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2013 DISABILITY LAW

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ACA Affordable Care Act
ADL Activity of Daily Living
AMRTC Anoka Metro Regional Treatment Center
ARMHS Adult Rehabilitative Mental Health Services
ASD Autism Spectrum Disorder
BI Brain Injury Waiver
CAC Community Alternative Care Waiver
CADI Community Alternatives for Disabled Individuals Waiver
CFSS Community First services and Supports
CTSS Children's Therapeutic Services and Supports
DHS Department of Human Services
ECS Essential Community Supports
EMA Emergency Medical Assistance
EW Elderly Waiver
FPG Federal Poverty Guidelines
GRH Group Residential Housing
HCBS Home and Community Based Services Waivers
ICF/DD Intermediate Care Facilities for Persons with Developmental Disabilities
IRTS Intensive Residential Treatment Services
LTSS LONG-TERM SUPPORTS AND SERVICES LTSS
MA Medical Assistance
MA-EPD Medical Assistance for Employed Persons with Disabilities
MCHA Minnesota Comprehensive Health Association

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A United Way Agency

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MDH Minnesota Department of Health
MMB Minnesota Office of Management and Budget
MSH Minnesota Security Hospital
NEMT Non-Emergency Medical Transportation
PCA Personal Care Assistance
PDN Private Duty Nursing

HEALTH CARE

1. ACA

Link to LSAP's summary of Health Care Changes

2. Autism Spectrum Disorder (ASD)

a. Attorney General legal opinion on parity requirements for coverage of ASD services

Chapter 108, Article 12, Section 107 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Requires the Attorney General to provide a written legal opinion by October 1, 2013, on whether health plans defined by Minn. Stat. § 62Q.01, subdivision 3 are required to provide coverage of treatment for mental health and mental health-related illnesses including ASD and mental health conditions to various commissioners and relevant legislative chairs.

b. ASD prepaid Medical Assistance program initiative

Chapter 108, Article 7, Section 48 (HF 1233)

Adds Minn. Stat. § 256B.69, subdivision 32a

Effective July 1, 2013

Requires contract provisions in Prepaid Medical Assistance Program (PMAP) managed care contracts to improve early identification, screening, assessment, diagnosis and treatment of young children with ASD and other developmental conditions. Provides for public reporting of the number of children who receive diagnosis assessments and treatment by age and health plan each year beginning July 31, 2014.

c. Department of Commerce request on federal essential health benefits for ASD

Chapter 108, Article 12, Section 106 (HF 1233)

Uncodified provision

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Effective July 1, 2013

Requires the Department of Commerce to request, by January 31, 2014, that the United States Department of Health and Human Services include autism treatment services in Minnesota's essential health benefits when the next benefit set is selected in 2016.

d. Minnesota Comprehensive Health Association (MCHA) recommendations on coverage of treatment for ASD

Chapter 108, Article 12, Section 105 (HF 1233)

Uncodified provision

Effective July 1, 2013

Requires the Department of Commerce to study and report back to the Legislature by August 15, 2013 on coverage options including MCHA could provide through January 1, 2016 under Minn. Stat. Ch. 62E.

e. New Medical Assistance service for ASD

Chapter 108, Article 7, Section 14 (HF 1233)

Adds Minn. Stat. § 256B.0949

Effective dates: subdivisions 1-7, and 9 are effective upon federal approval but no earlier than March 1, 2014 and subdivisions 8, 10 and 11 are effective July 1, 2013

Establishes a new Medical Assistance (MA) benefit to provide early intensive intervention services to children with ASD diagnoses. Provides for eligibility, diagnostic requirements, diagnostic assessment, treatment plan components and six-month progress evaluation requirements to obtain continued services. Requires the Department of Human Services (DHS) to consult with stakeholders to develop specific requirements for the new benefit, including types of professionals who can be involved in providing services under the new benefit. Appropriates \$12.7 million for the 2014-2015 biennium with \$30 million projected for 2016-2017.

f. Private insurance mandate for early ASD treatment

Chapter 108, Article 12, Section 3 (HF 1233)

Adds Minn. Stat. § 62A.3094

Effective for large group health plans offered sold, issued or renewed on or after January 1, 2014

Mandates coverage of intensive early intervention services for fully-insured large employer plans defined under Minn. Stat. § 62Q.18, subdivision 1. Requires the coverage to include diagnosis, evaluation, multidisciplinary assessment and medically necessary care for children under age 18 with ASD for early intensive behavioral and developmental therapy, applied behavior analysis, neurodevelopmental and behavioral health treatment, speech, occupational therapy (OT),

physical therapy (PT), and medications. Provides that independent progress evaluations conducted by a mental health professional are to be completed to determine if progress toward functional end generalizable gains has been made. Specifically exempts MA and MinnesotaCare programs from being affected by this private coverage mandate.

g. Training in cultural competence and waiver request for ASD treatment

Chapter 108, Article 7, Sections 54 and 56 (HF 1233)

Adds uncodified provisions

Effective date, Section 54, July 1, 2013 and Section 56 the day following enactment

Requires the commissioners of Health and Human Services to assure that autism service providers receive training in culturally appropriate approaches to serving the Somali, Latino, Hmong and indigenous American Indian communities. Provides that the commissioner of DHS to apply for a federal Medicaid waiver in order to cover applied behavior analysis services to children with ASD.

3. Dental Coverage Under MA For Persons With Disabilities

Chapter 108, Article 6, Section 8 (HF 1233)

Amends Minn. Stat. § 256B.0625, subdivision 9

Effective July 1, 2013

Adds coverage for house calls and care facility dental visits, extra payments when behavioral supports are needed instead of sedation, oral or IV sedation in a clinic as an alternative to hospitalization or surgical center procedure and up to four dental cleanings (prophylaxis) per year if treatment plan requires it. Appropriates \$966,000 for this purpose.

