

1.1 moves to amend H.F. No. 1431 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2020, section 256B.0659, subdivision 1, is amended to
1.4 read:

1.5 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
1.6 paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

1.7 (b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility,
1.8 positioning, eating, and toileting.

1.9 (c) "Behavior," effective January 1, 2010, means a category to determine the home care
1.10 rating and is based on the criteria found in this section. "Level I behavior" means physical
1.11 aggression ~~towards~~ toward self, others, or destruction of property that requires the immediate
1.12 response of another person.

1.13 (d) "Complex health-related needs," effective January 1, 2010, means a category to
1.14 determine the home care rating and is based on the criteria found in this section.

1.15 (e) "Critical activities of daily living," effective January 1, 2010, means transferring,
1.16 mobility, eating, and toileting.

1.17 (f) "Dependency in activities of daily living" means a person requires assistance to begin
1.18 and complete one or more of the activities of daily living.

1.19 (g) "Extended personal care assistance service" means personal care assistance services
1.20 included in a service plan under one of the home and community-based services waivers
1.21 authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which
1.22 exceed the amount, duration, and frequency of the state plan personal care assistance services
1.23 for participants who:

2.1 (1) need assistance provided periodically during a week, but less than daily will not be
2.2 able to remain in their homes without the assistance, and other replacement services are
2.3 more expensive or are not available when personal care assistance services are to be reduced;
2.4 or

2.5 (2) need additional personal care assistance services beyond the amount authorized by
2.6 the state plan personal care assistance assessment in order to ensure that their safety, health,
2.7 and welfare are provided for in their homes.

2.8 (h) "Health-related procedures and tasks" means procedures and tasks that can be
2.9 delegated or assigned by a licensed health care professional under state law to be performed
2.10 by a personal care assistant.

2.11 (i) "Instrumental activities of daily living" means activities to include meal planning and
2.12 preparation; basic assistance with paying bills; shopping for food, clothing, and other
2.13 essential items; performing household tasks integral to the recipient's personal care assistance
2.14 services needs; communication by telephone and other media; and traveling, including. For
2.15 the purposes of this paragraph, traveling includes driving and accompanying the recipient
2.16 to medical appointments and to participate in the community, according to the recipient's
2.17 personal care assistance plan.

2.18 (j) "Managing employee" has the same definition as Code of Federal Regulations, title
2.19 42, section 455.

2.20 (k) "Qualified professional" means a professional providing supervision of personal care
2.21 assistance services and staff as defined in section 256B.0625, subdivision 19c.

2.22 (l) "Personal care assistance provider agency" means a medical assistance enrolled
2.23 provider that provides or assists with providing personal care assistance services and includes
2.24 a personal care assistance provider organization, personal care assistance choice agency,
2.25 ~~class A licensed nursing agency~~ a home care provider licensed to provide comprehensive
2.26 home care services under chapter 144A, and Medicare-certified home health agency.

2.27 (m) "Personal care assistant" or "PCA" means an individual employed by a personal
2.28 care assistance agency who provides personal care assistance services.

2.29 (n) "Personal care assistance care plan" means a written description of personal care
2.30 assistance services developed by the personal care assistance provider according to the
2.31 service plan.

2.32 (o) "Responsible party" means an individual who is capable of providing the support
2.33 necessary to assist the recipient to live in the community.

3.1 (p) "Self-administered medication" means medication taken orally, by injection, nebulizer,
3.2 or insertion, or applied topically without the need for assistance.

3.3 (q) "Service plan" means a written summary of the assessment and description of the
3.4 services needed by the recipient.

3.5 (r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes,
3.6 Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage
3.7 reimbursement, health and dental insurance, life insurance, disability insurance, long-term
3.8 care insurance, uniform allowance, and contributions to employee retirement accounts.

3.9 EFFECTIVE DATE. This section is effective July 1, 2021, or upon federal approval,
3.10 whichever is later. The commissioner of human services shall notify the revisor of statutes
3.11 when federal approval is obtained.

