

DISABILITY LAW

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See also Health Law section

Services for Persons with Developmental Disabilities

I. TEFRA

First Special Session, Chapter 9, Article 5, Sections 20 and 88 (SF 12)

Amends Minn. Stat. § 252.27, subd. 2a

Uncodified Session Law

Effective August 1, 2019

A. Parental Contribution

Reduces the parental contribution required under the MA TEFRA option (for children with disabilities) by 15%.

Amends Minn. Stat. § 252.27, subd. 2a

B. Information to Applicants on DHS Web Site

Directs DHS to: (1) develop content explaining the MA-TEFRA option to online applicants; (2) develop a cover letter to accompany materials sent to applicants explaining the MA-TEFRA enrollment and renewal processes.

Uncodified Session Law

C. DHS Stakeholder Group to Consider TEFRA Improvements

Uncodified Session Law

1. Establishment

Directs DHS to convene a stakeholder group to consider improvements to the TEFRA option enrollment and renewal processes.

2. Members

Provides that the stakeholder group must include representatives from: (1) DHS; (2) MNsure; (3) counties in Greater Minnesota and in the Metro; (4) the Arc Minnesota; (5) Gillette Children's Specialty Healthcare; (6) the Autism Society of Minnesota; (7) Proof Alliance; and the Minnesota Consortium for Citizens with Disabilities. Allows DHS to invite others.

3. Stakeholder Group Report to DHS

Directs the stakeholder group to report to DHS the recommended improvements and associated costs by December 31, 2020

II. COUNTY SHARE FOR SEMI-INDEPENDENT LIVING SERVICES (SILS)

First Special Session, Chapter 9, Article 5, Section 21 (SF 12)

Amends Minn. Stat. § 252.275, subd. 3

Effective July 1, 2019

Reduces the county share for semi-independent living services (SILS) grants from 30 percent to 15 percent.

III. FAMILY SUPPORT GRANTS

First Special Session, Chapter 9, Article 5, Section 22 (SF 12)

Amends Minn. Stat. § 252.32, subd. 1a

Effective October 1, 2019

Changes eligibility for family support grant from under age 21 to under age 25. Provides that “new grant allocations, beginning July 1, 2019, are intended to support families with dependents age 14 through 24 to support transition-related activities.”

IV. DAY SERVICES FOR ADULTS WITH DEVELOPMENTAL DISABILITIES

First Special Session, Chapter 9, Article 5, Sections 23-32 (SF 12)

Amends Minn. Stat. §§ 252.41–252.45

Various Effective Dates

Updates terminology and makes various changes to provisions governing day services for adults with developmental disabilities

A. Expansion of Day Services

Expands day services to include: (1) day support services; (2) prevocational services; (3) day training and habilitation services; (4) structured day services; and (5) adult day services as defined in Minnesota's federally approved disability waiver plans.

Amends Minn. Stat. § 252.41, subd. 3

Effective January 1, 2021 or upon federal approval, whichever is later

B. County Authority to Change Authorized Days

Removes language regarding limitations on the ability of county boards (now termed “lead agencies”) to change authorized service days

Amends Minn. Stat. § 252.44

Effective January 1, 2021

Home and Community-Based Services

I. RESIDENTIAL PROGRAM DEFINITION CHANGE

First Special Session, Chapter 9, Article 2, Section 20 (SF 12)

Amends Minn. Stat. § 245A.02, subd. 14

Effective January 1, 2010

Expands the definition for “residential program” providing HCBS services under a waiver to: (1) include “a single or multifamily dwelling that is under the control, either directly or indirectly, of the service provider licensed under chapter 245D and in which at least one person receives services under chapter 245D”; and (2) exclude “out-of-home respite services when a case manager has determined that an unlicensed site meets the assessed needs of the person” and “multifamily dwellings where persons receive integrated community supports, even if authorization to provide these supports is granted under chapter 245D and approved in the federal waiver.”

II. COMMUNITY FIRST SERVICES AND SUPPORTS (CFSS)

A. CFSS for Pregnant Women

First Special Session, Chapter 9, Article 5, Section 70 (SF 12)

Amends Minn. Stat. § 256B.85, subd. 3

Effective May 31, 2019

Establishes CFSS eligibility for pregnant women without federal financial participation if meet criteria listed.