4. Early Hearing Detection And Intervention Program

Chapter 108, Article 3, Sections 4 and 12, and Article 12, Sections 14 and 34-36 (HF 1233)

Amends Minn. Stat. § 256.969; § 144.125, subdivision 1, ¶ d. and § 144.966, subds. 2, 3a and 3

Effective July 1, 2013

Adds early hearing detection and intervention program to newborn screening requirements and increases the related fee. Provides funding to cover the increased fee under MA and MinnesotaCare. Adds deaf and hard-of-hearing mentors to family support services.

5. Electronic Tablets Covered By Medical Assistance As Communication Devices

Chapter 108, Article 6, Section 12 (HF 1233)

Amends Minn. Stat. § 256B.0625, subdivision 31

Effective July 1, 2013

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Provides MA coverage for electronic tablets under the category of durable medical equipment if the electronic tablet is to be used as an augmentative and alternate communication system and is locked to prevent any other use of the tablet. Saves \$500,000 for the 2014-2015 biennium.

6. Emergency Medical Assistance (EMA) Additional Covered Services

Chapter 108, Article 6, Section 7 (HF 1233)

Amends Minn. Stat. § 256B.06, subdivision 4

Effective July 1, 2013

Adds coverage for both home and community-based services (HCBS) waiver services through the Elderly Waiver (EW) for any eligible person regardless of age and for rehabilitative services provided in a nursing facility. Also, continues EMA coverage of dialysis and cancer treatment. Provides limited appropriation of \$2.2 million for the 2014-2015 biennium.

7. Medical Assistance For Employed Persons With Disabilities (MA-EPD) Technical Changes

Chapter 63, Sections 5 and 6 (HF 767)

Amends Minn. Stat. § 256B.057??

Effective August 1, 2013

Removes requirement that MA-EPD enrollees be enrolled in the program for at least 20 of 24 months prior to the enrollee turning age 65 in order for the individual to continue to be eligible for MA-EPD after age 65. Clarifies that the language only applies to individuals who turned age 65 during calendar years 2012 or 2013. Also, removes the requirement that DHS send monthly mailings to MA-EPD enrollees who are turning 63 or 64 informing them that the program ends at age 65 since the program now allows persons who turn age 65 to continue due to changes made in 2012.

8. Mental Health

a. Adult rehabilitative mental health services (ARMHS)

Chapter 108, Article 4, Sections 9, 16, 28 (HF 1233)

Adds Minn. Stat. § 246.18, subdivision 9 and amends Minn. Stat. § 256B.0623, subdivision 2, amends Minn. Stat. § 256B.761

Effective July 1, 2013

Moves \$1.81 million from adult mental health grants to fund increased rates for ARMHS services. Also allows parenting skills to be covered under ARMHS.

b. Children's mental health case management transition

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Chapter 108, Article 7, Section 7 (HF 1233)
Amends Minn. Stat. § 245.4881, subdivision 1
Effective July 1, 2013

Requires continued case management services be offered to a child over age 18 who has qualified for children's mental health case management when under age 18. Mandates that a person age 18 or over must consent to the involvement of the child's parent, guardian or legal representative in the development of a transition plan.

c. Crisis services funding increase

Chapter 108, Article 14, Section (HF 1233)
Appropriation
Effective July 1, 2013

Funds an increase in adult and children's mental health crisis teams to additional counties and tribes with \$1.5 million for the coming biennium.

d. Children's Therapeutic Services and Supports (CTSS) expanded

Chapter 108, Article 4, Sections 22-24 (HF 1233)
Amends Minn. Stat. § 256B.0943, subs. 1, 2 and 7
Effective July 1, 2013

Adds mental health plan development, family psycho educational services and family peer specialist services to CTSS.

e. Family peer mental health specialist

Chapter 108, Article 4, Section 15 (HF 1233)
Adds Minn. Stat. § 256B.0616
Effective July 1, 2013

Establishes a new mental health certified family peer specialist within the MA program for persons who have an emotional disturbance or severe emotional disturbance under the children's mental health requirements. Requires family peer specialist to have raised a child with mental illness, have had experience with the children's mental health service system, be at least 21 years of age and have a high school diploma.

f. Family psycho-educational services

Chapter 108, Article 4, Section 19 (HF 1233)
Adds Minn. Stat. § 256B.0625, subdivision 61
Effective July 1, 2013 or upon federal approval, whichever is later

Adds family psycho-educational services to the MA program for children up to age 21 with a diagnosis of a mental health condition if required by the child's individual treatment plan. Requires that a licensed mental health professional or a clinical trainee determine medical necessity to involve family members in the child's care.

g. Hospital in-reach community-based service coordination for persons under age 21

Chapter 108, Article 4, Section 18 (HF/SF)
Amends Minn. Stat. § 256B.0625, subd. 56
Effective July 1, 2013

Provides community-based services coordination through a hospital for children and young adults who have been in a hospital emergency room, at least twice in three months or admitted to an inpatient psychiatric unit at least two times in four months. Includes assistance with community services, housing, family supports and other needs.

h. Intensive treatment and foster care

Chapter 108, Article 4, Section 26 (HF 1233)
Amends Minn. Stat. § 256B.0946

Amends mental health treatment in foster care to require intensive services, provide definitions including clinical supervision, crisis assistance and client eligibility requirements, among other new provisions. Establishes new service delivery payment requirements and a list of excluded services.

i. Mental health case management eligibility criteria

Chapter 108, Article 4, Section 1 (HF 1233)
Amends Minn. Stat. § 245.462, subdivision 20
Effective July 1, 2013

Adds the diagnosis of schizoaffective disorder and adults who were eligible as a child for children's mental health case management as additional criteria qualifying for adult mental health case management if other criteria are met.

j. Mental health clinical care coordination

Chapter 108, Article 4, Section 20 (HF 1233)
Adds Minn. Stat. § 256B.0625, subdivision 62
Effective July 1, 2013 or upon federal approval, whichever is later

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Provides for MA coverage of clinical care coordination for persons up to age 21 diagnosed with a complex mental health condition or co-occurring mental health and other complex or chronic conditions if described in the individual treatment plan and provided by a properly licensed mental health professional or clinical trainee.

k. School-linked mental health grants

Chapter 108, Article 14, Section 2, subd. 6 (HF 1233)

Appropriation

Effective July 1, 2013

Substantially increases funding for school-linked mental health grants which will increase the number of school districts and regions providing school-linked mental health services. Appropriates \$7.434 million for the 2014-2015 biennium.

l. Suicide prevention text message program

Chapter 108, Article 14, Section 2, subdivision 6(m) (HF 1233)

Rider language

Effective July 1, 2013

Appropriates \$625,000 for each year of the coming biennium as grant to a nonprofit organization to operate a statewide text message suicide prevention program for youth.

