

DISABILITY AND ELDER LAW

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I. ACCESS TO CRIME ALERTS

Chapter 22 (SF 265)

Adds Minn. Stat. § 611A.0393

Effective August 1, 2009

Provides that law enforcement agencies must issue crime alerts and any accompanying documents in a form that a person with a disability can access with commercially available text-based screen reader software. Provides that any contact information provided by a citizen requesting a crime alert is private data on individuals as defined in Minn. Stat. § 13.02.

II. BUDGET CUTS IN COMMUNITY SERVICES

A. Disability Home and Community-Based Waiver Services Reductions

Chapter 79, Article 13, Section 3, Subd. 8 (HF 1362)

Rider Language

Effective July 1, 2009

1. Legislative Cuts

Imposes caseload limits for home and community-based waiver services for: (1) persons with traumatic brain injury (TBI); (2) those eligible for nursing facility care through the Community Alternatives for Disabled Individuals (CADI) waiver; and (3) those eligible for the Developmental Disabilities (DD) waiver. Limits the TBI waiver to 150 new persons per year, the CADI waiver to 1,140 new persons per year, and the DD waiver to 180 new persons per year. Cuts through more restrictive limits \$42 million in state and federal Medicaid funding for 1,060 persons who are projected to need home and community-based services due to qualifying for an institutional level of care during the 2010-2011 biennium.

2. Unallotment

Cuts an additional \$5.2 million in state general funds and \$9 million in federal Medicaid (totaling \$14.2 million) through the Governor's unallotment of the 1% growth factor for the DD waiver included in the forecast to cover the increased cost for persons with developmental

disabilities due to aging or increased disabilities and chronic conditions over the current biennium. Cuts are \$5.2 million from the state general funds and nearly \$9 million in federal Medicaid.

B. Long-Term Care and Community Service Provider Rate Reduction

Chapter 79, Article 8, Sections 71 and 79 (HF 1362)

Uncodified Language

Effective July 1, 2009 for fee-for-service providers

Effective October 1, 2009 for managed care organizations

Imposes a 2.58% rate reduction for: (1) home and community-based waiver services; (2) home care services, including personal care assistant services; (3) day training and habilitation services; (4) group residential housing supplemental services; (5) semi-independent living services; (6) Intermediate Care Facility for the Mentally Retarded (ICF/MR) programs; (7) deaf and hard-of-hearing services; (8) consumer support grants; (9) family support grants and (10) aging grants.

C. Moratorium on Corporate Foster Care

Chapter 79, Article 8, Section 8 (HF 1362)

Adds Minn. Stat. § 245A.03, subd. 7

Chapter 173, Article 1, Section 43 (HF 1988)

Amends Minn. Stat. § 245A.03, subd. 7 as added by Laws 2009, Chapter 79, Article 8, Section 8

Effective July 1, 2009

Establishes a moratorium on the issuance of new licenses for child and adult corporate foster care settings under Chapter 245A. Applies to foster homes which are not the primary residence of the license holder. Provides exceptions and makes DHS responsible for implementation of the moratorium and the exceptions.

D. Nursing Facility and Related Home and Community-Based Waivers Level of Care Changes

*Chapter 79, Article 8, Sections 1-5, 16, 32-37, 39-44, 48, and 65-67 (HF 1362)
Amends Numerous Sections
Effective January 1, 2011*

Significantly changes eligibility for nursing facilities and related Elderly Waiver (EW), CADI and TBI waiver using nursing facility criteria (TBI-NF) to restrict access to these long-term care services. Requires, under the tightened eligibility criteria, that:

- The person needs help with or constant supervision of at least four activities of daily living: bathing, bed mobility, dressing, eating, grooming, toileting, transferring and walking, or
- The person needs help or constant supervision with toileting, transferring or positioning and the assistance cannot be scheduled; or
- The person has significant difficulty with memory, using information, daily decision-making or behavioral needs that require intervention; or
- The person requires daily clinical monitoring; or
- The person has had a qualifying nursing facility stay of at least 90 days; or
- The person is at risk for nursing facility admission based on face-to-face long-term care consultation completed by the county, tribe or managed care organization (at risk means the person lives alone or will live alone after discharge and has had a fracture caused by a fall or is at risk of maltreatment or neglect or has a sensory impairment that substantially impacts community living).

Eliminates eligibility for over 450 persons with disabilities under 65 using the CADI waiver, and nearly 4,000 seniors using the EW, beginning January 1, 2011. Results in one thousand one hundred (1,100) of the 4,000 seniors losing eligibility for the EW also losing eligibility for Medical Assistance (MA) because they will no longer meet the spend down requirements after the loss of qualifying long-term care costs under the EW.

E. Personal Care Assistant (PCA) Program

*Chapter 79, Article 8, Sections 7, 18-28, 31, 74, 75, 77, and 80 (HF 1362)
Amends Minn. Stat. §§ 256B.0625, subds. 19(a) and 19(c); 256B.0651;
256B.0652; 256B.0653; and 256B.0654
Adds Minn. Stat. § 256B.0659
Repeals Minn. Stat. § 256B.0655
Various Effective Dates*

Significantly restructures the PCA program to achieve a 10 % budget cut, translating into more than \$88 million in state and federal Medicaid for the biennium for PCA services in the following ways:

1. **Budget Related PCA Changes**

a. PCA Staff Hours of Work Limited

Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 11(a)(10)
Effective July 1, 2009

1) **Legislative Limits**

Limits PCA staff work hours to 310 hours per month, which cuts \$12.9 million in state and federal Medicaid dollars from PCA services and staff wages. Bases savings on inability to fill authorized hours of care.