B. CFSS Encumbrance

First Special Session, Chapter 9, Article 5, Sections 73-74 (SF 12)

Amends Minn. Stat. § 256B.85, subds. 11-12

Effective August 1, 2019

Requires that 100% of revenue generated from rate increases for services provided by CFSS agencies must be used for support worker wages and benefits.

C. CFSS Restricted Recipient Program

First Special Session, Chapter 9, Article 2, Sections 118 (SF 12)

Adds Minn. Stat. § 256B.0646

Effective May 31, 2019

Permits DHS to place a recipient of CFSS services in the Minnesota restricted recipient program upon evidence of abusive or fraudulent billing. Placement in the program is subject to appeal.

III. CONSUMER-DIRECTED COMMUNITY SUPPORTS

First Special Session, Chapter 9, Article 5, Section 81 (SF 12)
Amends Laws 2017, First Special Session, Chapter 6, Article 1, Section 45
Effective October 1, 2019 or upon federal approval, whichever is later

Establishes shared services under CDCS. Allows increased rate for services provided at the same time by the same direct care worker for individuals who have entered into an agreement to share CDCS services (up to three individuals at one time).

IV. INTEGRATED COMMUNITY SUPPORTS/SETTING CAPACITY REPORT

First Special Session, Chapter 9, Article 5, Section 19 (SF 12)
Adds Minn. Stat. § 245D.12
Effective upon federal approval

Requires integrated community supports license holder to submit a capacity report to ensure the location of service delivery meets HCBS criteria. Includes requirement that only one license holder may deliver integrated community supports at the address of the multifamily housing building.

V. PERSONAL CARE ASSISTANCE

A. PCA Assessments During MNCHOICES Transition

Laws of 2019, First Special Session, Chapter 9, Article 5, Section 35 (SF 12)
Amends § 256B.0659, subd. 3a
Effective August 1, 2019

Allows a certified assessor to complete a long-term care consultation assessment for PCA services during the transition to MnCHOICES.

B. PCA/CFSS Enhanced Rate

First Special Session, Chapter 9, Article 5, Sections 36-42, 48, 71-72, and 75 (SF 12)
Amends Minn. Stat. §§ 256B.0659, subds. 11, 13, 19, 28; 256B.0915, subd. 3a; and 256B.85, subd. 16
Adds §§ 256B.0659, subd 17a, and 256B.85, subd. 7a
Various Effective Dates

1. Enhanced PCA Rate

Provides enhanced rate of 7.5% for PCA if person qualifies for 12 or more hours per day and PCA satisfies training requirements (included in, not in addition to, any adjustments based on collective bargaining wage increases). Requires qualified individuals to enroll with DHS and be subject to background study.
Amends Minn. Stat. § 256B.0659, subds. 11, and 13
Adds Minn. Stat. § 256B.0659, subd 17a
Effective July 1, 2019

2. Documentation of Training
Requires agencies to provide and keep documentation of training for PCA enhanced rate.
Amends Minn. Stat. § 256B.0659, subd. 28
Effective July 1, 2019
3. Documentation of Pass-through to Wages
Requires a provider agency to document that it passed through the entire value of the enhanced rate in the form of wages and benefits to the personal care attendants who provide the services that qualify for the enhanced rate.
Amends Minn. Stat. § 256B.0659, subd. 24
Effective July 1, 2019
4. Labor Market Study
Requires PCA agencies to report labor market data.
Amends Minn. Stat. §§ 256B.0659, subds. 19 and 24; and 256B.85, subd. 10
5. Exception to Monthly Case Mix Budget Cap
Requires DHS to approve an exception to the monthly case mix budget cap to account for the PCA enhanced rate. Limits the exception to no more than 107.5% of the budget. Requires the exception to be reapproved annually.
Amends Minn. Stat. § 256B.0915, subd. 3a
Effective July 1, 2019 or upon federal approval, whichever is later
6. Enhanced CFSS Rate
Provides enhanced rate of 7.5% under CFSS program if person qualifies for 12 or more hours per day and support worker satisfies training requirements (included in, not in addition to, any adjustments based on collective bargaining wage increases).
Amends Minn. Stat. § 256B.85, subd. 16
Adds Minn. Stat. § 256B.85, subd. 7a
Effective July 1, 2019

C. PCA Restricted Recipient Program

First Special Session, Chapter 9, Article 2, Sections 118 (SF 12)
Adds Minn. Stat. § 256B.0646
Effective May 31, 2019

Permits DHS to place a recipient of PCA services in the Minnesota restricted recipient program upon evidence of abusive or fraudulent billing. Placement in the program is subject to appeal.