9. Nonemergency Medical Transportation Changes

Chapter 81, Sections 7, 8, 9 (SF 654)

Amends Minn. Stat. § 256B.0625, subdivisions 17, 18e and 18f

Effective August 1, 2013

Imposes prior authorization requirements on nonemergency medical transportation (NEMT) services for trips that exceed 30 miles to a primary care provider or 60 miles for a specialty care provider. Delays the implementation of a single administrative structure and delivery system for NEMT to July 1, 2014. Provides that the commissioner of human services shall require the administrator of NEMT to follow the assessment process recommended by the NEMT Advisory Committee which is to be implemented by July 1, 2014.

10. Parent Fee Changes

a. Eliminate parent fees for MA Tax Equity and Fiscal Responsibility Act (TEFRA) for households under 275% of the federal poverty guidelines (FPG)

Chapter 108, Article 3, Section 22 (HF 1233)

Amends Minn. Stat. § 252.27, subdivision 2a

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Effective January 1, 2014

Eliminates parent fees for children from households under 275% of the Federal Poverty Guidelines (FPG) consistent with Minnesota's new household income eligibility level for children under the Affordable Care Act (ACA). Because one-half of the fees paid must go to the federal government, this change results in \$1.3 million cost for the state but \$2.6 million savings per year for parents who no longer have to pay the fee for their children.

b. Repeals an extension of parent fee increase adopted in 2011

Chapter 108, Article 3, Section 22 (HF 1233)

Amends Minn. Stat. § 252.27, subdivision 2j

Effective July 1, 2013

Repeals an extension of 2011 parent fee increase for families beginning at 175% of the federal poverty level (FPL). Appropriates \$469,000 for this purpose which results in \$940,000 in savings for families paying parent fees.

11. Rehabilitative Services Prior Authorization Requirement Modified

Chapter 81, Sections 4, 5, 6 and 10 (SF 654)

Amends Minn. Stat. § 256B.0625, subdivisions 8, 8a, 8b and 25

Effective August 1, 2013

Changes prior authorization requirements for physical therapy, occupational therapy and speech pathology and audiology services. Eliminates prior authorization requirements except for certain providers which must continue to obtain authorization before services will be covered by MA. Requires the publication of criteria and standards to determine which providers must obtain prior authorization for their clients. Provides that such criteria and standards will not impede access to rehabilitative services for any group of individuals with unique or special needs due to disability or functional condition. No cost or savings.

HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER-RELATED CHANGES

1. Congregate Living Rate Modified for Mental Health

Chapter 108, Article 7, Section 51 (HF 1233)

Rider language

Effective July 1, 2013

Exempts the 2011 congregate living rate reduction of 10% for people with low needs for individuals whose primary diagnosis is mental illness and who are living in a foster care setting

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where the license holder is certified as a mental health provider of assertive community treatment or intensive residential treatment services or is a mental health center or clinic. Appropriates \$308,000 for the 2014-2015 biennium for this purpose.

2. HCBS Behavior Safeguards and Positive Behavior Practices

Chapter 108, Article 8, Sections 4-7, 22, 27, 28, 30, 33, 49, and 51 (HF 1233)

Amends Minn. Stat. §§ 245.8251, 245.91, .245.94, subdivisions 2 and 2a; Adds Minn. Stat. § 245D.02, subdivisions 2b, 2c, 5a, 8a, subdivision 11(9), subdivision 15a, 15b, 23b, and 34a, 245D.04, subdivision 3, 245D.06, subdivision 1(h) and subdivision 5; adds Minn. Stat. § 245D.06, subdivisions 6, 7 and 8, 245D.061, .071, .091, .095, .10, .11; amends Minn. Stat. § 256B.092, subdivision 1a and 256B.49, subdivision 13; adds Minn. Stat. § 256B.4912, subdivision 8

Effective January 1, 2014, except reporting requirements in 245.8251, subdivision 2(b) are effective July 1, 2013.

Establishes new requirements prohibiting aversive and deprivation practices including restraint and seclusion. Allows only manual restraint in defined emergencies with specific reporting requirements. Provides for training related to the use and prohibition of restrictive practices and psychotropic medications. Applies to all HCBS waiver providers licensed under Chapter 245D. Requires providers of services for persons with developmental disabilities to report use of restraint, seclusion and punishment practices to DHS beginning July 1, 2013. Appropriates \$961,000 for State Fiscal Years 2014-2015.

3. HCBS Disability Waiver Management Improvements

a. Corporate foster license capacity managed at state level

Chapter 108, Article 7, Section 3 (HF 1233)

Amends Minn. Stat. § 245A.03, subdivision 7

Effective July 1, 2013

Authorizes the commissioner to manage statewide corporate adult foster capacity by adjusting the number of beds available to each county to meet statewide needs identified through the resource need determination process.

b. Disability HCBS waiver overspending by counties or tribes changes

Chapter 108, Article 7, Sections 8 and 42 (HF 1233)

Adds Minn. Stat. § 256B.0916, subdivision 11 and § 256B.49, subdivision 26

Effective July 1, 2013

Requires a county or tribe which authorizes services in excess of their state allocation to submit a corrective action plan to DHS. Allows DHS to recoup excess allocations from a tribe or county. Provides that tribes and counties to continue to make feasible home and community-based options available to eligible HCBS waiver recipients within the resources allocated for that purpose.

