

TO: Persons Interested in Disability-Related Legislation

FROM: Anne L. Henry

RE: 2006 Disability-Related Legislation

DATE: July 27, 2006

The 2006 Minnesota Legislature concluded an eleven-week session on May 21, 2006. The Legislature adopted a supplemental budget and other legislation which will affect persons with disabilities. The following is a summary which covers mainly health and human services changes:

1. EXPANSION OF MANAGED CARE FOR PERSONS WITH DISABILITIES

Laws of Minnesota, Ch. 282, Art. 20, Sec. 28, 29, 30
Amends Minn. Stat. §§ 256B.69, subd. 9, 23 and adds subd. 28.
Effective July 1, 2006.

The Legislature authorized a new type of managed care which will combine Medicare Special Needs Plans (SNPs) and Medical Assistance basic care into one health plan. This new option is currently under development at DHS with a legislatively required stakeholder group which is to consider needed consumer protections, contract specifications and other issues. Enrollment can begin after January 2007 (adds Minn. Stat. § 256B.69, subd. 28).

In addition, the Legislature delayed the expansion of the Minnesota disability health options (MnDHO) until after January 2008. The MnDHO program combines both basic health care and long-term care services into one plan which includes both Medicare and Medicaid coverage (amends Minn. Stat. § 256B.69, subd. 23).

Third, the Legislature has authorized the Department of Human Services to provide aggregate data on managed care health plan service provision (encounter data) and spending in various categories (amends Minn. Stat. § 256B.69, subd. 9).

2. MENTAL HEALTH PROFESSIONAL RATE INCREASE

Laws of Minnesota, Ch. 282, Art. 16, Sec. 10.
Adds a new section Minn. Stat. § 256B.763.
Effective July 1, 2007.

Rate increases averaging 23.7 percent were enacted for psychiatrists and other critical mental health professionals for Medical Assistance, MinnesotaCare and General Assistance Medical Care.

The increase is required to be paid to prepaid health plans under contract with DHS, and those plans are required to pass the rate increase to the identified mental health providers.

3. CRISIS SERVICES ADDED TO CHILDREN'S MENTAL HEALTH BENEFITS

Laws of Minnesota, Ch. 282, Art. 16, Sec. 8.

Amends Minn. Stat. § 256B.0946, subd. 1.

Effective July 1, 2006.

Crisis services, funded for one million dollars per year for two years, were added to children's mental health treatment foster care services.

4. MENTAL HEALTH, OPEN HOSPITAL BED TRACKING SYSTEM

Laws of Minnesota, Ch. 282, Art. 22, Sec. 2.

Effective July 1, 2006.

A new online bed tracking system funding was approved for \$336,000 for the next two years.

5. MENTAL HEALTH OUTCOME MEASUREMENT

Laws of Minnesota, Ch. 282, Art. 22, Sec. 2.

Effective July 1, 2006.

The Legislature approved the development of outcome measures for mental health services and funded the effort for \$436,000 for the next two years.

6. COUNTY MAINTENANCE OF EFFORT FOR MENTAL HEALTH SERVICES

Laws of Minnesota, Ch. 282, Art. 16, Sec. 4.

Adds Minn. Stat. § 245.4835.

Effective July 1, 2006.

Counties are required to maintain a level of expenditures for mental health services at least equal to the average of their expenditures in 2004 and 2005. The Commissioner has authority to adjust county minimum expenditures due to variations in state and federal income. Former county maintenance of effort provisions for children's and adult mental health services were repealed, Minn. Stat. §§ 256B.0945, subd. 5, 6, 7, 8 and 9; 256B.0625, subd. 20i. and Minn. Stat. § 256B.83.

7. MENTAL HEALTH PILOT PROGRAM FOR UNSHELTERED INDIVIDUALS

Laws of Minnesota, Ch. 282, Art. 16, Sec. 16.

Uncodified.

Effective July 1, 2006 through 6/30/2008.

Hennepin and Ramsey Counties will each be allowed to create a 10-bed program to provide shelter and on-site mental health services to homeless adults. An enhanced group residential housing rate of \$700 per month is allowed for these programs.

8. RELEASE OF MENTAL HEALTH RECORDS TO FAMILY OR CAREGIVER

Laws of Minnesota, Ch. 253, Sec. 10.

