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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3199

02/07/2022 Authored by Reyer, Schomacker, Frederick, Berg, Feist and others
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; increasing the limit on hours of personal assistance
1.3 services that can be provided by parents of minor children and by spouses;
1.4 amending Minnesota Statutes 2020, sections 256B.4911, by adding a subdivision;
1.5 256B.85, by adding a subdivision; Minnesota Statutes 2021 Supplement, section
1.6 256B.85, subdivisions 6, 7.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2020, section 256B.4911, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 6. Services provided by parents and spouses. (a) Upon federal approval, this
1.11 subdivision limits medical assistance payments under the consumer-directed community
1.12 supports option for personal assistance services provided by a parent to the parent's minor
1.13 child or by a spouse. This subdivision applies to the consumer-directed community supports
1.14 option available under all of the following:

- 1.15 (1) alternative care program;
1.16 (2) brain injury waiver;
1.17 (3) community alternative care waiver;
1.18 (4) community access for disability inclusion waiver;
1.19 (5) developmental disabilities waiver;
1.20 (6) elderly waiver; and
1.21 (7) Minnesota senior health option.

2.1 (b) For the purposes of this subdivision, "parent" means a parent, stepparent, or legal
 2.2 guardian of a minor.

2.3 (c) If multiple parents are providing personal assistance services to their minor child or
 2.4 children, each parent may provide up to 40 hours of personal assistance services in any
 2.5 seven-day period regardless of the number of children served. The total number of hours
 2.6 of personal assistance services provided by all of the parents must not exceed 80 hours in
 2.7 a seven-day period regardless of the number of children served.

2.8 (d) If only one parent is providing personal assistance services to a minor child or
 2.9 children, the parent may provide up to 60 hours of personal assistance services in a seven-day
 2.10 period regardless of the number of children served.

2.11 (e) If a spouse is providing personal assistance services, the spouse may provide up to
 2.12 60 hours of personal assistance services in a seven-day period.

2.13 (f) This subdivision must not be construed to permit an increase in the total authorized
 2.14 consumer-directed community supports budget for an individual.

2.15 (g) If parents are providing all of their minor child's authorized units of personal assistance
 2.16 services or if the person's spouse is providing all of the person's authorized units of personal
 2.17 assistance services, the consumer-directed community supports community support plan
 2.18 must include clearly identified measures to prevent social isolation of the minor or married
 2.19 person. If the staffing situation described in this paragraph is temporary and due to a staffing
 2.20 crisis, the consumer-directed community supports community support plan must also include
 2.21 clearly identified measures to recruit additional direct care staff to provide personal assistance
 2.22 services.

2.23 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 2.24 whichever is later. The commissioner of human services shall inform the revisor of statutes
 2.25 when federal approval is obtained.

2.26 Sec. 2. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 6, is amended
 2.27 to read:

2.28 **Subd. 6. Community first services and supports service delivery plan.** (a) The CFSS
 2.29 service delivery plan must be developed and evaluated through a person-centered planning
 2.30 process by the participant, or the participant's representative or legal representative who
 2.31 may be assisted by a consultation services provider. The CFSS service delivery plan must
 2.32 reflect the services and supports that are important to the participant and for the participant
 2.33 to meet the needs assessed by the certified assessor and identified in the coordinated service

3.1 and support plan identified in sections 256B.092, subdivision 1b, and 256S.10. The CFSS
3.2 service delivery plan must be reviewed by the participant, the consultation services provider,
3.3 and the agency-provider or FMS provider prior to starting services and at least annually
3.4 upon reassessment, or when there is a significant change in the participant's condition, or
3.5 a change in the need for services and supports.

3.6 (b) The commissioner shall establish the format and criteria for the CFSS service delivery
3.7 plan.

3.8 (c) The CFSS service delivery plan must be person-centered and:

3.9 (1) specify the consultation services provider, agency-provider, or FMS provider selected
3.10 by the participant;

3.11 (2) reflect the setting in which the participant resides that is chosen by the participant;

3.12 (3) reflect the participant's strengths and preferences;

3.13 (4) include the methods and supports used to address the needs as identified through an
3.14 assessment of functional needs;

3.15 (5) include the participant's identified goals and desired outcomes;

3.16 (6) reflect the services and supports, paid and unpaid, that will assist the participant to
3.17 achieve identified goals, including the costs of the services and supports, and the providers
3.18 of those services and supports, including natural supports;

3.19 (7) identify the amount and frequency of face-to-face supports and amount and frequency
3.20 of remote supports and technology that will be used;

3.21 (8) identify risk factors and measures in place to minimize them, including individualized
3.22 backup plans;

3.23 (9) be understandable to the participant and the individuals providing support;

3.24 (10) identify the individual or entity responsible for monitoring the plan;

3.25 (11) be finalized and agreed to in writing by the participant and signed by individuals
3.26 and providers responsible for its implementation;

3.27 (12) be distributed to the participant and other people involved in the plan;

3.28 (13) prevent the provision of unnecessary or inappropriate care;

3.29 (14) include a detailed budget for expenditures for budget model participants or
3.30 participants under the agency-provider model if purchasing goods; ~~and~~

4.1 (15) include a plan for worker training and development provided according to
4.2 subdivision 18a detailing what service components will be used, when the service components
4.3 will be used, how they will be provided, and how these service components relate to the
4.4 participant's individual needs and CFSS support worker services;

4.5 (16) include clearly identified measures to prevent social isolation of a minor participant
4.6 if all of the minor participant's support workers are the participant's parents, or of a married
4.7 participant if the participant's spouse is the participant's only support worker; and

4.8 (17) include clearly identified measures to recruit additional support workers if the
4.9 staffing situation described in clause (16) is temporary and due to a staffing crisis.