c. New priorities established for disability HCBS waivers

Chapter 108, Article 7, Sections 11 and 38 (HF 1233)

Amends Minn. Stat. §§ 256B.092, subdivision 12 and 256B.49, subdivision 11a

Effective July 1, 2013

Adds as two new top priorities for HCBS waiver services: 1) those who no longer require the intensity of service provided where they are currently living and 2) those who make a request to move from an institutional setting. Authorizes the commissioner to transfer funds between counties or groups of counties, and tribes to meet statewide priorities and resource needs while accommodating a base level reserve for each county, group of counties and tribe. Persons who meet existing priorities, including unstable living situation, closure of current residence, sudden change in needs will be considered after the two new priorities.

d. Safety net for HCBS waiver Community Alternatives for Disabled Individuals (CADI), Brain Injury (BI) and Community Alternative Care (CAC) programs

Chapter 108, Article 7, Section 61 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Requires the commissioner of DHS to submit a request to the federal agency for an HCBS waiver amendment to modify the financial management of the program to include a state-administered safety net when the cost for an individual increases above an identified threshold. The use of the safety net may result in decreased allocations for individual counties, tribes or groups of counties or tribes, but must not result in a net decrease statewide. Cost neutral.

4. HCBS Disability Waiver Payment Methodologies

Chapter 108, Article 13, Section (HF 1233)

Adds Minn. Stat. §§ 256B.4913, subdivision 4a and .4914, subdivisions 1-16 and § 13 uncodified provision

Effective January 1, 2014

Establishes a new payment rate methodology for HCBS disability waiver services. Provides for an implementation period of five years during which an individual provider's rate will not increase or decrease by more than .5% during calendar years 2014 and 2015 and by no more than

1% during calendar years 2016, 2017 and 2018. Requires stakeholder consultation to assist in implementation of the new rate payment system. Requires budget neutrality so that no more or less money will be spent for HCBS waiver services as a result of the rate payment methodology changes. Provides authority for DHS to manage the HCBS waiver programs within federally-required parameters during the transition period if the federal agency, Centers for Medicare and Medicaid Services, requires changes which would then trigger a public notice, legislative advisory commission review and recommendations for necessary legislative changes provided to the relevant legislative committees and chairs by January 15, 2014.

5. HCBS Waiver Crisis Diversion to Reduce Unnecessary Hospital Admissions

Chapter 108, Article 7, Sections 12 and 41 (HF 1233)

Adds Minn. Stat. §§ 256B.092, subdivision 14 and 256B.49, subdivision 25

Effective July 1, 2013

Provides for a functional assessment of crises for HCBS waiver participants who have had two or more admissions to a hospital emergency room, psychiatric unit or state institution within a calendar year to be conducted by a mental health or behavioral professional. Requires the result of the functional assessment to be used to amend the coordinated service and support plan and provide additional needed mental health services for those eligible who qualify for one of the disability HCBS waiver programs. Saves \$843,000 for 2014-2015 biennium. Five staff are authorized to provide the crisis diversion and discharge planning.

6. HCBS Waiver Provider License Fee Schedule

Chapter 108, Article 8, Section 15 (HF 1233)

Amends Minn. Stat. § 245A.10

Effective January 1, 2014

Replaces Chapter 245B licensing fee structure with a new licensing fee structure for HCBS waiver programs licensed under Chapter 245D.

7. HCBS Waiver Provider Standards

Chapter 108, Articles 8 and 9, (HF 1233)

Adds Chapter 245D and repeals Chapter 245B and makes various related cross reference changes

Effective various dates, primarily January 1, 2014

Requires providers of HCBS waiver services to obtain a license to provide services to waiver program participants. Modifies Minn. Stat. § 245D to establish a consistent set of standards across all HCBS waiver programs. Providers with 245B licenses are required to switch to 245B beginning August 19, 2013. Provides training and educational opportunities to providers and lead agencies in order to comply with new 245D requirements. Designates DHS as lead agency

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for 245D licensed providers. Requires joint efforts from the Minnesota Department of Health (MDH) Compliance Monitoring Division and DHS Licensing Division to develop an integrated licensing system for providers of both home care services and HCBS waiver services. Appropriates \$1.7 million for 2014-2015.

8. HCBS Waiver Settings Density Exemption for AIDS Program

Chapter 108, Article 7, Sections 43, 50 and 53 (HF 1233)

Amends Minn. Stat. §§ 256B.492, 256D.44 and adds uncodified provision

Effective July 1, 2013

Provides exceptions if required by Housing Opportunities for Persons with AIDS programs, to the requirement that HCBS waiver funding be restricted to 25% of the units in a multifamily building of more than four and to the shelter-needy payment requirement that limits such payments to 25% of the units in the building.

9. Shared Living Model Established in Disability HCBS Waiver Services

Chapter 108, Article 7, Section 62 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Authorizes the commissioner of DHS to develop and promote a shared living option for individuals receiving a disability HCBS waiver services who require 24-hour assistance. Provides that the companion model serve one or two individuals in a home with planned respite for the caregiver and availability of intensive training and support on the needs of the individuals served. Requires amendments to be submitted to the federal agency by December 31, 2013.

LONG-TERM SUPPORTS AND SERVICES (LTSS) CHANGES

1. Community First Services and Supports (CFSS), Personal Care Assistant (PCA) Program Reform

Chapter 108, Article 7, Section 49 (HF 1233)

Adds Minn. Stat. § 256B.85, subdivisions 1 through 25

Effective upon federal approval but no earlier than April 1, 2014

Reforms the PCA program under the name Community First Services and Supports (CFSS) using new federal Medicaid authority, 1915k. Increases the minimum amount of service from 30 minutes a day for persons with Level I behavior and/or one dependency in an activity of daily living (ADL) to at least 75 minutes per day and adds these categories back into the budget methodology to provide more assistance based on behavior, critical activities of daily living (ADLs) and complex health needs. Provides that the new CFSS include skill acquisition and enhancement. Requires maximum self-direction and allows a budget option to use CFSS funds

to purchase needed goods as well as staff. Qualifies for 6% increase in federal Medicaid matching funds which was used for improvements in PCA services, other long-term supports and services, the Senior Linkage Line and the Disability Linkage Line, and at least \$2.7 million for six staff, administrative costs, operations and evaluation. Continues most other aspects of current PCA program.