Amends Minn. Stat. § 141.335, Subd. 3D.

Effective August 1, 2006.

The statute regarding mental health records was changed to allow mental health providers to release information to a family member or caregiver under certain circumstances: 1) The request must be in writing; 2) A family member, other person who lives with, provides care, or is directly involved with monitoring the treatment must request the record; 3) The level of involvement of the family member or caregiver must be verified by the mental health provider, the attending physician or person other than the person requesting the information and documented in the patient's medical record; 4) Before disclosure of the information, the patient must be informed in writing of the request, the name of the person requesting and the reason; 5) the patient must agree to the disclosure or not object or be unable to consent or object and their inability to make a decision must be documented in the record; and 6) The disclosure must be necessary to assist in the provision of care or monitoring of their treatment.

Information to be released is limited to diagnosis, admission or discharge from treatment, name and dosage of medication, side effects, consequences of failure to take medication and a summary of the discharge plan.

9. MANAGED CARE SOLE SOURCE CONTRACT OR SINGLE PLAN

Laws of Minnesota, Ch. 264, Sec. 15.

Uncodified.

Effective August 1, 2006.

The Commissioner of Human Services is required to approve a county-based purchasing plan for five counties: Cass, Crow Wing, Morrison, Todd and Wadena. Contract approval is contingent upon implementation, which will not limit the enrollees' choice of provider or access to services and all other health plan purchasing requirements applicable must be met.

The Commissioner is also required to consider contracting with a county-based purchasing plan for a sole source contract or other qualified health plans that are coordinating with counties to serve persons with disabilities who voluntarily enroll in the plan. The purpose of the plan is better coordination and integration of services while meeting all other applicable health plan purchasing requirements. The Commissioner is allowed to approve either a county-based or health plan-based plan which has coordination arrangements with counties.

Third, the Commissioner is required to report to the Legislature on an analysis of the advantages and disadvantages of using single health plan purchasing to serve persons with disabilities eligible for health care programs. The report is due January 15, 2007 to the chairs of the relevant committees.

10. COMMUNITY SERVICES PROVIDER RATE INCREASES

Laws of Minnesota, Ch. 282, Art. 20, Secs. 27 & 31.

Section 27 amends Minn. Stat. § 256B.5012, subd. 6, and Section 31 is uncodified.

Effective June 4, 2006.

The cost of living (COLA) increases adopted during the 2005 session were clarified to include consumer-directed community supports for the home and community waiver programs, Minnesota Disability Health Option Managed Care programs. Also language was added to allow the wage adjustment COLA to be provided to eligible employees on a variable basis based on merit, seniority or other factors.

11. GENERAL ASSISTANCE MEDICAL CARE ELIGIBILITY

Laws of Minnesota, Ch. 282, Art. 16, Sec. 11.

Amends Minn. Stat. § 256D.03, subd. 3.

Effective July 1, 2006.

Persons who are otherwise eligible for Medical Assistance but have not verified their assets are not eligible for General Assistance Medical Care (GAMC). Anyone using GAMC who becomes eligible for Medical Assistance (MA) shall be terminated and transferred to MA.

Four groups of General Assistance Medical Care enrollees are exempt from transferring over to MinnesotaCare with the rest of the GAMC population, beginning September 1, 2006.

12. ICF/MR PLAN

Laws of Minnesota, Ch. 282, Art. 20, Sec. 34.

Uncodified.

Effective June 4, 2006.

The Department of Human Services is required to consult with ICF/MR providers and other stakeholders to develop a plan and legislation on the future of ICF/MR services. The plan is to be provided to appropriate legislative committees by December 15, 2008.

13. STAKEHOLDER PARTICIPATION FOR FEDERAL DEFICIT REDUCTION ACT CHANGES

Laws of Minnesota, Ch. 282, Art. 20, Sec. 33.

Uncodified.

Effective June 4, 2006.

The Department of Human Services is required to confer with one or more stakeholder groups regarding changes to the Medical Assistance program authorized by the Federal Deficit Reduction Act.

14. ADDITIONAL WAIVER ALLOCATIONS FOR PCA HOMES

Laws of Minnesota, Ch. 282, Art. 20, Sec. 35.

Uncodified.

Effective June 4, 2006.