2) **Unallotment**

Further reduces legislative PCA work limit through the Governor's unallotment to 275 hours per month, cutting an additional \$5.2 million in Medicaid funds.

b. Changes in Authorization of PCA Service Time

Chapter 79, Article 8, Section 28 (HF 1362)
Amends Minn. Stat. § 256B.0655, subd. 4 (to be renumbered as 256B.0652, subd. 6)
Effective January 1, 2010

Reduces PCA service hours for about 6,500 recipients, collapses current home care ratings from 21 to 10 categories, and restricts PCA service time to a base amount for each of the new 10 home care ratings plus 30-minute increments based upon the total number of:

- Critical activities of daily living;
- Complex health-related functions;
- Qualifying behavioral issues.

c. Eligibility for PCA Services

Chapter 79, Article 8, Section 20 (HF 1362)
Amends Minn. Stat. § 256B.0625, subd. 19(a)
Various Effective Dates

1) **Dependency in One Activity of Daily Living or Level One Behavior**

Effective January 1, 2010

Eliminates eligibility for more than 500 current recipients with disabilities under age 65 and an unknown number of current recipients over age 65 by establishing new eligibility criteria, beginning January 1, 2010. Requires, in order to qualify for PCA services, effective January 1, 2010, that a person must be dependent (i.e., needs hands-on assistance or constant cuing) in at least one activity of daily living or qualify as having Level I behavior.

2) Dependencies in Two Activities of Daily Living
Effective July 1, 2011

Further tightens eligibility criteria, beginning July 1, 2011, to require a dependency in at least two activities of daily living. Provides that behavior criteria will no longer qualify for PCA eligibility, though time may be given for Level I behavioral needs, if the person qualifies as being dependent in two activities of daily living. Results in the expected termination of more than 1,600 children and adults under the two ADLs eligibility criteria on July 1, 2011.

d. PCA Provider Rate
Chapter 79, Article 8, Section 79 (HF 1362)
Uncodified Language
Effective July 1, 2009

Imposes a 2.58% provider rate cut beginning July 1, 2009, from \$16.24 per hour to \$15.82 per hour.

e. Alternative Services for Persons Ineligible for PCA Services
Chapter 79, Article 8, Section 76; and Article 13, Section 3, Subd. 8(d) (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires the Department of Human Services (DHS) to consult with interested stakeholders to develop alternative services for persons with mental health and other behavioral challenges who are no longer eligible for PCA services. Appropriates \$8 million for 2012 and 2013 to implement alternative services which may include a family support federal waiver program. Provides for a report to the Legislature by January 15, 2011, with plans for implementation of alternative services by July 1, 2011.

f. PCA Notice of Termination or Reduction

Chapter 79, Article 8, Section 31, Subd. 30 (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires DHS to inform PCA recipients of changes which may affect their PCA services by October 31, 2009. Directs that recipients affected by changes to the PCA program be given a 30-day advance notice of DHS action. Allows recipients to request services pending appeal within 30 days of the notice, notwithstanding the general limit of 10 days for such requests.

2. Policy Related PCA Changes

a. Home Care Bill of Rights

Chapter 79, Article 8, Section 7 (HF 1362)
Amends Minn. Stat. § 144A.44, subd. 2
Effective July 1, 2009

Requires all home care services and unlicensed personal care assistant services, including MA-covered personal care assistant services, to provide notice of the home care bill of rights, which apply to persons receiving home care services.

b. Maltreatment Investigations for Children and Adults Receiving PCA Services

Chapter 79, Article 8, Sections 74 and 75 (HF 1362)
Amends Minn. Stat. §§ 626.556, subd. 3(c); and 626.5572, subd. 13

Chapter 173, Article 1, Section 39 (HF 1988)
Amends Minn. Stat. § 626.556, subd. 3(c) as amended by Laws 2009, Chapter 79, Article 8, Section 75
Effective July 1, 2009

Clarifies that counties are the lead agency for investigation of reports involving maltreatment of children and vulnerable adults receiving services from unlicensed personal care provider organizations.

c. Managed Care Plans' Use of DHS Processes for PCA Services

Chapter 79, Article 8, Section 72 (HF 1362)
Amends Minn. Stat. § 256B.69, subd. 5a
Effective January 1, 2010

Requires managed care health plans to use the assessment and other processes, forms, time lines, documentation, and data reporting requirements consistent with the MA fee-for-service or

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DHS contract requirements for all PCA services provided by managed care health plans.

- d. Notice Requirement for PCA Service Changes
Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 7
Effective July 1, 2009

Requires DHS to ensure that the PCA recipient has a copy of the most recent service plan containing an explanation of PCA tasks or services proposed for change including the amount of time reduced and the reasons for the denial, termination, or reduction.

- e. PCA Assessments
Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 7
Effective July 1, 2009

Establishes that PCA assessments remain effective when recipients move to managed care or disenroll from managed care back to fee for service.