3.12 Sec. 2. Minnesota Statutes 2020, section 256B.0659, subdivision 3, is amended to read:

3.13 Subd. 3. **Noncovered personal care assistance services.** (a) Personal care assistance
3.14 services are not eligible for medical assistance payment under this section when provided:

3.15 (1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal guardian,
3.16 licensed foster provider, except as allowed under section 256B.0652, subdivision 10, or
3.17 responsible party;

3.18 (2) in order to meet staffing or license requirements in a residential or child care setting;

3.19 (3) solely as a child care or babysitting service; or

3.20 (4) without authorization by the commissioner or the commissioner's designee.

3.21 (b) The following personal care services are not eligible for medical assistance payment
3.22 under this section when provided in residential settings:

3.23 (1) when the provider of home care services who is not related by blood, marriage, or
3.24 adoption owns or otherwise controls the living arrangement, including licensed or unlicensed
3.25 services; or

3.26 (2) when personal care assistance services are the responsibility of a residential or
3.27 program license holder under the terms of a service agreement and administrative rules.

3.28 (c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible for
3.29 medical assistance reimbursement for personal care assistance services under this section
3.30 include:

3.31 (1) sterile procedures;

- 4.1 (2) injections of fluids and medications into veins, muscles, or skin;
- 4.2 (3) home maintenance or chore services;
- 4.3 (4) homemaker services not an integral part of assessed personal care assistance services
- 4.4 needed by a recipient;
- 4.5 (5) application of restraints or implementation of procedures under section 245.825;
- 4.6 (6) instrumental activities of daily living for children under the age of 18, except when
- 4.7 immediate attention is needed for health or hygiene reasons integral to the personal care
- 4.8 services and the need is listed in the service plan by the assessor; ~~and~~
- 4.9 (7) assessments for personal care assistance services by personal care assistance provider
- 4.10 agencies or by independently enrolled registered nurses; and
- 4.11 (8) traveling, as described in subdivision 1, paragraph (i), reimbursable as any other
- 4.12 covered service under this chapter.

4.13 Sec. 3. Minnesota Statutes 2020, section 256B.0659, subdivision 12, is amended to read:

4.14 Subd. 12. **Documentation of personal care assistance services provided.** (a) Personal

4.15 care assistance services for a recipient must be documented daily by each personal care

4.16 assistant, on a time sheet form approved by the commissioner. All documentation may be

4.17 web-based, electronic, or paper documentation. The completed form must be submitted on

4.18 a monthly basis to the provider and kept in the recipient's health record.

4.19 (b) The activity documentation must correspond to the personal care assistance care plan

4.20 and be reviewed by the qualified professional.

4.21 (c) The personal care assistant time sheet must be on a form approved by the

4.22 commissioner documenting time the personal care assistant provides services in the home.

4.23 The following criteria must be included in the time sheet:

4.24 (1) full name of personal care assistant and individual provider number;

4.25 (2) provider name and telephone numbers;

4.26 (3) full name of recipient and either the recipient's medical assistance identification

4.27 number or date of birth;

4.28 (4) consecutive dates, including month, day, and year, and arrival and departure times

4.29 with a.m. or p.m. notations;

4.30 (5) signatures of recipient or the responsible party;

- 5.1 (6) personal signature of the personal care assistant;
- 5.2 (7) any shared care provided, if applicable;
- 5.3 (8) a statement that it is a federal crime to provide false information on personal care
5.4 service billings for medical assistance payments; ~~and~~
- 5.5 (9) dates and location of recipient stays in a hospital, care facility, or incarceration; and
- 5.6 (10) documentation of travel, as specified under subdivision 1, paragraph (i), including:
- 5.7 (i) start and stop times with a.m. and p.m. designation;
- 5.8 (ii) the origination site; and
- 5.9 (iii) the destination site.