2. Employment Navigation, Supports and Benefit Planning, Part of Reform 2020

Chapter 108, Article 2, Section 15 (HF 1233)

Adds Minn. Stat. § 256B.021, subdivision 6

Effective upon federal approval.

Establishes a demonstration project to provide navigation, employment supports and benefit planning to persons at risk of qualifying as totally and permanently disabled to improve health and reduce applications for disability benefits. Appropriates \$399,000 for the coming biennium, contingent upon federal approval.

3. Essential Community Supports (ECS)

Chapter 108, Article 7, Section 13 (HF 1233)

Adds Minn. Stat. § 256B.0922

Effective January 1, 2014

Establishes Essential Community Supports (ECS) and ECS Transition. Provides that the ECS program covers persons age 65 and older who do not meet the level of care required for a nursing facility and are not eligible for MA. Under ECS, provides up to \$400 per person per month for caregiver support, homemaker support, chores, a personal emergency response device, home-delivered meals or community living assistance as defined by DHS. Also allows up to \$600 per year for service coordination as part of the person's community support plan.

Establishes the ECS for people in transition which includes people of all ages who lose eligibility for HCBS waivers due to the revised nursing facility level of care criteria and who are not eligible for PCA services but have been assessed to need the services offered under the ECS program. Also allows up to \$600 per person per year for case management services to be provided in conjunction with ECS transition services.

4. Home Care Licensure Changes under Minnesota Department of Health (MDH)

Chapter 108, Article 11, Section (HF 1233)

Amends Minn. Stat. § 144A.44, subdivision 1 and adds Minn. Stat. § 144A.471-483

Effective the day following enactment.

Revises and updates the Home Care Bill of Rights and the MDH authority to regulate home care services. Establishes extensive new statutory requirements for home care providers and home care services.

5. Housing Stabilization under Reform 2020

Chapter 108, Article 2, Section 16 (HF 1233)

Adds Minn. Stat. § 256B.021, subdivision 7

Effective upon federal approval.

Establishes new services to low-income adults with chronic health conditions who do not currently qualify for HCBS waiver services. Includes coordination assistance, tenancy support and community living assistance. Projects savings of \$3.6 million for the 2014-2015 biennium if approved.

6. LTSS Payment Changes

a. Community services provider cost of living increase

Chapter 108, Article 7, Sections 47 and 60 (HF 1233)

Uncodified provision

Effective April 1, 2014

Provides a 1% rate increase, delayed until April 1, 2014, for community service programs including home and community waivers, private duty nursing and home health services, PCA services and qualified professional supervision, day training and habilitation services, grant programs such as living skills training for persons with epilepsy, semi-independent living services, consumer support grants, family support grants, housing access grants, community support services for persons who are deaf and hard of hearing with mental illness as well as consumer-directed community supports, intermediate care facilities for persons with developmental disabilities and all community services provided through managed care plans. Appropriates \$25.8 million for 2014-2015 biennium for this purpose.

b. HCBS waiver quality payment

Chapter 108, Article 7, Sections 28, 30-34 (HF 1233)

Amends Minn. Stat. § 256B.439, subd. 1 and adds subds. 29, 3a, 5, 6, and 7

Effective July 1, 2013

Requires the DHS commissioner to develop quality measurement criteria for HCBS waivers in consultation with stakeholders. Provides that incentive-based grants to encourage investments to improve quality are developed by April 1, 2014. Mandates periodic consumer surveys as funding permits to update provider quality profiles. Adds an additional 1% to the community providers as a quality payment effective July 1, 2015.

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c. Intermediate Care Facility/Developmental Disabilities surcharge increase

Chapter 108, Article 7, Sections 5 and 46 (HF 1233)

Amends Minn. Stat. § 256.9657, subdivision 3a and adds Minn. Stat. § 256B.5012, subdivision 14

Effective July 1, 2013

Increases the surcharge for intermediate care facility/developmental disabilities (ICF/DD) beds to \$3,679 per bed and offsets the cost for the increase to the facility with a \$7.81 per day payment rate increase. Saves \$4.6 million for the 2014-2015 biennium.

d. Nursing facility rate increases

Chapter 108, Article 7, Sections 25, 26, 35-37 (HF 1233)

Adds Minn. Stat. § 256B.434, subds. 19a, 19b; Amends Minn. Stat. §§ 256B.441, subd. 44 and 256B.441, subds. 46, 46c

Effective September 1, 2013

Provides an average 5% rate increase for nursing facilities as a combination of and across-the-board increase as well as performance payments. Requires 75% of the 3.75% across-the-board increase to be paid as wage increases to nursing facility staff. Provides another 3.2% average increase July 1, 2015.

e. Repeal of 1.67% community services provider rate cut

Chapter 108, Article 7, Section 64 (HF 1233)

Repeals Laws 2011, First Special Session, Chapter 9, Article 7, Section 54 as amended by Laws 2012, Chapter 247, Article 4, Section 42 and Laws 2012, Chapter 298, Section 3

Effective July 1, 2013

Repeals the contingent community service provider and grant rate reductions of 1.67% effective July 1, 2013. Appropriates \$12.8 million to cover the cost of repealing the contingent rate reduction which would have been in effect from July 1, 2013 to December 31, 2013.

7. Office of Management and Budget Oversight of Reform 2020 Contingent Provisions

Chapter 108, Article 15, Sections 3 and 4

Adds uncodified provisions

Effective July 1, 2013

Requires commissioner of DHS to submit an implementation plan to the commissioner of MN Management and Budget (MMB) upon full or partial approval of Reform 2020 contingent provisions. Specifies that the plan include fiscal estimates which must not increase general fund appropriations for the 2014-15 biennium.