D. PCA Documentation

First Special Session, Chapter 9, Article 2, Section 120 (SF 12)
Amends Minn. Stat. § 256B.0659, subd. 12
Effective May 31, 2019

Modifies the service delivery documentation requirements of PCAs.

E. Repeal of Annual Review of PCA Program

First Special Session, Chapter 9, Article 7, Section 47 (SF 12)
Repeals Minn. Stat. § 256B.0659, subd. 22
Effective August 1, 2019

Repeals annual review of PCA program.

F. 21st Century Cures Act – Electronic Visit Verification

First Special Session, Chapter 9, Article 5, Section 82 (SF 12)
Amends Laws 2017, First Special Session, Chapter 6, Article 3, Section 49
Effective August 1, 2019

1. Provider Requirements

Establishes electronic visit verification provider requirements for compliance with 21st Century Cures Act.

2. New Services

Adds home health services, durable medical equipment, and home and community-based services.

3. Restriction on DHS Enforcement

Prohibits DHS from enforcing electronic visit verification requirements until six months after DHS makes available to service providers: (1) the state-selected electronic visit verification system; (2) the data aggregator; and (3) training on the system. Prohibits reduction of reimbursement rates as a result of federal enforcement of electronic visit verification implementation requirements.

G. Labor Agreement for Individual Providers of Direct Support Services

First Special Session, Chapter 9, Article 5, Sections 83-84 (SF 12)
Effective July 1, 2019

Ratifies labor agreement between state and Union for individual providers of direct support services; increases rates by 2.37%; adds enhanced rate of 7.5% (included, not in addition to).

VI. DISABILITY WAIVER RATE SYSTEM

First Special Session, Chapter 9, Article 2, Sections 55-67, and 89 (SF 12)

Amends Minn. Stat. § 256B.0659, subd. 12; 256.13, subd. 4a; 256B.4914, subd. 2, 3 (as amended by Laws 2019, Chapter 50, Article 2, Section 1), 4, 5, 6, 7, 8, 9, 10, 10a, 14 and 15

Various Effective Dates

A. Definitions

1. “Comparable Occupations”

Defines “Comparable Occupations” as “the occupations, excluding direct care staff, as represented by the Bureau of Labor Statistics standard occupational classification codes that have the same classification for: (1) typical education needed for entry; (2) work experience in a related occupation; and (3) typical on-the-job training competency as the most predominant classification for direct care staff.

Amends Minn. Stat. § 256B.4914, subd. 2 by adding paragraph (c)

Effective August 1, 2019

2. “Direct Care Staff”

Defines “Direct Care Staff” to mean “employees providing direct service to people receiving services under this section.” Expressly excludes “executive, managerial, and administrative staff.”

Amends Minn. Stat. § 256B.4914, subd. 2 by adding paragraph (f)

Effective August 1, 2019

3. “Unit of Service”

Modifies the definition of “unit of service” for the purposes of prevocational services, reducing a unit from one hour to 15 minutes.

Amends Minn. Stat. § 256B.4914, subd. 2(p) (formerly paragraph (n))

Effective August 1, 2019

B. Elimination of Seventh Year of Banding

Removes the seventh year of banding, which the federal Centers for Medicare and Medicaid Services (CMS) did not approve.

Amends Minn. Stat. § 256B.4913, subd. 4a

Effective May 31, 2019

C. Base Wage Index and Component Value Changes

Establishes new DWRS base wages for: (1) adult day services; (2) day support services; (3) prevocational services; and (4) individualized home supports with family training, and individualized home support staff. Removes base wages for: (1) independent living skills specialist staff; and (2) supported employment staff.

Amends Minn. Stat. § 256B.4914, subds. 5(a) and (e)

Effective January 1, 2021, or upon federal approval

D. Competitive Workforce Factor

Establishes a competitive workforce factor of 4.7 percent for each service category and integrates new services into the appropriate service categories.

Amends Minn. Stat. § 256B.4914, subd. 5(b)

Effective January 1, 2020 or upon federal approval, whichever is later;

E. Rate Adjustments

1. Frequency of Future Wage Index Rebasing

Increases the frequency of future wage index rebasing from every 5 years to every two years. Requires use of 30-month-old data rather than the most recently available data when performing the rebasing.