5.10 Sec. 4. Minnesota Statutes 2020, section 256B.0659, subdivision 24, is amended to read:

5.11 Subd. 24. **Personal care assistance provider agency; general duties.** A personal care
5.12 assistance provider agency shall:

- 5.13 (1) enroll as a Medicaid provider meeting all provider standards, including completion
5.14 of the required provider training;
- 5.15 (2) comply with general medical assistance coverage requirements;
- 5.16 (3) demonstrate compliance with law and policies of the personal care assistance program
5.17 to be determined by the commissioner;
- 5.18 (4) comply with background study requirements;
- 5.19 (5) verify and keep records of hours worked by the personal care assistant and qualified
5.20 professional;
- 5.21 (6) not engage in any agency-initiated direct contact or marketing in person, by phone,
5.22 or other electronic means to potential recipients, guardians, or family members;
- 5.23 (7) pay the personal care assistant and qualified professional based on actual hours of
5.24 services provided;
- 5.25 (8) withhold and pay all applicable federal and state taxes;
- 5.26 (9) document that the agency uses a minimum of 72.5 percent of the revenue generated
5.27 by the medical assistance rate for personal care assistance services for employee personal
5.28 care assistant wages and benefits. The revenue generated by the qualified professional and
5.29 the reasonable costs associated with the qualified professional shall not be used in making
5.30 this calculation;

- 6.1 (10) make the arrangements and pay unemployment insurance, taxes, workers'
6.2 compensation, liability insurance, and other benefits, if any;
- 6.3 (11) enter into a written agreement under subdivision 20 before services are provided;
- 6.4 (12) report suspected neglect and abuse to the common entry point according to section
6.5 256B.0651;
- 6.6 (13) provide the recipient with a copy of the home care bill of rights at start of service;
- 6.7 (14) request reassessments at least 60 days prior to the end of the current authorization
6.8 for personal care assistance services, on forms provided by the commissioner;
- 6.9 (15) comply with the labor market reporting requirements described in section 256B.4912,
6.10 subdivision 1a; ~~and~~
- 6.11 (16) document that the agency uses the additional revenue due to the enhanced rate under
6.12 subdivision 17a for the wages and benefits of the PCAs whose services meet the requirements
6.13 under subdivision 11, paragraph (d); and
- 6.14 (17) ensure that any personal care assistant driving a recipient under subdivision 1,
6.15 paragraph (i), has a valid driver's license and that the vehicle used is registered and insured
6.16 according to Minnesota law.

6.17 Sec. 5. Minnesota Statutes 2020, section 256B.85, subdivision 2, is amended to read:

6.18 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this
6.19 subdivision have the meanings given.

6.20 (b) "Activities of daily living" or "ADLs" means eating, toileting, grooming, dressing,
6.21 bathing, mobility, positioning, and transferring.

6.22 (c) "Agency-provider model" means a method of CFSS under which a qualified agency
6.23 provides services and supports through the agency's own employees and policies. The agency
6.24 must allow the participant to have a significant role in the selection and dismissal of support
6.25 workers of their choice for the delivery of their specific services and supports.

6.26 (d) "Behavior" means a description of a need for services and supports used to determine
6.27 the home care rating and additional service units. The presence of Level I behavior is used
6.28 to determine the home care rating.

6.29 (e) "Budget model" means a service delivery method of CFSS that allows the use of a
6.30 service budget and assistance from a financial management services (FMS) provider for a
6.31 participant to directly employ support workers and purchase supports and goods.