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Requires the commissioner of MMB to adjust appropriations to reflect federal approval. Provides that if planning estimates for the 2016-17 biennium result in increased general fund expenditures, over the February 2013 forecast, none of the provisions in Article 2 shall be implemented.

8. PCA and Direct Support Staff Union Representation

Chapter 128, Article 2, Sections 1-5 (SF 778)

Adds Minn. Stat. §§ 179A.54 and 256B.0711

Effective July 1, 2013

Establishes requirements and processes to allow a unionization campaign and vote by staff who provide publicly-funded, self-directed personal care and supportive services and appropriates \$2.4 million for the 2014-15 biennium for related costs.

9. PCA Gender Request

Chapter 63, Sections 8 and 9 (HF 767)

Amends Minn. Stat. § 256B.0659, subd. 7 and adds subd. 7a

Effective August 1, 2013

Allows PCA recipients to request a PCA of the same gender and requires that the request be added to the care plan. Provides that PCA agencies must make a reasonable effort to meet the request.

10. Preadmission Screening Related to Nursing Facility Admissions

Chapter 108, Article 2, Sections 7, 8, 9, 10 (HF 1233)

Adds Minn. Stat. § 256.975, subdivision 7a, 7b, 7c, 7d

Effective October 1, 2013

Simplifies preadmission screening by requiring completion of an online form with the Senior Link Age Line which identifies persons who require further evaluation and the need for specialized services due to mental illness or developmental disability. Provides specific reasons to exempt persons with mental illness or developmental disabilities from some screening requirements.

11. Private Duty Nursing (PDN) Assessment Criteria

Chapter 63, Section 7 (HF 767)

Amends Minn. Stat. § 256B.0652, subd. 5

Effective August 1, 2013

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Changes outdated citation for hospital level of care criteria from a Minnesota Rule to the applicable part of the Code of Federal Regulations, 42 C.F.R. § 440.10.

12. Quality Assurance License System Changes, Region 10

Chapter 108, Article 7, Sections 15-22 (HF 1233)

Amends Minn. Stat. §§ 256B.0951, subdivisions 1 and 4, .0952, subdivisions 1 and 5, .0955, .097, subdivisions 1 and 3

Effective July 1, 2013

Expands Region 10 variance from governing licensure of programs to include all persons with disabilities. Allows providers of service to participate in alternative quality licensing in addition to counties. Updates various provisions related to the State Quality Council. No fiscal impact.

13. Ventilator Dependent Changes for those Age 65 and Older

Chapter 108, Article 7, Section 6 (HF 1233)

Amends Minn. Stat. § 256B.0915, subdivision 3a

Effective July 1, 2013

Removes the 30-day stay in a nursing facility requirement for individuals on the Elderly Waiver (EW) who are ventilator dependent by providing an enhanced budget immediately rather than after a 30-day stay. This item is budget neutral.

PROGRAMS FOR EMPLOYMENT

1. Employment Support Services for Persons with Mental Illness

Chapter 85, Articles 1 and 3, Sections 3, 20 and 21 (HF 729)

Adds Rider Language and amends Minn. Stat. §§ 245.4712, subd. 1 and 268A.13 and 268A.14, subd. 1

Effective July 1, 2013

Appropriates a one-time \$1 million increase for employment support services for persons with mental illness to ensure that employment supports assist in finding and maintaining competitive employment, are integrated with mental health treatment and include evidence-based practices such as rapid job search.

2. Pilot Program for Employment Support and Independent Living Services for Persons with ASD

Chapter 85, Articles 1 and 3, Sections 3 and 23 (HF 729)

Rider Language and uncodified provision

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Effective July 1, 2013

Provides a one-time \$68,000 grant to Olmstead County for a pilot program for education, outreach and supports for area employers to encourage hiring and promotion of workers with ASD. Emphasizes competitive employment, workplace inclusion, skill development and self-direction.

3. Vocational Rehabilitation

Chapter 85, Article 1, Section 3 (HF 729)

Appropriation

Effective July 1, 2013

Increases funding for vocational rehabilitation by \$1 million per year.

PROTECTION

1. Financial Exploitation of Vulnerable Adults

(link to or copy and paste Ron's summary here)

Chapter 5, (HF 90)

2. Guardian and Conservator Background Studies

(link to or copy and paste Ron's summary here)

Chapter 86, Article 2, Sections 1-4 (SF 671)

3. Vulnerable Adult Protection Improvements

Chapter 108, Article 2, Sections 41, 42 and 43 (HF 1233)

Amends Minn. Stat. § 626.557, subdivision 4, subdivision 9 and subdivision 9c

Effective July 1, 2014 and contingent upon federal approval

Creates a statewide common entry point for reporting suspected maltreatment by toll free number and web-based reporting. Replaces current county-designated common entry points system. Requires a public outreach campaign to raise awareness of maltreatment of vulnerable adults and educate the public on new reporting requirements and the common entry point. Provides adult protection resource specialists to improve services and oversight to adult

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protection programs. Provides \$3 million in new funding to counties through the Vulnerable Child and Adults Act. Appropriates \$8.5 million for the coming biennium, contingent upon federal approval.

4. Vulnerable Children and Adults Act Funding Formula

Chapter 108, Article 3, Section 34

Amends 256 M. 40, subdivision 1

Effective July 1, 2013

Provides that the commissioner to seek public input and review before proposing any changes to the current funding formula.

STATE-OPERATED SERVICES

1. Community Transition Initiative

Chapter 108, Article 4, Sections 14, 21 and 27 (HF 1233)

Adds Minn. Stat. §§ 256.478, 256B.092, subdivision 13, and 256B.49, subdivision 24

Effective July 1, 2013

Provides transition grants for home and community-based services for individuals not eligible for MA under specific criteria but who qualify for HCBS waiver services for persons with developmental disabilities or persons eligible for the Community Alternatives for Disabled Individuals (CADI) or Brain Injury (BI) waiver programs. Provides for a moratorium exception for these individuals ready for discharge from Anoka Metro Regional Treatment Center (AMRTC) or Minnesota Security Hospital (MSH) in St. Peter provided the persons have met treatment objectives and no longer need a hospital level of care. Provides additional waiver allocations to serve qualified individuals. Requires counties to pay an increased share of the cost for individuals ready to leave AMRTC and MSH. Costs \$8.2 million for the 2014-2015 biennium.