- f. PCA Services in Foster Homes with Licensed Capacity Over Four
Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 9
Effective July 1, 2009

Prohibits PCA and private duty nursing services in foster care residences with a licensed capacity of greater than four persons, regardless of the number of current residents.

- g. Provider Enrollment and Disenrollment Requirements
Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subds. 21 through 28
Effective July 1, 2009

Establishes extensive new provider enrollment requirements and an annual requirement for re-enrollment. Prohibits direct marketing by providers to potential recipients. Requires that agencies use 72.5% of MA revenue for employee personal care assistant wages and benefits. Prohibits disenrolled provider agency and all named individuals and affiliates from re-enrolling for two years. Establishes probationary period for previously disenrolled providers.

Note: I added "Disenrollment" to the title to better describe the topic. I deleted the ventilator training section since it seems to combine provider requirements ("annual review" or re-enrollment is listed in the Provider Enrollment section) and vent training with I think are better presented as separate topics. These two topics have different effective dates as well. I already have the training section described for all PCA agency staff (includes those who work with folks using vents). I added a phrase on vent training to be sure that it's clear that everyone has training requirements. SEE "l."

h. Qualified Professional Supervision

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subd. 14(a)

Effective January 1, 2010

Establishes a new requirement that all PCA services must be supervised by a qualified professional. Provides separate requirements for frequency of supervision depending upon whether PCA services are provided through an agency or through the PCA Choice Option.

i. Qualified Professional Qualifications

Chapter 79, Article 8, Section 21 (HF 1362)

Amends Minn. Stat. § 256B.0625, subd. 19(c)

Effective July 1, 2009

Adds a qualified developmental disability specialist under Minn. Stat. § 256B.07, subd. 4, to those eligible to act as a qualified professional for purposes of supervising personal care assistant services.

j. Separation of Housing Ownership and PCA Provider

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subd. 3(b)

Effective January 1, 2010

Prohibits a PCA provider agency from also providing licensed or unlicensed housing to a PCA recipient.

k. Stepparents Acting as PCA for Minor Stepchild

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subd. 11(c)

Effective January 1, 2010

Adds stepparents of minors to those who do not qualify to be paid as a PCA. No definition of a stepparent is provided.

l. Training Required For PCA Agency Staff

Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subds. 11, 13, 21 and 27

Chapter 173, Article 1, Section 25 (HF 1988)
Amends Minn. Stat. § 256B.0659, subd. 18 as added by Laws 2009,
Chapter 79, Article 8, Section 31
Effective January 1, 2010, except providers enrolling after July 1,
2009, must complete training prior to enrollment

Requires completion of training developed by DHS for all staff providing PCA services, including PCA's serving those who use ventilators, qualified professionals, and agency owners, billing staff, and managers.

- m. Transition Assistance for PCA Recipients
Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 29

Chapter 173, Article 1, Section 27 (HF 1988)
Amends Minn. Stat. § 256B.0659, subd. 29 as added by Laws 2009,
Chapter 79, Article 8, Section 31
Effective July 1, 2009, until August 10, 2010

Requires the DHS to work with counties, health plans, tribes, and PCA providers to assist recipients and families to comply with new requirements, which may require a change in living arrangements no later than August 10, 2010.

- F. Personal Needs Allowance Reduction
Chapter 79, Article 2, Sections 11 and 36 (HF 1362)
Amends Minn. Stat. § 256I.03, subd. 7
Repeals Minn. Stat. § 256I.06, subd. 9

Chapter 173, Article xx, Section 40 (HF 1988)
Repeals Minn. Stat. § 256I.06, subd. 9 as repealed by Laws 2009, Chapter 79,
Article 2, Section 36
Effective April 1, 2010

Reduces the Personal Needs Allowance for all group residential housing (GRH) residents to \$89 per month. Affects more than 15,000 GRH residents who will lose between \$12 and \$32 per month on April 1, 2010.

- G. Quality Assurance Commission Funding
Chapter 173, Article 2, Section 3, Subd. 8 (HF 1988)
Rider Language
Effective July 1, 2009

Terminates funding for the Quality Assurance Commission, including the alternative licensing function operated by Region 10 and codified under Minn. Stat. § 256.0951. Voice reviews continue to be available through Region 10 Quality Assurance Commission if chosen by disability waiver participants.

- H. Rate Reduction for Adult Foster Care Providers Above the 95th Percentile in Rates
Chapter 79, Article 8, Section 55 (HF 1362)
Adds Minn. Stat. § 256B.0948
Effective July 1, 2009

Requires that rates paid through the Disability Waiver programs for residential services above the 95th percentile of statewide rates for adult foster care services be reduced to the 95th percentile by reducing county waiver allocations and capitated payment rates.

- I. Revised Long-Term Care Comprehensive Assessment Process and Certification
Chapter 79, Article 8, Sections 34, 35, 37, and 41 (HF 1362)
Amends Minn. Stat. §§ 256B.0911, subd. 3a; and 256B.0911, subd. 5
Effective January 1, 2010 for certification training
Effective January 1, 2011 for new assessment implementation

Establishes a comprehensive assessment process and tool for long-term care and community support programs statewide. After January 1, 2011, applies to: (1) PCA services; (2) private duty nursing (PDN); (3) home health agency services; (4) nursing facility-level-of-care; (5) home and community-based waiver services; and (6) alternative care programs. Standardizes face-to-face assessments and consolidates processes for all long-term care and community support services using a web-based assessment. Requires certification of new comprehensive assessment staff through training and other requirements to be implemented January 1, 2010. Certification required for all assessors by January 1, 2011 with recertification required every three years by staff from lead agencies including counties, health plans and tribes.