- 7.1 (f) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that
7.2 has been ordered by a physician, and is specified in a community support plan, including:
- 7.3 (1) tube feedings requiring:
- 7.4 (i) a gastrojejunostomy tube; or
- 7.5 (ii) continuous tube feeding lasting longer than 12 hours per day;
- 7.6 (2) wounds described as:
- 7.7 (i) stage III or stage IV;
- 7.8 (ii) multiple wounds;
- 7.9 (iii) requiring sterile or clean dressing changes or a wound vac; or
- 7.10 (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized
7.11 care;
- 7.12 (3) parenteral therapy described as:
- 7.13 (i) IV therapy more than two times per week lasting longer than four hours for each
7.14 treatment; or
- 7.15 (ii) total parenteral nutrition (TPN) daily;
- 7.16 (4) respiratory interventions, including:
- 7.17 (i) oxygen required more than eight hours per day;
- 7.18 (ii) respiratory vest more than one time per day;
- 7.19 (iii) bronchial drainage treatments more than two times per day;
- 7.20 (iv) sterile or clean suctioning more than six times per day;
- 7.21 (v) dependence on another to apply respiratory ventilation augmentation devices such
7.22 as BiPAP and CPAP; and
- 7.23 (vi) ventilator dependence under section 256B.0651;
- 7.24 (5) insertion and maintenance of catheter, including:
- 7.25 (i) sterile catheter changes more than one time per month;
- 7.26 (ii) clean intermittent catheterization, and including self-catheterization more than six
7.27 times per day; or
- 7.28 (iii) bladder irrigations;

8.1 (6) bowel program more than two times per week requiring more than 30 minutes to
8.2 perform each time;

8.3 (7) neurological intervention, including:

8.4 (i) seizures more than two times per week and requiring significant physical assistance
8.5 to maintain safety; or

8.6 (ii) swallowing disorders diagnosed by a physician and requiring specialized assistance
8.7 from another on a daily basis; and

8.8 (8) other congenital or acquired diseases creating a need for significantly increased direct
8.9 hands-on assistance and interventions in six to eight activities of daily living.

8.10 (g) "Community first services and supports" or "CFSS" means the assistance and supports
8.11 program under this section needed for accomplishing activities of daily living, instrumental
8.12 activities of daily living, and health-related tasks through hands-on assistance to accomplish
8.13 the task or constant supervision and cueing to accomplish the task, or the purchase of goods
8.14 as defined in subdivision 7, clause (3), that replace the need for human assistance.

8.15 (h) "Community first services and supports service delivery plan" or "CFSS service
8.16 delivery plan" means a written document detailing the services and supports chosen by the
8.17 participant to meet assessed needs that are within the approved CFSS service authorization,
8.18 as determined in subdivision 8. Services and supports are based on the coordinated service
8.19 and support plan identified in section 256S.10.

8.20 (i) "Consultation services" means a Minnesota health care program enrolled provider
8.21 organization that provides assistance to the participant in making informed choices about
8.22 CFSS services in general and self-directed tasks in particular, and in developing a
8.23 person-centered CFSS service delivery plan to achieve quality service outcomes.

8.24 (j) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

8.25 (k) "Dependency" in activities of daily living means a person requires hands-on assistance
8.26 or constant supervision and cueing to accomplish one or more of the activities of daily living
8.27 every day or on the days during the week that the activity is performed; however, a child
8.28 may not be found to be dependent in an activity of daily living if, because of the child's age,
8.29 an adult would either perform the activity for the child or assist the child with the activity
8.30 and the assistance needed is the assistance appropriate for a typical child of the same age.

8.31 (l) "Extended CFSS" means CFSS services and supports provided under CFSS that are
8.32 included in the CFSS service delivery plan through one of the home and community-based
8.33 services waivers and as approved and authorized under chapter 256S and sections 256B.092,

9.1 subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state
9.2 plan CFSS services for participants.

9.3 (m) "Financial management services provider" or "FMS provider" means a qualified
9.4 organization required for participants using the budget model under subdivision 13 that is
9.5 an enrolled provider with the department to provide vendor fiscal/employer agent financial
9.6 management services (FMS).

9.7 (n) "Health-related procedures and tasks" means procedures and tasks related to the
9.8 specific assessed health needs of a participant that can be taught or assigned by a
9.9 state-licensed health care or mental health professional and performed by a support worker.