The Legislature adopted rider language to allow DHS to use funding for personal assistance services provided in group homes to transfer additional home and community waiver-funded slots for residents affected by a prohibition on PCA services in a pooled hour group setting. The opportunity to transfer to waiver services is limited to individuals living in a provider setting using PCA services, other than individual or shared care, on March 1, 2006.

**15. WAIVER FOR PERSONS WITH DEVELOPMENTAL DISABILITIES
REPAYMENT DELAY**

Laws of Minnesota, Ch. 282, Art. 20, Sec. 27.

Uncodified.

Effective July 1, 2006.

Three counties which overspent their DD allocation during 2004 or 2005 will have their repayment delayed until May 31, 2007. The repayment delay was authorized in hopes that a more permanent solution to this problem will be adopted by the 2007 session of the Minnesota Legislature. This provision affects Fillmore, St. Louis and Carver Counties.

**16. RATE INCREASE FOR CRITICAL ACCESS DENTAL PROVIDERS UNDER
MEDICAL ASSISTANCE**

Laws of Minnesota, Ch. 282, Art. 22, Sec. 2, subd. 2.

Amends Minn. Stat. § 256B.76 and uncodified rider language.

Effective July 1, 2006.

The Legislature authorized a 38 percent increase in reimbursement for critical access dental providers beginning October 1, 2006 through June 30, 2007. The Department is required to report to the Legislature by February 15, 2007, on the results of the rate increase to critical access dental providers and recommendations on funding sources to continue higher payments after June 30, 2007.

17. CRITICAL ACCESS, DENTAL RATES INCREASED FOR MINNESOTACARE

Laws of Minnesota, Ch. 282, Art. 16, Sec. 13.

Amends Section 256L.11, by adding a new subd. 7.

Effective July 1, 2006.

Critical access dental providers will be paid at a rate 50 percent for MinnesotaCare above what they otherwise would have been paid. The rate increase begins January 1, 2007, and includes adjustments to prepaid health plan contracts. Prepaid health plans are required to pass the increase along to dental providers.

18. MNCARE, DENTAL CO-PAYMENT FOR ADULTS WITHOUT CHILDREN

Laws of Minnesota, Ch. 282, Art. 16, Sec. 12.

Amends Section 256L.03, subd. 5.

Effective July 1, 2006,

For MinnesotaCare enrollees, the 50 percent co-payment for restorative dental services for adults without children under 175 percent of the federal poverty level has been repealed.

19. DAY TRAINING AND HABILITATION PROGRAMS

Laws of Minnesota, Ch. 282, Art. 22, Sec. 2, Subd. 4.

Uncodified rider language.

Effective July 1, 2006.

DHS is required to review per diem rates for DT&H services, including the reasonableness of rates paid to lower costs providers and reports the results to the Legislature by January 15, 2007. In addition, Meeker County DT&H was provided a temporary rate increase of 6 percent for one year, ending June 30, 2007.

20. PHARMACY PAYMENT REFORM ADVISORY COMMITTEE

Laws of Minnesota, Ch. 282, Art. 16, Sec. 15.

Uncodified.

Effective June 4, 2006.

A pharmacy payment reform advisory committee is established at the Department of Human Services to make recommendations on the implementation of pharmacy reforms contained in the Federal Deficit Reduction Act of 2005, as well as on other issues, including the dispensing fee. The findings of the advisory committee shall be reported to the Legislature by February 1, 2007.

21. ALTERNATIVE AND COMPLIMENTARY HEALTH CARE AND ACCESS TO CARE FOR RACIAL AND ETHNIC GROUPS

Laws of Minnesota, Ch. 267, Sec. 1.

Adds Minn. Stat. § 256B.043.

The Department of Human Services Commissioner is directed to consider whether cost savings can be increased through greater use of alternative and complimentary health care services in Minnesota's public programs. Also, DHS is required to examine access to care, including for racial and ethnic groups and to make appropriate changes and develop proposals based on the findings.

22. LONG-TERM CARE INSURANCE CHANGES

Laws of Minnesota, Ch. 282, Art. 17, Sections 22 to 22.

Amends Chapter 62F.

Effective July 1, 2006.

The Deficit Reduction Act of 2005 required a number of changes in long-term care insurance.

23. LONG-TERM CARE PARTNERSHIP PROGRAM

Laws of Minnesota, Ch. 282, Art. 17, Sec. 28.