~~This somehow got connected to the wrong item. This should be free standing ICF-MR unallotment. I added this though it isn't technically a legislative action. I think it deserves mention because it is part of the biennial budget cuts for disability services.—~~

J. Unallotment of ICF/MR Funding

Governor used unallotment to cut ICF/MR funding for variable rates and for occupancy rate adjustments. The total ICF/MR funding cut for these two unallotments is nearly \$3.4 million in state and federal Medicaid funds for the biennium.

III. BUDGET INCREASES FOR SERVICES

- A. Essential Community Services Grant For Seniors
Chapter 79, Article 8, Section 51 (HF 1362)
Adds Minn. Stat. § 256B.0917
Effective January 1, 2011

Provides grants up to \$400 to persons over age 65 who are not eligible for MA and do not meet new level of care requirements for nursing facilities or the Elderly Waiver but meet criteria demonstrating need for community services to obtain a personal emergency response device or system or to pay for caregiver support, homemaker or chore services.

- B. Monitoring Technology Grants
Chapter 79, Article 13, Section 3, Subd. 8(i) (HF 1362)
Rider Language
Effective July 1, 2009

Provides \$1.65 million in state funds for grants for technology to increase the independence of persons in residential settings while meeting federal health and safety assurances for persons with disabilities needing residential services.

C. Self-Advocacy Funding

Chapter 101, Article 1, Section 12, Subd. 2(c) (SF 2082)

Rider language

Effective July 1, 2009

Transfers \$127,000 from the Council on Developmental Disabilities to the DHS to establish a statewide self-advocacy network for persons with intellectual and developmental disabilities. Requires the self-advocacy network to work on specific human and civil rights and service needs as well as communication between self-advocacy groups across Minnesota. Provides that the appropriation is included in the base budget for DHS beginning July 1, 2011.

D. Support Services for Families with Children Who Are Deaf or Have a Hearing Loss

Chapter 79, Article 5, Section 15, Article 10, Section 18 and Article 13, Section 4, Subd. 2 (HF 1362)

Adds Minn. Stat. §§ 144.966, subd. 3(a); and 256.969, subd. 29

Effective July 1, 2010

Provides funding for early hearing detection and intervention family support services by increasing the fee hospitals charge for newborn screening.

IV. COMMUNITY SERVICE POLICY CHANGES FOR PERSONS WITH DISABILITIES

This item is repeated and should be in the task force section only. SEE VIII D

A. Day Training and Habilitation Licensing Alternative

Chapter 142, Article 2, Section 22 (SF 986)

Adds Minn. Stat. § 245B.031

Effective August 1, 2009

Allows day training and habilitation (DT&H) programs which have been accredited by the Commission on Rehabilitation Facilities (CARF) at the highest level for three years to substitute CARF reviews and standards for state licensing standards which are comparable. DT&H providers remain subject to Minnesota's Vulnerable Adult policies and practices, criminal background studies, aversive practices standards. Provides various conditions to continue qualifying for alternative licensing through CARF review and accreditation.

B. Disability and Elderly Waiver Service Providers' Statewide Requirements

Chapter 79, Article 8, Sections 13, 52 and 69 (HF 1362)

Amends Minn. Stat. § 256B.092, subd. 8a

Adds Minn. Stat. §§ 256.0281 and 256B.4912

Effective July 1, 2009

Eliminates lead agency (counties or tribes) provider contracts and requires enrollment of providers and agreements with the state governing provision of services to eligible waiver recipients. Imposes background check requirement on employees of all waiver service providers if direct contact with service recipients. Applies background check requirement to consumer-directed community support staff upon federal approval. Provides for interagency agreements regarding data exchange among the DHS, the Department of Health, and the Ombudsman for Mental Health and Developmental Disabilities to improve quality management and quality assurances required by federal law.

C. Disability and Elderly Waiver Services Statewide Rate Setting Methodologies

Chapter 79, Article 8, Sections 10, 46, 47, and 69 (HF 1362)

Amends Minn. Stat. § 256B.0915, subds. 3e and 3h

Adds Minn. Stat. §§ 252.46, subd. 1a; and 256B.4912

Various Effective Dates

Directs DHS to establish statewide provider qualifications and rate setting methodologies under the Elderly and Disability Home Community waiver programs.

D. Disability Waivers Residential Support Services

Chapter 79, Article 8, Sections 9, 53, and 68 (HF 1362)

Adds Minn. Stat. §§ 245A.11, subd. 8; 256B.092, subd. 11; and 256B.49, subd. 22

Effective July 1, 2009

Requires DHS to develop consolidated provider standards for residential support services that combine service and residential standards under one license by January 15, 2011. Applies to adult foster care and child foster care funded under the Disability Home and Community Service waiver program. Excludes family foster care where the licensed home is the license holder's primary residence. Requires registration of all existing residential services funded under the Home and Community waiver, beginning July 1, 2009.