Amends Minn. Stat. § 256B.4914, subd. 5(i) (formerly paragraph (h))

Effective July 1, 2022, or upon federal approval, whichever is later

2. Frequency of Future Inflation Adjustments of Certain Component Values

Decreases the frequency of future inflation adjustments of certain component values from every five years to every two years. Requires use of 30-month old data rather than the most recently available data when performing the inflation adjustment.

Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (k)

Effective July 1, 2022 or upon federal approval, whichever is later

3. After Framework Adjustments

Removes all after framework adjustments from DWRS rates effective July 1, 2018.

Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (l)

Effective retroactively from July 1, 2018

Note: *Adjustments removed are those authorized under Minn. Stat. § 256B.439, subdivision 7; Laws 2013, chapter 108, article 7, section 60; and Laws 2014, chapter 312, article 27, section 75.*

4. Removal of Other Rate Adjustments

Preemptively removes any rate adjustments from DWRS rates that are not specified in Minn. Stat. § 256B.4914 each time a wage index rebasing and inflation adjustment occurs.

Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (m)

Effective August 1, 2019

5. DHS Report to the Legislature

Requires DHS, beginning February 1, 2021, to report every two years to the legislature with an analysis of and recommendations concerning the competitive workforce factor. Specifies the information that must be included in the report.

Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (j)

Effective July 1, 2022 or upon federal approval, whichever is later

F. Payments

1. For Residential Support Services

a. *Categorization of Services*

Specifies that the services categorized as residential support services includes: (1) 24-hour customized living services; (2) community residential services; (3) customized living services; (4) family residential services; (5) foster care services; (6) integrated community supports; (7) and supportive living services daily.

Amends Minn. Stat. § 256B.4914, subd. 6(a)

Effective January 1, 2020 or upon federal approval, whichever is later,

b. *Competitive Workforce Factor*

Integrates the competitive workforce factor into the DWRS rate calculation for certain residential support services.

Amends Minn. Stat. § 256B.4914, subd. 6(b)

Effective January 1, 2020 or upon federal approval, whichever is later,

c. *Integrated Community Support Services*

Creates a new DWRS rate calculation for integrated community support services.

Amends Minn. Stat. § 256B.4914, subd. 6 by adding paragraphs (e) and (f)

Effective January 1, 2021 or upon federal approval, whichever is later

d. *Customized Living Tool*

Provides that the existing customized living tool must be used to set customized living rates. Requires DHS to modify the customized living tool to reflect the services and activities unique to recipients with disabilities and to include an adjustment for regional differences in the cost of providing services.

Amends Minn. Stat. § 256B.4914, subd. 6 by adding paragraph (g)

Effective January 1, 2021 or upon federal approval, whichever is later

2. For Day Programs

Updates the services available as day services. Integrates the competitive wage factor into the DWRS rate calculation for day services.

Amends Minn. Stat. § 256B.4914, subd. 7

Effective January 1, 2020 or upon federal approval, whichever is later, except the service name changes are effective January 1, 2021 or upon federal approval, whichever is later

3. For Unit-Based Services

a. *Services with Programming*

Updates the services available as unit-based services with programming. Integrates the competitive wage factor into the DWRS rate calculation for unit-based services with programming.

Amends Minn. Stat. § 256B.4914, subd. 8

Effective January 1, 2020 or upon federal approval, whichever is later

b. *Services Without Programming*

Updates the services available as unit-based services without programming. Integrates the competitive wage factor into the DWRS rate calculation for unit-based services without programming. Creates new calculations for shared individualized home supports and shared respite care services.

Amends Minn. Stat. § 256B.4914, subd. 9

Effective January 1, 2020 or upon federal approval, whichever is later, except the service name change is effective January 1, 2021 or upon federal approval, whichever is later

4. Payment Values

Modifies the frequency of required analysis of the regional adjustment factor to once every six years. Delays by one year the next full report on the data analysis DHS is performing related to the DWRS. Adds a new requirement that DHS and stakeholders study value-based payment methodologies for waiver services and report to the legislative committees with jurisdiction over the disability waiver rate system by October 1, 2020, with recommended strategies in the areas of” (1) new and more efficient models of care; (2) stretching individual budgets; (3) supporting person-centered planning; and (4) creating a broader range of services tending to greater Minnesota and diversity.