2. County Cost Increase for Residents at Minnesota Security Hospital (MSH) and Anoka Metro Regional Treatment Center (AMRTC)

Chapter 108, Article 4, Section 10 (HF 1233)

Amends Minn. Stat. § 246.54, subdivisions 1 and 2

Effective July 1, 2016

Increases the county percentage of the cost of care for county residents who have completed treatment at AMRTC and are ready to be discharged from 50% to 75% for any days over 60. Imposes an increased share of the cost of care from 10% to 50% for county residents in the state-operated MSH forensic transition service for each day the client spends in the program. Raises

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\$1.9 million due to the increased share at AMRTC and \$6.3 million for clients at the MSH for the biennium which results in a total savings to the state of \$8.2 million.

3. Intensive Residential Treatment Services (IRTS)

Chapter 108, Article 4, Sections 8 and 9 (HF 1233)

Amends Minn. Stat. § 246.18, subdivision 8 and adds subdivision 9

Effective July 1, 2013

Allows private IRTS providers to develop services to meet the complex needs of persons with mental illnesses and other health care needs to transition out of Anoka Metro Regional Treatment Center (AMRTC). Also funds the continued operation of the IRTS state-operated program in Willmar.

STUDIES AND REPORTS

1. Assistive Technology for Home and Community-Based Service Waiver Participants

Chapter 108, Article 7, Section 15 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Requires the commissioner of DHS to develop recommendations for assistive technology funding for HCBS waiver participants on appropriate assistive technology equipment, use of monitoring services, whether or not leasing is an alternative to purchasing and use of ongoing support services. Requires the report to relevant legislative chairs by February 1, 2014.

2. Case Management Reform Recommendations

Chapter 63, Section 19 (HF 767)

Adds uncodified provision

Effective August 1, 2013

Requires DHS to develop further recommendations for proposed legislation regarding redesign of case management services, including provisions to increase choice of case manager, define case management services, provide caseload size guidance, propose statewide standards for case management with reporting measures on outcomes, establish rates and develop information for case management recipients and to submit recommendations and proposed legislation to relevant legislative committees by February 1, 2014.

3. Child and Adolescent Behavioral Health Services Recommendations

Chapter 108, Article 4, Section 29 (HF 1233)

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Adds uncodified provision

Effective July 1, 2013

Requires the commissioner of human services to consult with interested stakeholders to develop recommendations and legislation if necessary, for state-operated child and adolescent behavioral health services facility. Provides that the facility and services should meet the needs of children with serious emotional disturbances, autism spectrum disorders, reactive attachment disorder, post-traumatic stress disorder (PTSD), serious emotional disturbance co-occurring with developmental disability, borderline personality disorder, schizophrenia, fetal alcohol spectrum disorders, brain injuries, violent tendencies and complex medical issues.

4. Concentration Limits for HCBS Waiver Settings Recommendations

Chapter 108, Article 7, Section 53 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

The commissioner of DHS is required to consult with the Minnesota Olmstead Subcabinet and other stakeholders regarding concentration limits for HCBS waiver settings defined in Minn. Stat. § 256B.492. It requires recommendations be submitted to relevant legislators by February 1, 2014.

5. Federal Request for Disregard of Spousal Income and Assets for Disability HCBS Waiver Programs

Chapter 108, Article 7, Section 55 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Requires the commissioner of DHS to request federal authority to continue current policy with respect to persons under age 65 for the treatment of income and assets for the non-assisted spouse rather than apply the spousal impoverishment protection provisions required under the Affordable Care Act (ACA).

6. Group Residential Housing Study

Chapter 108, Article 3, Section 47 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Requires the commissioner of DHS to review the status of Group Residential Housing (GRH) beds with rates in excess of the Minnesota Supplemental Aid equivalent rate, including banked supplemental service rate beds. Provides that a rate setting and GRH bed use plan be developed by the commissioner and presented to the Legislature no later than February 1, 2014.

7. Home and Community-Based Services (HCBS) Critical Access Study and Long-Term Care Services and Supports Report, Gaps Analysis

Chapter 108, Article 2, Section 2 (HF 1233)

Amends Minn. Stat. § 144A.351, subdivision 1 and adds subdivision 2

Effective upon federal approval

Provides ongoing funding for the long-term care services and supports biennial gaps analysis next due August 15, 2014. Requires a one-time study to assess local capacity of HCBS services for older adults, persons with disabilities, including those with mental illnesses. Provides funding for the Critical Access Study to be submitted no later than August 15, 2015. Provides \$435,000 per biennium for these to participate in the Long-Term Services and Supports Gaps Analysis.

8. HCBS Licensing Fees and Maltreatment Investigations Report

Chapter 108, Article 8, Section 59 (HF 1233)

Uncodified provision

Effective July 1, 2013

Requires Commissioner to report to legislative committees on license and maltreatment investigation costs in relation to fees collected and recommend changes to reduce costs by July 1, 2015.

9. Mental Health Work Force Development Plan

Chapter 99, Article 2, Section 28 (SF 1236)

Uncodified provision

Effective the day following enactment

Requires the Board of Trustees of the Minnesota State Colleges and Universities in cooperation with the commissioner of human services to convene a summit of representatives from state colleges and universities, the University of Minnesota, private colleges, mental health professionals, special education representatives, children and adult mental health advocates and providers and community mental health centers to develop a comprehensive work force development plan which would increase the number of mental health professionals and practitioners, assure adequate coursework and training is available and increase the number of culturally diverse mental health professionals and practitioners. Provides that the plan be submitted to relevant legislative committees in both health and human services and higher education by January 15, 2015.