E. Disability Waivers Statewide Priorities

Chapter 79, Article 8, Sections 54 and 64 (HF 1362)

Adds Minn. Stat. §§ 256B.092, subd. 12; and 256B.49, subd. 11a

Chapter 173, Article 1, Section 30 (HF 1988)

Amends Minn. Stat. § 256B.49, subd. 11(a) as added by Laws 2009, Chapter 79, Article 8, Section 64

Effective January 1, 2010

Sets statewide priorities for four disability home and community-based waiver services programs for distribution of funding to lead agencies for individuals who have maximized their use of state plan services and other funding resources, including natural supports. Requires meeting at least one of six listed criteria, including unstable living situations, sudden closure of current living situation, needed protection from confirmed neglect/abuse or exploitation, sudden change in need for services or other priorities. Directs DHS to evaluate the statewide priorities and report to the Legislature November 1, 2011.

- F. License Capacity for Adult Foster Care
Chapter 79, Article 1, Sections 3, 21, and 22 (HF 1362)
Amends Minn. Stat. § 245A.11, subd. 2(a)
Effective July 1, 2009

Allows DHS to issue a license for a fifth bed in an adult foster care home if the overall capacity of licensed adult foster care beds are not increased in homes that are not the primary residence of the license holder. Criteria requires: (1) no increase in statewide capacity of adult foster care beds; (2) consent from affected residents; and (3) county involvement. Requires DHS to seek federal approval and waiver amendments no later than December 1, 2009 to allow licensed adult foster care homes to provide residential services for up to five individuals through home and community-based waiver funding. Authority to issue a license for five-bed capacity expires on June 30, 2011.

- G. License Holder Services in Additional Counties
Chapter 79, Article 1, Section 2 (HF 1362)
Amends Minn. Stat. § 245A.10, subd. 3
Effective July 1, 2009

Allows a provider licensed in one county to provide residential services through the DD waiver to no more than three persons in 10 other counties without the requirement of additional licenses. Allows providers of supported employment and crisis respite funded through the DD waiver to operate under a single statewide license.

- H. Minnesota Extended Treatment Options Community-Based Service Alternatives
Chapter 79, Article 3, Section 17 (HF 1362)
Amends Minn. Stat. § 252.025, subd. 7
Effective July 1, 2009

Provides for community-based services to serve individuals with developmental disabilities committed to the Minnesota Extended Treatment Option. Requires sufficient staff for community-based services to be state employees supervised by

the DHS. Prohibits layoffs resulting from the restructuring to community-based services under this section.

I. Monitoring Technology Allowed For Adult Foster Care

Chapter 79, Article 1, Section 4 (HF 1362)

Adds Minn. Stat. § 245A.11, subd. 7a and 8b

Effective July 1, 2009

Allows an adult foster care license to include supervision technology in lieu of overnight staff under specified conditions, including signed informed consent of residents and inclusion of technology in service plans, emergency provisions including a 10-minute response time, documentation of incidents, and assured privacy and data protections.

J. Self-Directed Supports Option

Chapter 79, Article 8, Sections 29 and 30 (HF 1362)

Chapter 159, Section 90 (HF 1760)

Amends Minn. Stat. § 256B.0657, subds. 5 and 8

Effective July 1, 2009

Changes the budget methodology for the new self-directed supports option to be assessed hours of service minus a reduction for administration and fiscal services needed to maintain cost neutrality. Establishes a maximum enrollment of 1,000 persons for the first year and an additional 1,000 for the second year of the program. Removes requirement to use home care targeted case manager to conform to federal rules.

K. Shelter Needy Housing Benefit

Chapter 79, Article 8, Section 73 (HF 1362)

Amends Minn. Stat. § 256D.44, subd. 5

Chapter 173, Article 1, Section 45 (HF 1988)

Amends Minn. Stat. § 256D.44, subd. 5 as amended by Laws 2009, Chapter 79, Article 8, Section 73

Effective July 1, 2009, until June 30, 2011

Allows shelter-needy payments for recipients of Minnesota Supplemental Aid (MSA) to assist them to relocate to housing and services without 24-hour supervision. Provides the equivalent of the recipient's group residential housing (GRH) allocation under specified circumstances in multi-family buildings of six or more as long as program recipients occupy no more than 50 % of the units in the building unless allowed an exception.

V. **COMMUNITY SERVICES FOR SENIORS**

- A. Alternative Care Program Funding Limit
Chapter 79, Article 8, Section 44 (HF 1362)
Amends Minn. Stat. § 256B.0913, subd. 4
Effective July 1, 2009

Sets a monthly cost limit of no more than \$600 for all new Alternative Care Program participants on or after July 1, 2009 and for all others upon reassessment during the year if the person has either no dependencies in activities of daily living, only one dependency in certain ADLs or a dependency score of less than three if eating is involved. Provides for annual increases in the monthly limit and allows individuals to pay for additional services under specific conditions.

- B. Community Service And Services Development Grant Funds Reduced
Chapter 79, Article 13, Section 3 (HF 1362)
Rider Language
Effective July 1, 2009

Reduces funding for community service and services development grant fund managed by the Aging Division at DHS. Restores base level funding beginning July 1, 2013.