Amends Minn. Stat. § 256B.4914, subd. 10

Effective May 31, 2019

5. Analysis and Reporting of Cost Data

a. *Reporting for Certain Providers*

Requires the following providers to report the additional revenue attributable to the competitive workforce factor and prepare a written plan for distributing that revenue to direct care workers: (1) corporate foster care services; (2) corporate supportive living services daily; (3) community residential services; and (4) integrated community support services.

Amends Minn. Stat. § 256B.4914, subd. 10a by adding paragraph (f)

Effective May 31, 2019

- b. *Submission of Labor Market Data by Certain Providers*
Requires enrolled providers offering HCBS services enumerated under Minn. Stat. § 4914, subd. 3, to submit labor market data to DHS. Allows DHS to temporarily suspend payments if required data is not received within 90 days of the required submission date. Exempts providers that receive payments under DWRS for less than a quarter of their clients.
Amends Minn. Stat. § 256B.4914, subd. 10a by adding paragraphs (g), (i), and (j)
Effective November 1, 2019
- c. *Directions to DHS*
Requires DHS to publish an annual report based on the labor market data submitted by providers.
Amends Minn. Stat. § 256B.4914, subd. 10a by adding paragraph (h)
Effective February November 1, 2020

G. Stakeholder Consultation on Rate-Setting Methodology
First Special Session, Chapter 9, Article 5, Section 68 (SF 12)
Adds Minn. Stat. § 256B.4914, subd. 17
Effective August 1, 2019

Directs DHS to: (1) continue stakeholder group for rate-setting methodology; (2) offer training to county personnel; and (3) maintain online manual. Prohibits counties from setting different rates.

VI. POSITIVE SUPPORTS - PERSONNEL QUALIFICATIONS
First Special Session, Chapter 9, Article 5, Sections 16–18 (SF 12)
Amends Minn. Stat. § 245D.091, subds. 2-4
Effective August 1, 2019

- A. Positive Support Professional**
Allows person with masters or higher or PhD in behavioral sciences or related fields and demonstrated expertise in positive support services. Changes “behavior” support to “positive” support throughout. Adds CAC and DD waivers.
Amends Minn. Stat. § 245D.091, subd. 2
- B. Positive Support Analyst**
Adds new qualifications for a positive support analyst. Allows the following persons to qualify as a positive support analyst: (1) a board-certified behavior analyst or assistant behavior analyst; (2) a person who meets the other positive support analyst qualifications; (3) a person who receives the required training within 90 days; and (4) without meeting training requirements, a person who qualifies as a positive support professional. Adds CAC and DD waivers.
Amends Minn. Stat. § 245D.091, subd. 3

C. Positive Support Specialist

Adds new training requirements, including eight hours of training on person-centered thinking principles.

Amends Minn. Stat. § 245D.091, subd. 4

VII. HCBS SERVICE PLANNING REVIEW AND EVALUATION

First Special Session, Chapter 9, Article 5, Section 13 (SF 12)

Amends Minn. Stat. § 245D.071, subd. 5

Effective August 1, 2019

Adds requirement to CSSP of annual discussion of how assistive technology may be used to support person's outcomes. Makes technical changes clarifying requirement that service plan review meeting must occur at least once per year or within 30 days of a written request by the person, the person's legal representative, or the case manager.

VIII. TRAINING FOR HCBS STAFF

First Special Session, Chapter 9, Article 5, Sections 14-15 (SF 12)

Amends Minn. Stat. § 245D.09, subds. 5 and 5a

Effective August 1, 2019

A. Annual Training

Removes the minimum required hours of annual training for direct care staff providing licensed home and community-based services and removes the option for relevant training received from a source other than the license holder to count toward the annual training requires. Retains the requirement for annual training.

Amends Minn. Stat. § 245D.09, subd. 5

B. Alternative Sources of Training

Removes the discretion of the commissioner to approve online training and competency-based assessments as an alternative to orientation training provided by individual license holders.

Amends Minn. Stat. § 245D.09, subd. 5a

IX. INDIVIDUALIZED HOME SUPPORTS SERVICES

First Special Session, Chapter 9, Article 5, Section 11 (SF 12)

Amends Minn. Stat. § 245D.03, subd. 1

Effective January 1, 2021 or upon federal approval

A. Basic Support Services

Adds individualized home supports services as a basic service for BI, CAC, CADI, and DD waivers.

B. Intensive Support Services

Renames behavior supports to positive supports. Adds individualized home support with training services and individualized home support with family training services to BI, CAC, CADI, and DD waivers. Adds community residential, family residential, and day services to BI, CAC, CADI, DD waivers. Adds integrated community supports to BI and CADI waivers beginning 2021 and CAC and DD waivers beginning 2023.

