004, MA-EPD enrollees can remain on MA-EPD for four months after losing a job through no fault of their own.  
*Chapter 14, Article 12, Section 22.*

7. **Children's Mental Health Services Improvement.**

Funding was authorized for children's mental health screening, which will include follow-up assessments and services for children in the child protection and juvenile justice systems at \$2.7 million for 2005 and \$9.2 million for the following biennium. In addition, a new more flexible Medical Assistance benefit set for children's therapeutic services and supports was adopted, providing \$1.7 million for 2005 and \$3.8 million in the following biennium.

An adolescent mental health crisis facility for sub-acute care was funded in the Medical Assistance program. A suicide prevention grant in the Health Department was maintained as a separate block grant.  
*Chapter 14, Article 4.*  
*Effective July 1, 2004.*

8. **Adult Mental Health Changes.**

Regional treatment centers will be reduced to facilities for 15 or fewer persons in order to qualify for Medical Assistance, resulting in a savings of \$9.5 million. Rule 36 facilities will be reduced for the same reason, in order to qualify for federal Medicaid funding. Also, adult mental health day treatment will be restricted by new prior authorization requirements in order to save money.

A new alternative treatment program for offenders with mental illness will be established. This new program will also be eligible for federal Medical Assistance match.

*Chapter 14, Article 3, Sections 19-25, Article 1, Section 4; Chapter 2, Article 1, Section 15, Article 5, Sections 6, 7, 10, 14-16.*

*Various effective dates.*

## **SOCIAL SERVICES**

### **1. Community Services Act (CSA), County Social Services.**

The Legislature repealed the Community Social Services Act which had been in effect for over 20 years and replaced it with a new social services law, the Community Services Act. Over \$20 million in children's mental health grants will be combined with state social services funds and federal Title XX funds into a new block grant called the Children's and Community Services Grant, which has far fewer requirements for counties than under previous law.

Counties are required to continue to provide services in seven priority areas, including protection services, emergency services and services that maintain persons in their homes or least restrictive settings. Specific language on day training and habilitation (DT&H) and chemical dependency services was removed from the list of priority areas, but must be provided when needed to meet service priorities such as emergencies or maintaining a person in the least restrictive environment. The new block grant funding is available for vulnerable adults as well as children. DHS had proposed excluding adults over 25.

Counties are required to spend at least 40 percent of the new block grant on low-income children. Also, counties are limited in making service cuts for adults with disabilities to no more than the "overall percentage" of the reduction in funding, including federal funds, which will be about 18 percent in calendar year 2004. However, counties are not allowed to reduce services needed to meet priority areas.

The Legislature shifted \$12.5 million in social services payments into the next fiscal year and cut \$25 million for the second year.

*Chapter 14, Article 11 and Article 13C, Section 2, Subdivision 4.*

*Effective July 1, 2003.*

2. **Elderly, Disability Community Grants Reduced.**

The following grants were cut 15 percent: Seniors' Agenda for Independent Living (SAIL), foster grandparents, senior volunteers and senior companions. Funding for the Home Share program, Block Nurse administration, Health Insurance Counseling, Home Care Ombudsman and Regional Planning grants was eliminated.

*Chapter 14, Article 13C, Section 2.*

*Effective July 1, 2003.*

3. **Increase For Adoption And Relative Custody Assistance For Special Needs Children.**

Funding for adoption and relative custody assistance for 960 children with special needs was funded for an additional \$2.2 million for the next biennium, rising to \$16.8 million for 2006, 2007.

*Chapter 14, Article 13C.*

*Effective July 1, 2003.*

## **CASE MANAGEMENT**

A. **MR/RC Case Management.** Chapter 14, Article 3, Section 31, Page 236, Line 6.

1. The functions of a case manager for persons with developmental disabilities were rearranged with several clarifications added:

a. Case management service activities will newly include "consulting with relevant medical experts or service providers" and coordination of services, "if coordination is not provided by another service provider."

b. Further, case managers' duties to work with consumers, families, legal representatives and relevant medical experts and service providers have been restated in a new subclause.

c. There is a new requirement that DHS's offer ongoing education, at least ten hours of case management education and disability-related training each year. DHS has regularly been offering case management training.

2. Added importance of individual service plans (ISP).

Because of the increased importance of ISPs in determining needed services, providers and amount of service, attention to the ISP development process is more important than ever. Because of new provisions regarding DT&H services, choices of services during the day and pressure on county funding, consumer protections and choice in this area must be reflected in the ISP.

3. Evaluating denials, reductions or terminations of waived services.

A new provision, which applies to the MR/RC, CADI, CAC and TBI waivers, requires that the case manager offer to meet with a person or their guardian to discuss service priorities within the ISP when reductions are contemplated. Further, reductions may not exceed the amount needed to ensure medically necessary services to meet the individual's health, safety and welfare. Article 3, Section 32, Page 238, Line 4, and Section 46, Page 241, Line 18.

**B. Mental Health Targeted Case Management (MH-TCM),** Chapter 14, Article 12, Section 30, Page 624, Line 32.

1. Counties are required to contract for MH-TCM for adults and children with providers who meet the MH-TCM requirements and will have at least one contact with each client per week.

2. According to DHS, this new provision does not alter county authority to set rates for contracted vendors, determine client eligibility for MH-TCM and contract for less than one contact per week.

**C. Case Management Changes for Relocation Targeted Case Management, CADI, TBI, CAC.** Chapter 14, Article 3, Section 53, Page 251, Line 31.

1. When a person requests services under a home and community-based waiver (MR/RC, CADI, TBI, CAC) or to get out of a nursing home (Relocation Targeted Case Management), a county must determine eligibility and provide service within the required time lines or contract for case management services.

2. Existing case management time lines include:

a. For persons under 65 in a nursing facility, counties must visit the person within 20 working days of a request for relocation targeted case management, Minn. Stat. § 256B.0621, Subd. 7.

(1) The Commission may waive provider requirements to ensure access to help to move out of a nursing facility.

(2) The Commissioner will enroll alternative relocation case management providers.

(3) A recipient who wants to use an alternative provider of relocation case management must provide written notice of the intention to the county.

b. For persons requesting CADI, TBI and CAC, a case manager must:

(1) assess needs within 20 working days of the request.

(2) develop the individual service plan with ten working days of completing the assessment, Minn. Stat. § 256B.49, Subd. 15.

c. For persons eligible for case management as a person with mental retardation or a related condition, counties are required to:

(1) Complete a comprehensive diagnostic evaluation within 35 working days of a request for case management services. Minn. R. 9525.0016, Subpart 3.

(2) Convene the screening team to evaluate the level of care needed within 60 working days of a request for services. Minn. R. 9525.0016, Subpart 7.

**D. Case Management Redesign Study**, Article 3, Section 54, Page 252, Line 9.

The Commissioner of DHS is required to report to the Legislature on broad redesign of case management by January 15, 2005.

In preparing draft legislation, DHS must consult with interested stakeholders to develop changes to improve access, streamline administration, address use of a comprehensive, universal assessment, establish performance measures, provide for choice of vendor, and develop cost effective payment methods.

The Legislature provided \$54,000 for the redesign report.