Amends Minn. Stat. § 256B.0571.

Effective July 1, 2006.

The long-term care partnership program was modified to comply with the Deficit Reduction Act of 2005.

The long-term care partnership program allows individuals who purchased long-term care insurance to cover their long-term care needs and exhaust their long-term care insurance benefits under a qualified policy, to apply for Medical Assistance and have assets disregarded for eligibility purposes up to the amount covered by the long-term care insurance policy. In other words, the long-term care partnership program allows people to protect their assets (for Medical Assistance purposes) to the extent their personally purchased long-term care policies cover long-term care costs.

24. CHANGES IN ASSET TRANSFER RULES FOR MEDICAL ASSISTANCE ELIGIBILITY

Laws of Minnesota, Ch. 282, Art. 17, Sec. 30, 31, 32.

Amends Minn. Stat. § 256B.0595, subd. 1, 2 and 3.

Effective July 1, 2006.,

The Federal Deficit Reduction Act of 2005 made changes to Medicaid eligibility with regard to uncompensated transfers. The penalty period for uncompensated transfers made after February 8, 2006, has been changed from beginning the month following the month of the transfer to the first month in which the individual applies for and is otherwise eligible for payment of long-term care services through MA. Hardship waivers are allowed. The look-back period for uncompensated transfers is 60 months.

25. ASSISTED LIVING CHANGES

Laws of Minnesota, Ch. 282, Art. 19, Sec. 1-20.

Adds new sections, Minn. Stat. § 144A.441, 442; Minn. Stat. § 144G.01-.06.

Effective January 1, 2007.

New standards for assisted living will take effect January 1, 2007, and cover practices of any building or program marketed as “assisted living.” Various requirements include: specified health services to be offered, assistance with daily living for at least three areas, safety and response systems on a 24-hour basis, supportive services including at least two meals per day, weekly housekeeping and laundry.

26. NURSING FACILITY RESIDENT ASSESSMENT SCHEDULE

Laws of Minnesota, Ch. 282, Art. 20, Sec. 2.

Amends Minn. Stat. § 144.0724, subd. 4 and Minn. Stat. § 256B.438, subd. 4.

Effective July 1, 2006.

Quarterly resident assessments beginning October 1, 2006, will be used to adjust rates for nursing facilities rather than semi-annual.

27. CHANGES IN RATE ADJUSTMENTS FOR NURSING FACILITIES CLOSURE

Laws of Minnesota, Ch. 282, Art. 20, Sec. 25.

Amends Minn. Stat. § 256B.437, subd. 6.

Effective retroactive to March 1, 2006.

The rate adjustment limit of \$2,080 does not apply after March 1, 2006. There are other changes, including negotiation regarding nursing facility closure.

28. LONG-TERM CARE, HOME CARE EMPLOYEE SCHOLARSHIP PROGRAM

Laws of Minnesota, Ch. 282, Art. 20, Sec. 19.

Amends Minn. Stat. § 256B.0918, Subd. 1.

Effective July 1, 2006.

Home and community waiver providers eligible for employee scholarship programs will receive up to 3/10 of 1 percent increase.

29. ASSET LIMITATION FOR FOOD STAMP HOUSEHOLDS

Laws of Minnesota, Ch. 282, Art. 22, Sec. 8.

Amends Minn. Stat. § 256D.0515.

Effective upon federal approval.

Food stamp asset limit was raised to the federal limit of “assets less than \$7,000.”

30. ADULT FOSTER CARE HOMEOWNER’S INSURANCE COVERAGE

Laws of Minnesota, Ch. 215.

Adds Minn. Stat. § 65A.301.

Effective August 1, 2006.

This new law prohibits the refusal of homeowner’s insurance on the basis that a homeowner provides adult foster care services in their own home.

31. TORT CLAIMS AGAINST GOVERNMENT JOINT VENTURES OR PARTNERSHIPS

Laws of Minnesota, Ch. 232, Sec. 3.

Amends Minn. Stat. §§ 3.763, subd. 4; 466.047, subd. 1, and § 471.59, subd. 1A.

Effective May 25, 2006.

Changes were made to liability of counties engaged in joint action or joint ventures. The language limits the stacking of claims for injuries or punitive damages when the incident arose from the action taken by a joint venture of government entities.