X. BI AND CADI WAIVER FOR PERSONS LIVING IN HENNEPIN COUNTY

First Special Session, Chapter 9, Article 5, Section 91 (SF 12)

Uncodified Session Law

Effective August 1, 2019

Allows a housing with services establishment in Minneapolis that met service capacity of 66 clients to transfer up to 66 clients to no more than three new housing with services establishments located in Hennepin County. Requires new housing to meet the size limitation exception.

XI. DAY TRAINING AND HABILITATION WAIVER RATE SYSTEM TRANSITION GRANTS

First Special Session, Chapter 9, Article 5, Section 90 (SF 12)

Uncodified Session Law

Effective August 1, 2019

Establishes a four-year grant program for day training and habilitation providers who serve at least 100 waiver recipients and who will experience reductions in revenue under full implementation of DWRS of at least 15% and \$300,000. Requires grant recipients to: (1) develop and implement a sustainability plan to close their funding gaps; and (2) demonstrate progress in closing the funding gap to qualify for a grant renewal.

XII. DISABILITY WAIVER RECONFIGURATION

First Special Session, Chapter 9, Article 5, Section 86 (SF 12)

Uncodified Session Law

Effective May 31, 2019

Requires: (1) report and proposal from DHS by January 15, 2021 to reconfigure the disability waivers to two waivers; and (2) time for interested persons to offer additional feedback.

XIII. HCBS “INNOVATION POOL”

First Special Session, Chapter 9, Article 5, Section 51 (SF 12)

Amends Minn. Stat. § 256B.0921

Effective August 1, 2019

Changes HCBS “Incentive” Pool to HCBS “Innovation” Pool

XIV. HCBS DOCUMENTATION

First Special Session, Chapter 9, Article 5, Sections 122-126 (SF12)
Adds Minn. Stat. § 256B.4912, subds. 11-15
Effective August 1, 2019

Expands the service delivery documentation requirements for HCBS, including: (1) transportation; (2) equipment and supply; and (3) adult day services.

XV. INCONTINENCE PURCHASING

First Special Session, Chapter 9, Article 7, Section 14, 47 (SF 12)
Amends Minn. Stat. § 256B.04, subd. 14
Repeals Minn. Stat. § 256B.0625, subd. 31c
Effective May 31, 2019

Prohibits DHS from utilizing volume purchasing through competitive bidding for incontinence products and related supplies. Repeals the Preferred Incontinence Product Program.

XVI. ANNUAL LABOR MARKET HCBS DATA

First Special Session, Chapter 9, Article 5, Section 54 (SF12)
Adds Minn. Stat. § 256B.4912, subd. 1a
Effective January 1, 2020

Establishes new labor market data reporting requirements for HCBS providers to include, for direct-care staff: (1) number of staff; (2) wages; (3) hours worked; (4) overtime wages; (5) overtime hours worked; (6) benefits paid and accrued; and (7) retention rates.

XVII. MN TECHNOLOGY ADVISORY TASK FORCE

First Special Session, Chapter 9, Article 5, Section 92 (SF 12)
Uncodified Session Law
Effective May 31, 2019

Establishes a task force to advise DHS on strategies to increase the use of supportive technology in services and programs (home, employment, and community settings). Includes representatives from DHS, counties, ARC, DLC, STAR, and others.

Housing Supports

HOUSING SUPPORTS

First Special Session, Chapter 9, Article 5, Sections 76-79 (SF 12)

Amends Minn. Stat. §§ 256I.03, subd. 8; and 256I.04, subd. 2b

Adds § 256I.04, subds. 2h and 5

Effective August 1, 2019

A. Supplementary Services

Amends the definition of supplementary services to include prospective budgeting. Adds requirements that providers of supplementary services ensure that recipients have assistance with services as identified in the recipient's professional statement of need and that they maintain case notes with the date and description of services provided to individual recipients.

Amends Minn. Stat. § 256I.03, subd. 8

B. Employment

Adds prohibition that providers may not limit the number of hours an applicant or recipient is employed.