9.10 (o) "Instrumental activities of daily living" means activities related to living independently
9.11 in the community, including but not limited to: meal planning, preparation, and cooking;
9.12 shopping for food, clothing, or other essential items; laundry; housecleaning; assistance
9.13 with medications; managing finances; communicating needs and preferences during activities;
9.14 arranging supports; and assistance with traveling around and participating in the community,
9.15 including traveling to medical appointments. For the purposes of this paragraph, traveling
9.16 includes driving and accompanying the recipient, according to the written results of the
9.17 individual CFSS service delivery plan.

9.18 (p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, paragraph
9.19 (e).

9.20 (q) "Legal representative" means parent of a minor, a court-appointed guardian, or
9.21 another representative with legal authority to make decisions about services and supports
9.22 for the participant. Other representatives with legal authority to make decisions include but
9.23 are not limited to a health care agent or an attorney-in-fact authorized through a health care
9.24 directive or power of attorney.

9.25 (r) "Level I behavior" means physical aggression ~~towards~~ toward self or others or
9.26 destruction of property that requires the immediate response of another person.

9.27 (s) "Medication assistance" means providing verbal or visual reminders to take regularly
9.28 scheduled medication, and includes any of the following supports listed in clauses (1) to
9.29 (3) and other types of assistance, except that a support worker may not determine medication
9.30 dose or time for medication or inject medications into veins, muscles, or skin:

9.31 (1) under the direction of the participant or the participant's representative, bringing
9.32 medications to the participant including medications given through a nebulizer, opening a
9.33 container of previously set-up medications, emptying the container into the participant's

10.1 hand, opening and giving the medication in the original container to the participant, or
10.2 bringing to the participant liquids or food to accompany the medication;

10.3 (2) organizing medications as directed by the participant or the participant's representative;
10.4 and

10.5 (3) providing verbal or visual reminders to perform regularly scheduled medications.

10.6 (t) "Participant" means a person who is eligible for CFSS.

10.7 (u) "Participant's representative" means a parent, family member, advocate, or other
10.8 adult authorized by the participant or participant's legal representative, if any, to serve as a
10.9 representative in connection with the provision of CFSS. This authorization must be in
10.10 writing or by another method that clearly indicates the participant's free choice and may be
10.11 withdrawn at any time. The participant's representative must have no financial interest in
10.12 the provision of any services included in the participant's CFSS service delivery plan and
10.13 must be capable of providing the support necessary to assist the participant in the use of
10.14 CFSS. If through the assessment process described in subdivision 5 a participant is
10.15 determined to be in need of a participant's representative, one must be selected. If the
10.16 participant is unable to assist in the selection of a participant's representative, the legal
10.17 representative shall appoint one. Two persons may be designated as a participant's
10.18 representative for reasons such as divided households and court-ordered custodies. Duties
10.19 of a participant's representatives may include:

10.20 (1) being available while services are provided in a method agreed upon by the participant
10.21 or the participant's legal representative and documented in the participant's CFSS service
10.22 delivery plan;

10.23 (2) monitoring CFSS services to ensure the participant's CFSS service delivery plan is
10.24 being followed; and

10.25 (3) reviewing and signing CFSS time sheets after services are provided to provide
10.26 verification of the CFSS services.

10.27 (v) "Person-centered planning process" means a process that is directed by the participant
10.28 to plan for CFSS services and supports.

10.29 (w) "Service budget" means the authorized dollar amount used for the budget model or
10.30 for the purchase of goods.

10.31 (x) "Shared services" means the provision of CFSS services by the same CFSS support
10.32 worker to two or three participants who voluntarily enter into an agreement to receive
10.33 services at the same time and in the same setting by the same employer.

11.1 (y) "Support worker" means a qualified and trained employee of the agency-provider
11.2 as required by subdivision 11b or of the participant employer under the budget model as
11.3 required by subdivision 14 who has direct contact with the participant and provides services
11.4 as specified within the participant's CFSS service delivery plan.

11.5 (z) "Unit" means the increment of service based on hours or minutes identified in the
11.6 service agreement.