10. Mentally Ill and Dangerous Commitment Stakeholder Group

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Chapter 108, Article 4, Section 31 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Requires the commissioner of DHS in consultation with the state court administrator to develop recommendations with a stakeholder group to address issues listed in the February 2013 Office of Legislative Auditor's report on state-operated services that they are to be submitted to relevant legislative committees by January 15, 2014. Lists five specific areas for recommendations and specifics.

11. Need Determination Report Date Change

Chapter 108, Article 7, Section 3 (HF 1233)

Amends Minn. Stat. § 245A.03, subdivision 7(e)

Effective July 1, 2013

Change to the annual need determination report due date to August 1, beginning in 2014 which will coincide every other year with the biennial Gaps Analysis under Minn. Stat. § 144A.351.

12. Nursing Facility Level Of Care Report

Chapter 108, Article 7, Section 58 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Requires DHS to report on the impact of nursing facility level of care changes effective January 1, 2014, including the number of individuals who lose eligibility for HCBS waivers for persons with disabilities and seniors and the alternative care program, the number of individuals who lose eligibility for MA. Requires the report to be provided to the chairs of the legislative committees with jurisdiction in Health and Human Services policy and finance with the preliminary report due October 1, 2014 and the final report submitted February 15, 2015.

13. Raising the Asset Limit for Seniors and Persons with Disabilities Recommendations

Chapter 108, Article 7, Section 56 (HF 1233)

Adds uncodified provision

Effective July 1, 2013

Provides that the commissioner of DHS consult with interested stakeholders to develop recommendations and a request for an 1115 Medicaid demonstration waiver in order to increase the asset limit for individuals eligible MA due to disability or age who are not residing in institutional services. Requires recommendations to relevant legislative committees by February 1, 2014.

VARIOUS MISCELLANEOUS DISABILITY-RELATED CHANGES

1. Advocating Change Together

Chapter 108, Article 14, Section 2 (HF 1233)

Rider language

Effective July 1, 2013

Provides Advocating Change Together a grant of \$310,000 for Fiscal Year 2014 to provide self-advocacy training and supports for persons with intellectual and developmental disabilities throughout the state.

2. Disability Terminology Updated

Chapter 59, Article 3 (HF 969) and Chapter 62 (SF 760)

Amends 51 sections of statute and 38 rule parts

Effective August 1, 2013

Removes offense terminology and updates language referring to persons with various types of disabilities as required by the Jensen settlement. Requires changes to be made and implemented within current appropriations.

3. Fetal Alcohol Syndrome Outreach Funding

Chapter 108, Article 14, Section 2, subdivision 6(n) (HF 1233)

Rider language

Effective July 1, 2013

Provides \$180,000 each year for the coming biennium, one time, for the Minnesota organization on fetal alcohol syndrome to provide outreach prevention programs in Olmstead County.

4. Service Animals

Chapter 14 (SF 1086)

Amends Minn. Stat. § 363A.19

Effective August 1, 2013

Link to LSAP on this provision.

5. Sick Leave Use Broadened

Chapter 87 (SF 840)

Amends Minn. Stat. § 181.9413 and adds uncodified provision

Effective August 1, 2013

Requires employers who provide personal sick leave benefits to allow employees to use accrued sick leave to care for their adult child, spouse, sibling, parent, grandparent or stepparent for a minimum of 160 hours over 12 months. Provides for a report sick leave use by employees of the executive branch as a result of this change.

6. Voting

Chapter 131, Article 1, Section 1-4 (HF 894)

Amends section 5B.06; section 203B.02, subdivision 1; 203B.04, subdivisions 1 and 5

Effective January 1, 2014 for elections beginning with the state primary August 12, 2014.

Removes requirements for voter to state a qualifying reason for being unable to vote in person on election day. Allows absentee voting for all eligible voters and provides for registration as a permanent absentee voter to have ballots automatically mailed before each election.

ITEMS OF INTEREST EFFECTIVE IN 2013 AND 2014 ADOPTED IN LEGISLATIVE SESSIONS

1. Medical Assistance for Employed Persons with Disabilities (MA-EPD) Premium and Out-of-Pocket Increases

2011 First Special Session, Chapter 9, Article 7, Section 7 (HF 25)

Amends Minn. Stat. § 256B.057, subdivision 9

Effective January 1, 2014 for adults age 21 and older and October 1, 2019 for children age 16 to 21

Increases out-of-pocket costs for MA-EPD participants by raising premiums from \$35 per month minimum to \$65 per month and increasing the unearned income cost share obligation from .5 to 5%. Increased fees will average more than \$750 per year per person when fully implemented. Increases adopted during 2011 First Special Session but effective date delayed due to maintenance of effort requirements under the ACA.

2. Nursing Facility Level of Care Changes

Laws of Minnesota 2009, Chapter 79, Article 8, Sections 1-5, 16, 32-37, 39-44, 48 and 65-67 (HF 1362)

Amends Minn. Stat. § 144.0724

Effective January 1, 2014

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Tightens eligibility for nursing facility level of care, EW, CADI and BI HCBS waiver services. Projected to terminate eligibility for about 11,000 EW participants and 500 CADI participants during 2014.

3. Relative PCA Rate Cut Removed

Laws of Minnesota 2011, First Special Session, Chapter 9, Article 7, Sections 10 and 11 (HF 25)
Amends Minn. Stat. § 256B.0659, subds. 11 and 28
Effective October 11, 2011

The 2011 20% relative PCA rate cut will not be imposed due to a court decision holding the provision unconstitutional and a decision by Commissioner Jesson not to appeal the court's ruling. Cost of about \$21 million for the coming biennium resulting from not imposing this cut was accounted for in the February 2013 Forecast. Removes the 20% rate cut scheduled to go into effect July 1, 2013.

4. Return of .5% Cut Made in 2011 to Community Service Providers

Laws of Minnesota 2011, First Special Session, Chapter 9, Article 7, Sections 45 and 51
Effective July 1, 2013

Restores a 0.5% rate cut to community service providers, grants and ICF/DD facilities, except day training and habilitation providers which were not subject to the 0.5% in 2011.

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