Adds Minn. Stat. § 256I.04, subd. 5

Medical Assistance

I. EXCESS INCOME STANDARD (MA SPENDDOWN)

First Special Session, Chapter 9, Article 7, Section 21 (SF 12)

Amends Minn. Stat. § 256B.056, subd. 5c

Effective July 1, 2022

Effective July 1, 2022, the excess income standard for a person whose eligibility is based on blindness, disability, or age of 65 or more years moves to 100% of federal poverty guidelines.

II. COMMUNITY FIRST SERVICES AND SUPPORTS (CFSS)

A. CFSS for Pregnant Women

First Special Session, Chapter 9, Article 5, Section 70 (SF 12)

Amends Minn. Stat. § 256B.85, subd. 3

Effective May 31, 2019

Establishes CFSS eligibility for pregnant women without federal financial participation if meet criteria listed.

B. CFSS Encumbrance

First Special Session, Chapter 9, Article 5, Sections 73-74 (SF 12)
Amends Minn. Stat. § 256B.85, subds. 11-12
Effective August 1, 2019

Requires that 100% of revenue generated from rate increases for services provided by CFSS agencies must be used for support worker wages and benefits.

C. CFSS Restricted Recipient Program

First Special Session, Chapter 9, Article 2, Sections 118 (SF 12)
Adds Minn. Stat. § 256B.0646
Effective May 31, 2019

Permits DHS to place a recipient of CFSS services in the Minnesota restricted recipient program upon evidence of abusive or fraudulent billing. Placement in the program is subject to appeal.

III. LONG-TERM CARE CONSULTATION SERVICES (MnCHOICES)

First Special Session, Chapter 9, Article 5, Sections 43-47, 49, 50, 52, and 53 (SF 12)
Amends Minn. Stat. §§ 256B.0911, subds. 1a, 3a, 3f, and 5; 256B.0915, subd. 6; 256B.092, subd. 1b; and 256B.49, subds. 13 and 14
Adds Minn. Stat. § 256B.0911, subd. 3g
Effective August 1, 2019

A. Definitions

Clarifies language related to assessments for developmental disabilities waiver services. Removes from the MnCHOICES assessment process service eligibility determinations for: (1) home care nursing; (2) home care targeted case management; (3) adult targeted case management; and (4) Rule 185 case management services. Removes MnCHOICES assessment as the required process for determining whether the family of a minor with a disability is eligible for a support grant.
Amends Minn. Stat. § 256B.0911, subd. 1a

B. Assessments and Support Planning

1. Nature of Assessment

Requires MnCHOICES assessment to be “conversation-based” (in addition to existing requirements that it be comprehensive and person-centered).
Amends Minn. Stat. § 256B.0911, subd. 3a(c)

2. Rights of Legal Representative

Allows person’s legal representative to provide input during the assessment process remotely.
Amends Minn. Stat. § 256B.0911, subd. 3a(d)

3. Provider Reporting

Permits providers to submit written report “the person” completed in consultation with someone who “is known to the person and has interaction with the person on a regular basis.” (Prior law mandated that the employee had to have at least 20 hours of services to the person). Requires the report to be submitted 60 days before the end of the current services agreement and requires the certified assessor to consider the content of the report.

Amends Minn. Stat. § 256B.0911, subd. 3a(d)

4. Certified Assessor Obligations

a. *Completion of CSP and CSSP*

Requires the certified assessor to complete the CSP and the CSSP no more than 60 days from the assessment visit. Permits DHS to establish timelines for providing the written CSP to the person or the person’s legal representative (previously within 40 days of the assessment).

Amends Minn. Stat. § 256B.0911, subd. 3a(e)

b. *Communication to Person of Right to Appeal*

Requires the certified assessor verbally communicate person’s right to appeal eligibility determinations and point out where in the document the right to appeal is stated.

Amends Minn. Stat. § 256B.0911, subd. 3a(j)(9)

c. *Review of Most Recent Assessment*

Requires the certified assessor to review the person’s most recent assessment, the CSP, and CSSP.

Amends Minn. Stat. § 256B.0911, subd. 3f(a)

d. *To Ensure Continuity of Care*

Requires the certified assessor to ensure continuity of care and complete CSP and CSSP within 60 days from reassessment visit.

Amends Minn. Stat. § 256B.0911, subd. 3f(a)

5. Eligibility for Waiver Services

a. *Establishment of Eligibility*

Allows the results of a MnCHOICES assessment to establish service eligibility for developmental disability waiver services for up to 60 days from the time of the assessment.