11.7 (aa) "Vendor fiscal employer agent" means an agency that provides financial management
11.8 services.

11.9 (bb) "Wages and benefits" means the hourly wages and salaries, the employer's share
11.10 of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation,
11.11 mileage reimbursement, health and dental insurance, life insurance, disability insurance,
11.12 long-term care insurance, uniform allowance, contributions to employee retirement accounts,
11.13 or other forms of employee compensation and benefits.

11.14 (cc) "Worker training and development" means services provided according to subdivision
11.15 18a for developing workers' skills as required by the participant's individual CFSS service
11.16 delivery plan that are arranged for or provided by the agency-provider or purchased by the
11.17 participant employer. These services include training, education, direct observation and
11.18 supervision, and evaluation and coaching of job skills and tasks, including supervision of
11.19 health-related tasks or behavioral supports.

11.20 **EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval,
11.21 whichever is later. The commissioner of human services shall notify the revisor of statutes
11.22 when federal approval is obtained.

11.23 Sec. 6. Minnesota Statutes 2020, section 256B.85, subdivision 9, is amended to read:

11.24 Subd. 9. **Noncovered services.** (a) Services or supports that are not eligible for payment
11.25 under this section include those that:

11.26 (1) are not authorized by the certified assessor or included in the CFSS service delivery
11.27 plan;

11.28 (2) are provided prior to the authorization of services and the approval of the CFSS
11.29 service delivery plan;

11.30 (3) are duplicative of other paid services in the CFSS service delivery plan;

- 12.1 (4) supplant natural unpaid supports that appropriately meet a need in the CFSS service
12.2 delivery plan, are provided voluntarily to the participant, and are selected by the participant
12.3 in lieu of other services and supports;
- 12.4 (5) are not effective means to meet the participant's needs; and
- 12.5 (6) are available through other funding sources, including, but not limited to, funding
12.6 through title IV-E of the Social Security Act.
- 12.7 (b) Additional services, goods, or supports that are not covered include:
- 12.8 (1) those that are not for the direct benefit of the participant, except that services for
12.9 caregivers such as training to improve the ability to provide CFSS are considered to directly
12.10 benefit the participant if chosen by the participant and approved in the support plan;
- 12.11 (2) any fees incurred by the participant, such as Minnesota health care programs fees
12.12 and co-pays, legal fees, or costs related to advocate agencies;
- 12.13 (3) insurance, except for insurance costs related to employee coverage;
- 12.14 (4) room and board costs for the participant;
- 12.15 (5) services, supports, or goods that are not related to the assessed needs;
- 12.16 (6) special education and related services provided under the Individuals with Disabilities
12.17 Education Act and vocational rehabilitation services provided under the Rehabilitation Act
12.18 of 1973;
- 12.19 (7) assistive technology devices and assistive technology services other than those for
12.20 back-up systems or mechanisms to ensure continuity of service and supports listed in
12.21 subdivision 7;
- 12.22 (8) medical supplies and equipment covered under medical assistance;
- 12.23 (9) environmental modifications, except as specified in subdivision 7;
- 12.24 (10) expenses for travel, lodging, or meals related to training the participant or the
12.25 participant's representative or legal representative;
- 12.26 (11) experimental treatments;
- 12.27 (12) any service or good covered by other state plan services, including prescription and
12.28 over-the-counter medications, compounds, and solutions and related fees, including premiums
12.29 and co-payments;
- 12.30 (13) membership dues or costs, except when the service is necessary and appropriate to
12.31 treat a health condition or to improve or maintain the participant's health condition. The