- C. Elderly Waiver Customized Living Services
Chapter 79, Article 8, Sections 46, 47, and 49 (HF 1362)
Amends Minn. Stat. § 256B.0915, subds. 3(e) and 3(h)
Adds Minn. Stat. § 256B.0915, subd. 10
Effective January 1, 2011

Sets rate limits for EW funding provided in housing with services settings for 24-hour customized living. Fixes limits, which can only be increased when payment adjustments are appropriated by the Legislature. Limits are set at the 95th percentile of statewide monthly authorizations in effect March 31, 2009. Establishes new functional limitations criteria to qualify for 24 Customized Living Services beginning January 1, 2011. Adjustments for managed care capitation payments are required.

- D. Elderly Waiver Participant Funding Limit
Chapter 79, Article 8, Section 45 (HF 1362)
Amends Minn. Stat. § 256B.0915, subd. 3(a)
Effective July 1, 2009

1. Limit for Persons with Zero or One Dependency

Establishes a monthly limit for the cost of waiver services for persons with zero or one dependency in specific activities of daily living. Limits the monthly budget to the lower of their current budget limit or the limit in effect on October 1, 2008. Subjects current recipients to the limit as they are reassessed, beginning July 1, 2009.

2. Limit on Cost of Waivered Services

Establishes a monthly limit on the cost of waived services for elderly waiver clients assigned to a case mix classification (a) with various additional, specific dependencies or criteria. Applies the monthly cost limit for new participants beginning July 1, 2009, and all other participants upon reassessment.

- E. Long-Term Care Options Counseling Through Senior Linkage Line
Chapter 79, Article 8, Section 16 (HF 1362)
Amends Minn. Stat. § 256.975, subd. 7
Effective July 1, 2009

Requires the Senior Linkage Line to provide long-term care options counseling for older adults, caregivers, and providers. Directs DHS to provide a list of nursing home residents appropriate for discharge planning via secure web portal to Senior Linkage Line for long-term care options counseling and referrals.

VI. HEALTH CARE RELATED CHANGES

- A. Increased Payment Rate for Special Transportation in Rural Areas
Chapter 79, Article 5, Section 32 (HF 1362)
Amends Minn. Stat. § 256B.0625, subd. 17
Effective July 1, 2009

Establishes increased minimum rates and a new rural urban commuting area (RUCA) system to reimburse MA covered special transportation providers in rural areas.

- B. Intensive Medication Pilot Project for Persons with Multiple Chronic Conditions
Chapter 79, Article 5, Section 31 (HF 1362)
Chapter 173, Article 1, Section 21 (HF 1988)
Amends Minn. Stat. § 256B.0625, subd. 13(h)
Effective July 1, 2009

Requires the DHS to establish pilot project for intensive medication therapy management for MA patients with multiple chronic conditions and numerous medications who are at risk of preventable hospitalizations, emergency room use, complications and poor outcomes. Requires the pilot project to be designed to produce savings to the state.

- C. Medical Non-Emergency Transportation Broker Contract Eliminated
Chapter 79, Article 5, Section 34 (HF 1362)
Effective July 1, 2009

Prohibits the DHS from contracting with a broker to dispatch and pay for non-emergency medical transportation access services with public transportation or private automobile in the 11-county Metropolitan Area. (As of July 1, 2009, ten of 11 counties affected are continuing to contract for access transportation services from the same broker.)

- D. Minnesota Disability Health Option (MNDHO)
Chapter 79, Article 13, Section 3, Subd. 6(c) (HF 1362)
Rider Language
Effective July 1, 2010

Limits enrollment in home and community-based waiver programs for those participating in the Minnesota Disability Health Option (MNDHO), managed care integrated program operating in the seven-county Metropolitan Area. The limitation cuts \$4.7 million in state funds (\$11 million total in Medicaid) by limiting home and community waiver services for MNDHO enrollees.

- E. State Medical Review Team Process Modified
Chapter 79, Article 8, Sections 12 and 17 (HF 1362)
Amends Minn. Stat. § 256B.055, subd. 7
Adds Minn. Stat. § 256.01, subd. 29
Effective July 1, 2009

Requires DHS to assist applicants for MA who do not meet other bases of eligibility but indicate a disability or chronic condition to obtain necessary medical and other information. Provides funding for 16 DHS staff positions. Requires annual report to legislative committees, beginning February 1, 2010.

VII. OTHER POLICY CHANGES

- A. Disaster Services Funding
Chapter 93, Article 2, Section 14 (HF 855)
Amends Minn. Stat. § 12A.10
Effective July 1, 2009

Expands the scope of natural disasters to include other events that threaten the health and safety of individuals served by MA-funded programs. Allows payment for services related to such disasters, including personal care services and residential services, using money appropriated for MA with federal cost sharing as permitted.

- B. Fetal Alcohol Spectrum Disorder Added to Definition of Developmental Disability
Chapter 159, Section 84 (HF 1760)
Amends Minn. Stat. § 252.27, subd. 1a
Effective August 1, 2009

Adds Fetal Alcohol Spectrum (FAS) disorder to the list of conditions which can qualify as a related condition under the definition of developmental disability if certain criteria are met.