Amends Minn. Stat. § 256B.0911, subd. 3f(a)

b. *Update*

Changes interaction with existing statute to permit a service eligibility update for developmental disability waiver services to extend the validity of a MnCHOICES assessment for an additional 30 days, aligning these changes with the service eligibility timelines for developmental disability waiver services with the timelines for the other home and community-based waiver and alternative care services.

Amends Minn. Stat. 256B.0911, subd. 3a(k)

6. Face-to-Face Assessment

Adds DD waiver to list of services where face-to-face assessment is valid to establish service eligibility for no more than 60 days.

Amends Minn. Stat. § 256B.0911, subd. 3a(k)

7. Information Sharing Among Providers and Case Managers

Requires DHS to develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process tailored to the person's needs and preferences.

Amends Minn. Stat. § 256B.0911 by adding subd. 3f(b)

8. Rule 185 Case Management Assessments

Gives county agencies the option not to conduct or arrange for an annual needs reassessment by a certified assessor. Requires the case manager to: (1) identify the person's needs; and (2) develop a person-centered service plan based on the person's assessed needs and preferences to "minimize the impact of the disability on the person's life." Permits a person receiving only Rule 185 case management services to decline annual MNCHOICES assessments.

Adds Minn. Stat. § 256B.0911, subd. 3g

C. Data and Efficiency

Requires DHS, in cooperation with lead agencies, to: (1) develop and collect data on a set of measures of increasing efficiency in the MnCHOICES assessment process; (2) report an analysis of that data to lead agencies and to the Legislature; and (3) demonstrate that the process is becoming more efficient.

Amends Minn. Stat. § 256B.0911, subd. 5

D. Timelines

Removes the current ten-day deadline for case managers to complete coordinated service and support plans for people receiving any home and community-based waiver services or alternative care (including elderly waiver). Requires DHS to determine a new deadline for completing coordinated service and support plans, but the total time for a MnCHOICES assessor to complete the community support plan and the case manager to complete the coordinated service and support plan must not exceed 60 days.

Amends Minn. Stat. §§ 256B.0915, subd. 6; 256B.092, subd. 1b; and 256B.49, subd. 13

IV. HEALTH CARE AND LONG-TERM CARE PROGRAM INTEGRITY

First Special Session, Chapter 9, Article 2, Sections 111, and 113-118 (SF 12)

Amends Minn. Stat. §§ 256B.02, subd. 7; and 256B.064, subds. 1b and 2

Adds Minn. Stat. §§ 256B.064, subds. 3, 4, and 5; and 256B.0646

Effective August 1, 2019

A. Expansion of “Vendor of Medical Care”

Modifies the definition of “vendor of medical care” to include all licensed service providers, thereby clarifying DHS’ authority to exclude and sanction these providers for violations of medical assistance requirements.

Amends Minn. Stat. § 256B.02, subd. 7

B. Sanctions and Forfeiture

Specifies the length of exclusion for MA for a provider sanctioned by a court for a violation of medical assistance requirements at a minimum of five years. Establishes that funds that are the subject of MA fraud are forfeited to DHS, either as a result of a criminal conviction or a repeat violation.

Amends Minn. Stat. § 256B.064, subds. 1b and 2

C. Exclusion List

Requires DHS to maintain and post a list of each excluded individual and entity that was convicted of a crime related to MA fraud. Prohibits MA payments for items or services provided directly or indirectly by an excluded individual or entity. Requires vendors to: (1) check the exclusion list; (2) immediately terminate any payments to excluded individuals or entities; and (3) refund any payment issued for items or services provided by an excluded individual or entity. Subjects vendors issuing payment to excluded individuals or entities to administrative sanctions or a civil penalty of up to \$25,000.

Adds Minn. Stat. § 256B.064, subd. 3

D. Notice to Vendor

Requires that: (1) notice to the affected vendor to be sent by certified mail; (2) notice to a recipient placed on the restricted recipient program to be sent by first class mail.

Permits recipients to contest placement on the restricted recipient program by submitting a written request for a hearing to DHS within 90 days.

Adds Minn. Stat. § 256B.064, subd. 4

E. Civil and Criminal Immunity

Provides civil and criminal immunity for individuals making good faith reports of fraud or abuse in public assistance programs, as well as investigators, and requires the reporter’s identity to be kept confidential, unless a court finds that evidence that the report was false and made in bad faith, or the identity of the reporter is relevant to a criminal prosecution.

Adds Minn. Stat. § 256B.064, subd. 5