- 13.1 condition must be identified in the participant's CFSS service delivery plan and monitored
13.2 by a Minnesota health care program enrolled physician;
- 13.3 (14) vacation expenses other than the cost of direct services;
- 13.4 (15) vehicle maintenance or modifications not related to the disability, health condition,
13.5 or physical need;
- 13.6 (16) tickets and related costs to attend sporting or other recreational or entertainment
13.7 events;
- 13.8 (17) services provided and billed by a provider who is not an enrolled CFSS provider;
- 13.9 (18) CFSS provided by a participant's representative or paid legal guardian;
- 13.10 (19) services that are used solely as a child care or babysitting service;
- 13.11 (20) services that are the responsibility or in the daily rate of a residential or program
13.12 license holder under the terms of a service agreement and administrative rules;
- 13.13 (21) sterile procedures;
- 13.14 (22) giving of injections into veins, muscles, or skin;
- 13.15 (23) homemaker services that are not an integral part of the assessed CFSS service;
- 13.16 (24) home maintenance or chore services;
- 13.17 (25) home care services, including hospice services if elected by the participant, covered
13.18 by Medicare or any other insurance held by the participant;
- 13.19 (26) services to other members of the participant's household;
- 13.20 (27) services not specified as covered under medical assistance as CFSS;
- 13.21 (28) application of restraints or implementation of deprivation procedures;
- 13.22 (29) assessments by CFSS provider organizations or by independently enrolled registered
13.23 nurses;
- 13.24 (30) services provided in lieu of legally required staffing in a residential or child care
13.25 setting; ~~and~~
- 13.26 (31) services provided by the residential or program license holder in a residence for
13.27 more than four participants; and
- 13.28 (32) traveling and driving, as described in subdivision 2, paragraph (o), reimbursable
13.29 as any other covered service under this chapter.

14.1 Sec. 7. Minnesota Statutes 2020, section 256B.85, subdivision 11, is amended to read:

14.2 Subd. 11. **Agency-provider model.** (a) The agency-provider model includes services
14.3 provided by support workers and staff providing worker training and development services
14.4 who are employed by an agency-provider that meets the criteria established by the
14.5 commissioner, including required training.

14.6 (b) The agency-provider shall allow the participant to have a significant role in the
14.7 selection and dismissal of the support workers for the delivery of the services and supports
14.8 specified in the participant's CFSS service delivery plan.

14.9 (c) A participant may use authorized units of CFSS services as needed within a service
14.10 agreement that is not greater than 12 months. Using authorized units in a flexible manner
14.11 in either the agency-provider model or the budget model does not increase the total amount
14.12 of services and supports authorized for a participant or included in the participant's CFSS
14.13 service delivery plan.

14.14 (d) A participant may share CFSS services. Two or three CFSS participants may share
14.15 services at the same time provided by the same support worker.

14.16 (e) The agency-provider must use a minimum of 72.5 percent of the revenue generated
14.17 by the medical assistance payment for CFSS for support worker wages and benefits, except
14.18 all of the revenue generated by a medical assistance rate increase due to a collective
14.19 bargaining agreement under section 179A.54 must be used for support worker wages and
14.20 benefits. The agency-provider must document how this requirement is being met. The
14.21 revenue generated by the worker training and development services and the reasonable costs
14.22 associated with the worker training and development services must not be used in making
14.23 this calculation.

14.24 (f) The agency-provider model must be used by individuals who are restricted by the
14.25 Minnesota restricted recipient program under Minnesota Rules, parts 9505.2160 to
14.26 9505.2245.

14.27 (g) Participants purchasing goods under this model, along with support worker services,
14.28 must:

14.29 (1) specify the goods in the CFSS service delivery plan and detailed budget for
14.30 expenditures that must be approved by the consultation services provider, case manager, or
14.31 care coordinator; and

14.32 (2) use the FMS provider for the billing and payment of such goods.

15.1 (h) The agency provider is responsible for ensuring that any worker driving a participant
15.2 under subdivision 2, paragraph (o), has a valid driver's license and the vehicle used is
15.3 registered and insured according to Minnesota law.

15.4 Sec. 8. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision to
15.5 read:

15.6 Subd. 12c. **Community first services and supports agency provider requirements;**
15.7 **documentation of travel time.** A community first services and supports agency provider
15.8 must ensure that travel and driving, as described in subdivision 2, paragraph (o), is
15.9 documented. The documentation must include:

15.10 (1) start and stop times with a.m. and p.m. designation;

15.11 (2) the origination site; and

15.12 (3) the destination site.