- C. Guardians and Conservators
Chapter 150 (HF 804)
Amends Minn. Stat. §§ 260C.331, subd. 1; 524.5-102, subd. 7; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-317; 524.5-406; 524.5-409; 524.5-414; and 524.5-420
Adds Minn. Stat. §§ 524.5-102, subd. 13a; 524.5-119; and 524.5-120
Effective August 1, 2009

1. **Bill of Rights for Wards and Protected Persons**
Cumulates individual rights into a 'bill of rights' which emphasizes that wards retain civil and personal rights not specifically transferred to guardians and that the court is responsible for enforcing those rights.

Clarifies that wards, protected persons, and interested parties may seek not just termination or modification. but other appropriate relief.

Adds Minn. Stat. § 524.5-120

2. Court Review

Requires court review where the ward's attorney is also representing the interests of the guardian or conservator in a concurrent proceeding and there is a potential conflict.

Amends Minn. Stat. § 524.5-304

3. Informational Statement

Requires guardians to file an annual informational statement with the district court updating the five-year criminal background check

Amends Minn. Stat. § 524.5-304

4. Interested Person Status

Enables representatives of a state ombudsman's office or the federal protection and advocacy system to be interested parties.

Amends Minn. Stat. § 524.5-102, subd. 7

5. Registration

Requires centralized registration of all guardians and conservators by July 1, 2013.

Adds Minn. Stat. § 524.5-119

6. Reporting

Requires timely filing of annual reports with copies and notices provided to wards and to involved parties who are of record with the court.

Amends Minn. Stat. § 524.5-316

D. Guardianship For Adults, Uniform Act Adopted

Chapter 46 (HF 412)

Amends Minn. Stat. § 524.5-107

Adds Minn. Stat. §§ 524.5-601 to 524.5-903

Effective January 1, 2010

Adopts the Uniform Guardianship Act provisions governing transfers of guardianship between states, cooperation between courts in various jurisdictions and other matters involving guardianship across state lines.

E. Notice for Long-Term Care or Community Service Changes

Chapter 79, Article 8, Section 77 (HF 1362)

Uncodified language

Effective July 1, 2009, expires July 1, 2011

Requires that all persons affected by changes to the PCA Services Program and to changes in the long-term care consultation services must be given a 30-day notice of action by DHS.

F. Parent Fee Notice

Chapter 145 (SF 145)

Amends Minn. Stat. § 252.27, subd. 2(a)

Effective July 1, 2009

Requires that DHS provide notice of possible tax liability with reimbursements of parent fees. Potential tax liability occurs if the fees were paid through the employer's health care flexible spending account.

G. Seclusion And Restraint For Students In Special Education Programs

Chapter 96, Article 3, Sections 9 - 11 (HF 2)

Adds Minn. Stat. §§ 125A.094; 125A.0941; and 125A.0942

Effective August 1, 2011

1. Definitions

a. Emergency

Defines emergency as a situation where immediate intervention is necessary to: (1) protect a child or other individual from physical injury; or (2) prevent serious property damage.

Adds Minn. Stat. § 125A.0941(b)

b. Restrictive Procedures

Defines restrictive procedures as seclusion and physical holding in emergencies only.

Adds Minn. Stat. § 125A.0941(e)

c. Seclusion

Defines seclusion as confining a child alone in a room from which egress is barred.

Adds Minn. Stat. § 125A.0941(f)

d. Physical Holding

Defines physical holding as physical intervention intended to hold a child immobile or to limit a child's movement and where body contact is the only source of physical restraint

Adds Minn. Stat. § 125A.0941(c)

2. Standards for Restrictive Procedures

Requires, among other things, that: (1) restrictive procedures be the least intrusive intervention to respond to the emergency; (2) the child be directly observed during the course of the procedures; and (3) the school document each use of the procedures. Provides that restrictions end when the threat of harm ends. Requires same day notification to parents. Limits implementation of the procedures to licensed, trained staff. Prohibits, among other things: (1) withholding food; (2) preventing bathroom access; and (3) physical holding that restricts the child's ability to breathe.

| *Adds Minn. Stat. § 125A.0942*

H. Vulnerable Adult Protection Act (VAPA), Financial Exploitation Changes
Chapter 119 (HF 818)

Amends Minn. Stat. §§ 13A.02, subds. 1 and 2; 13A.04, subd. 1; 256B.0595, subds. 4 and 9; 388.23, subd. 1; 609.2335; 609.52, subd. 3; 611A.033; and 628.26
Adds Minn. Stat. § 626.557, subds. 5a and 20
Effective August 1, 2009

1. Cooperation of Financial Institutions in Maltreatment Investigations

Mandates that financial institutions cooperate with authorities and comply with reasonable requests concerning investigations into maltreatment of vulnerable adults. Provides immunity to financial institutions from civil or criminal liability for compliance.
Adds Minn. Stat. § 626.557, subd. 5a

2. Crime of Financial Exploitation of Vulnerable Adult

Strengthens, supplements, and more clearly details the elements of a breach of fiduciary duty with respect to a vulnerable adult. Makes violation of new elements subject to the most severe sentence for theft crimes. Establishes a five year statute of limitations for prosecutions.
Amends Minn. Stat. § 609.2335 (new elements)
Amends Minn. Stat. § 609.52, subd. 3 (sentence)
Amends Minn. Stat. § 628.26 (statute of limitations)
Effective August 1, 2009 and applies to crimes committed on or after that date