4.10 (d) The CFSS service delivery plan must describe the units or dollar amount available
4.11 to the participant. The total units of agency-provider services or the service budget amount
4.12 for the budget model include both annual totals and a monthly average amount that cover
4.13 the number of months of the service agreement. The amount used each month may vary,
4.14 but additional funds must not be provided above the annual service authorization amount,
4.15 determined according to subdivision 8, unless a change in condition is assessed and
4.16 authorized by the certified assessor and documented in the coordinated service and support
4.17 plan and CFSS service delivery plan.

4.18 (e) In assisting with the development or modification of the CFSS service delivery plan
4.19 during the authorization time period, the consultation services provider shall:

4.20 (1) consult with the FMS provider on the spending budget when applicable; and

4.21 (2) consult with the participant or participant's representative, agency-provider, and case
4.22 manager or care coordinator.

4.23 (f) The CFSS service delivery plan must be approved by the consultation services provider
4.24 for participants without a case manager or care coordinator who is responsible for authorizing
4.25 services. A case manager or care coordinator must approve the plan for a waiver or alternative
4.26 care program participant.

4.27 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
4.28 whichever is later. The commissioner of human services shall inform the revisor of statutes
4.29 when federal approval is obtained.

5.1 Sec. 3. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 7, is amended
5.2 to read:

5.3 Subd. 7. **Community first services and supports; covered services.** Services and
5.4 supports covered under CFSS include:

5.5 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities of
5.6 daily living (IADLs), and health-related procedures and tasks through hands-on assistance
5.7 to accomplish the task or constant supervision and cueing to accomplish the task;

5.8 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to
5.9 accomplish activities of daily living, instrumental activities of daily living, or health-related
5.10 tasks;

5.11 (3) expenditures for items, services, supports, environmental modifications, or goods,
5.12 including assistive technology. These expenditures must:

5.13 (i) relate to a need identified in a participant's CFSS service delivery plan; and

5.14 (ii) increase independence or substitute for human assistance, to the extent that
5.15 expenditures would otherwise be made for human assistance for the participant's assessed
5.16 needs;

5.17 (4) observation and redirection for behavior or symptoms where there is a need for
5.18 assistance;

5.19 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices,
5.20 to ensure continuity of the participant's services and supports;

5.21 (6) services provided by a consultation services provider as defined under subdivision
5.22 17, that is under contract with the department and enrolled as a Minnesota health care
5.23 program provider;

5.24 (7) services provided by an FMS provider as defined under subdivision 13a, that is an
5.25 enrolled provider with the department;

5.26 (8) CFSS services provided by a support worker who is a parent, stepparent, or legal
5.27 guardian of a participant under age 18, or who is the participant's spouse. ~~These support~~
5.28 ~~workers shall not:~~ Covered services under this clause are subject to the limitations described
5.29 in subdivision 7b; and

5.30 ~~(i) provide any medical assistance home and community-based services in excess of 40~~
5.31 ~~hours per seven-day period regardless of the number of parents providing services;~~

6.1 ~~combination of parents and spouses providing services, or number of children who receive~~
 6.2 ~~medical assistance services; and~~

6.3 ~~(ii) have a wage that exceeds the current rate for a CFSS support worker including the~~
 6.4 ~~wage, benefits, and payroll taxes; and~~

6.5 (9) worker training and development services as described in subdivision 18a.

6.6 Sec. 4. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision to
 6.7 read:

6.8 Subd. 7b. **Services provided by parents and spouses.** (a) This subdivision applies to
 6.9 services and supports described in subdivision 7, clause (8).

6.10 (b) If multiple parents are support workers providing CFSS services to their minor child
 6.11 or children, each parent may provide up to 40 hours of medical assistance home and
 6.12 community-based services in any seven-day period regardless of the number of children
 6.13 served. The total number of hours of medical assistance home and community-based services
 6.14 provided by all of the parents must not exceed 80 hours in a seven-day period regardless of
 6.15 the number of children served.

6.16 (c) If only one parent is a support worker providing CFSS services to the parent's minor
 6.17 child or children, the parent may provide up to 60 hours of medical assistance home and
 6.18 community-based services in a seven-day period regardless of the number of children served.

6.19 (d) If a spouse is a support worker providing CFSS services, the spouse may provide up
 6.20 to 60 hours of medical assistance home and community-based services in a seven-day period.

6.21 (e) Paragraphs (b) to (d) must not be construed to permit an increase in either the total
 6.22 authorized service budget for an individual or the total number of authorized service units.

6.23 (f) A parent or spouse must not receive a wage that exceeds the current rate for a CFSS
 6.24 support worker, including the wage, benefits, and payroll taxes.

6.25 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 6.26 whichever is later. The commissioner of human services shall inform the revisor of statutes
 6.27 when federal approval is obtained.

7.1 Sec. 5. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; HOME**
7.2 **AND COMMUNITY-BASED SERVICES WAIVER AMENDMENTS.**

7.3 No later than September 30, 2022, the commissioner of human services must submit to
7.4 the Centers for Medicare and Medicaid Services all initial amendments necessary to
7.5 implement Minnesota Statutes, section 256B.4911, subdivision 6.

7.6 **EFFECTIVE DATE.** This section is effective July 1, 2022.