15.13 Sec. 9. Minnesota Statutes 2020, section 256B.85, subdivision 14, is amended to read:

15.14 Subd. 14. **Participant's responsibilities.** (a) The participant or participant's representative
15.15 is responsible for:

15.16 (1) orienting support workers to individual needs and preferences and providing direction
15.17 during the delivery of services;

15.18 (2) tracking the services provided and all expenditures for goods or other supports;

15.19 (3) preparing, verifying, and submitting time sheets according to the requirements in
15.20 subdivision 15;

15.21 (4) reporting any problems resulting from the failure of the CFSS service delivery plan
15.22 to be implemented or the quality of services rendered by the support worker to the
15.23 agency-provider, consultation services provider, FMS provider, and case manager or care
15.24 coordinator if applicable;

15.25 (5) notifying the agency-provider or the FMS provider within ten days of any changes
15.26 in circumstances affecting the CFSS service delivery plan, including but not limited to
15.27 changes in the participant's place of residence or hospitalization; and

15.28 (6) under the agency-provider model, participating in the evaluation of CFSS services
15.29 and support workers according to subdivision 11a.

16.1 (b) For a participant using the budget model, the participant or participant's representative
16.2 is responsible for:

16.3 (1) using an FMS provider that is enrolled with the department. Upon a determination
16.4 of eligibility and completion of the assessment and coordinated service and support plan,
16.5 the participant shall choose an FMS provider from a list of eligible providers maintained
16.6 by the department;

16.7 (2) complying with policies and procedures of the FMS provider as required to meet
16.8 state and federal regulations for CFSS and the employment of support workers;

16.9 (3) the hiring and supervision of the support worker, including but not limited to
16.10 recruiting, interviewing, training, scheduling, and discharging the support worker consistent
16.11 with federal and state laws and regulations;

16.12 (4) notifying the FMS provider of any changes in the employment status of each support
16.13 worker;

16.14 (5) ensuring that support workers are competent to meet the participant's assessed needs
16.15 and additional requirements as written in the CFSS service delivery plan;

16.16 (6) determining the competency of the support worker through evaluation within 30
16.17 days of any support worker beginning to provide services and with any change in the
16.18 participant's condition or modification to the CFSS service delivery plan;

16.19 (7) verifying and maintaining evidence of support worker competency, including
16.20 documentation of the support worker's:

16.21 (i) education and experience relevant to the job responsibilities assigned to the support
16.22 worker and the needs of the participant;

16.23 (ii) training received from sources other than the participant;

16.24 (iii) orientation and instruction to implement defined services and supports to meet
16.25 participant needs and preferences as detailed in the CFSS service delivery plan; and

16.26 (iv) periodic written performance reviews completed by the participant at least annually
16.27 based on the direct observation of the support worker's ability to perform the job functions;

16.28 (8) developing and communicating to each support worker a worker training and
16.29 development plan to ensure the support worker is competent when:

16.30 (i) the support worker begins providing services;

17.1 (ii) there is any change in the participant's condition or modification to the CFSS service
17.2 delivery plan; or

17.3 (iii) a performance review indicates that additional training is needed; ~~and~~

17.4 (9) participating in the evaluation of CFSS services; and

17.5 (10) ensuring that a worker driving the participant under subdivision 2, paragraph (o),
17.6 has a valid driver's license and the vehicle used is registered and insured according to
17.7 Minnesota law."

17.8 Delete the title and insert:

17.9 "A bill for an act
17.10 relating to human services; modifying personal care assistance program; modifying
17.11 community first services and supports; amending Minnesota Statutes 2020, sections
17.12 256B.0659, subdivisions 1, 3, 12, 24; 256B.85, subdivisions 2, 9, 11, 14, by adding
17.13 a subdivision."