3. Disclosure of Financial Records

Permits disclosure by a financial institution of financial records to law enforcement, authorized agencies, or prosecutors investigating financial exploitation of a vulnerable adult: (1) in response to a judicial or administrative subpoena; or (2) voluntarily, where the institution has knowledge concerning financial exploitation.
Amends Minn. Stat. § 13A.02, subd. 1 (disclosure in response to subpoena)
Amends Minn. Stat. § 13A.04, subd. 1 (voluntary disclosure)

4. Investigative Authority

Authorizes county attorneys to subpoena banking, credit card, and financial records of vulnerable adults.
Amends Minn. Stat. § 388.23, subd. 1

5. Private Right of Action

Gives a vulnerable adult a cause of action for financial exploitation, without the necessity of having a report filed. Provides for recovery of the greater of three times the compensatory damages or \$10,000, plus

reasonable attorneys fees and costs and reasonable guardian, conservator,
or guardian ad litem fees.
Adds Minn. Stat. § 626.557, subd. 20

6. Transfer of Assets of Institutionalized Persons re: MA Eligibility

Requires local agencies evaluating a hardship waiver to: (1) take into account whether the individual was the victim of financial exploitation; and (2) grant a waiver of the portion of a period of ineligibility where there is an imminent threat to the individual's health and well-being and where a transfer has been made as a result of financial exploitation.

Amends Minn. Stat. § 256B.0595, subd. 4

VIII. TASK FORCES, ADVISORY GROUPS, AND REPORTS

A. Accessibility for State Uses of Technology

Chapter 131 (HF 1744)

Amends multiple subds. of Minn. Stat. Chapters 16C and 16E

Effective July 1, 2009

Requires all state technology, including online videos, websites, hardware, and software to meet new accessibility standards within specified timelines.

Establishes an advisory committee for Technology Standards for Accessibility and Usability. Appropriates funds for the Minnesota Commission Serving Deaf and Hard of Hearing People.

B. Alzheimer's Disease Working Group

Chapter 159, Section 110 (HF 1760)

Uncodified Language

Effective August 1, 2009

Establishes Alzheimer's Disease Working Group which is directed to make recommendations on Alzheimer's population, care needs, resources and services, quality measures and changes needed. Requires a report to the Governor and the chairs and ranking minority members of legislative committees involved no later than January 15, 2011. Expires when report is submitted.

C. Autism Spectrum Disorder (ASD) Task Force

Chapter 79, Article 7, Section 25 (HF 1362)

Uncodified Language

Effective July 1, 2009 to June 30, 2011

Establishes the Autism Spectrum Disorder (ASD) Task Force of 15 members appointed by legislative bodies and various stakeholder organizations, including pediatricians, psychologists, disability advocacy groups, and health plans.

Requires coordination with state agencies involved with ASD and a report of findings and recommendations, including draft legislation, due each January 15 to legislative chairs. Expires June 30, 2011.

- D. Disability Waiver Services Residential Standards Consolidation
Chapter 79, Article 8, Section 81 (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires the DHS to consult with stakeholders to develop a single set of residential standards for home and community-based waiver services programs for persons with disabilities. Directs that the new standards will replace all or portions of existing laws and rules, including data practices, background studies and psychotropic medication requirements.

- E. Housing Options Review
Chapter 79, Article 8, Section 84 (HF 1362)
Uncodified Language
Effective July 1, 2009

Directs the DHS, together with the Department of Administration and the Minnesota Housing Finance Agency, to consult with a variety of stakeholder representatives on ways to increase the availability and affordability of housing options for persons with disabilities. Sets a goal of minimizing state physical plant costs for persons with disabilities who need services. Requires consideration of: (1) improved access to rent subsidies; (2) use of cooperatives and other ownership models; (3) examination of whether public equity paid on behalf of persons with disabilities can be maintained in a fund when residences are sold; and (4) promotion of increased housing accessibility. Requires a report to the Legislature by December 15, 2010.

- F. Intermediate Care Facilities for Persons with Disabilities (ICF/MR) Report Monitoring
Chapter 79, Article 8, Section 83 (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires DHS to consult with providers and advocates on progress made in response to an ICF/MR report from December 1, 2008.

- G. PCA Services Alternatives Development Consultation
Chapter 79, Article 8, Section 76 (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires DHS to consult with advocates, consumers and legislators on developing alternative services for persons with mental health and other behavioral challenges who can benefit from alternatives to PCA services to more appropriately meet their needs. Requires DHS to report to the Legislature by January 15, 2011 with plans to implement alternative services by July 1, 2011.

H. PCA Services Changes Stakeholder Recommendations
Chapter 79, Article 8, Section 80 (HF 1362)
Uncodified Language
Effective July 1, 2009

Directs DHS to consult with stakeholder representatives convened as part of the Home and Community Services Expert Panel, beginning in August 2009, on: (1) the implementation of changes to the PCA program; (2) assistance for recipients whose services or housing must change; (3) alternative services for those who are terminated or reduced; (4) cost of services for those who change; and (5) data on the effects of change for public reporting. Requires a report to the Legislature by January 15, 2010 and again on January 15, 2011 regarding PCA changes and results.