32. RUNAWAY AND HOMELESS YOUTH ACT

Laws of Minnesota, Ch. 264, Sec. 13.

Adds Minn. Stat. § 256K.60.

Effective August 1, 2006.

Defines a homeless youth, youth at risk of homelessness and “runaway.” Standards are established for drop-in centers, community outreach, emergency shelters and supportive and transitional housing programs that serve homeless youth and runaways.

33. FUNDING FOR SELF-ADVOCACY, ADVOCATING CHANGE TOGETHER (ACT)

Laws of Minnesota, Ch. 282, Art. 11, Sec. 1, subd. 7.

Effective July 1, 2006.

ACT received \$150,000 per year in the base budget of the Department of Employment and Economic Development to provide training and technical assistance for persons with mental health and developmental disabilities.

34. MINNESOTA COUNCIL FOR DEAF AND HARD OF HEARING INCREASED FUNDING

Laws of Minnesota, Ch. 282, Art. 11, Sec. 4.

Effective July 1, 2006.

The Minnesota Council for Deaf and Hard of Hearing got an additional \$200,000 in funding, up from \$95,000 per year in the base budget.

35. ELECTION CHANGES FOR DEAF VOTERS AND GROUP HOME RESIDENTS

Laws of Minnesota, Ch. 242, Sec. 15.

Amends Minn. Stat. §§ 202A.155; § 203B.06, subd. 3 and § 203B.11, subd. 4.

Effective August 1, 2006.

Deaf people can contact central party headquarters to attend precinct caucuses and request interpreters. The 30-day advance request for interpreters has been removed and the request for interpreters can be made by email.

In addition, the absentee voter ballot delivery provisions and the circumstances under which an agent can pick up an absentee ballot have been changed to add licensed group homes and battered women's shelters to health care facilities.

36. REPORT ON AGENCY BEST SUITED TO INVESTIGATE MALTREATMENT IN FACILITIES REPORT

Laws of Minnesota, Ch. 264, Sec. 14.
Amends Minn. Stat. § 626.556, subd. 3c.
Effective August 1, 2006.

The Departments of Public Safety, Human Services and Education must jointly submit a report to the education committees by January 15, 2007 on the most efficient and effective allocation of responsibility for investigations under the Maltreatment of Minors Act.

37. SUPPORTIVE HOUSING

Laws of Minnesota, Ch. 258, Sec. 22.
Effective June 2, 2006.

The bonding bill contains an authorization for the Minnesota Housing Finance Agency of \$17.5 million for permanent supportive housing for those who have been or are at significant risk of being homeless at least 12 months or 4 times in the last 3 years and \$2 million for temporary or transitional housing.

38. OCCUPATIONAL DEVELOPMENT CENTER, THIEF RIVER PILOT PROJECT

Laws of Minnesota, Ch. 275.
Effective August 1, 2006.

The Employment Development Center in Thief River Falls, Minnesota, had their pilot project extended one year until June 30, 2007. The project involves an extended employment program qualifying as community employment for an in-house setting where 60 percent of the workers are people without disabilities, and everyone is paid minimum wage or more. The underlying effort is to change the definition of community employment to include such settings.

39. RENOVATION OF RESIDENTIAL BUILDING AT THE MINNESOTA ACADEMY FOR THE DEAF

Laws of Minnesota, Ch., 258, Sec. 5, subd. 3.
Effective June 2, 2006.

The bonding bill also provided \$25,000 to design renovation of a residential building at the Minnesota Academy for the Deaf, which could be used, if additional funding is provided in the future, for a children's mental health residential treatment facility specializing in serving children who are deaf .

40. CENTER FOR HEALTH CARE PURCHASING IMPROVEMENT

Laws of Minnesota, Ch. 282, Art. 14, Sec. 10.

Adds Minn. Stat. § 43A.312.

Effective July 1, 2006.

The Department of Employee Relations (DOER) received funding to establish and operate the Center of Health Care Purchasing Improvement. The purpose of the Center is to develop common strategies for health care performance measurement, greater accountability and transparency of health care costs and quality. The Center is to work with the Departments of Human Services, Health, Commerce, Minnesota Comprehensive Health Association and report annually to the Legislature.

0311-0131112--193838.doc