State of Minnesota

# HOUSE OF REPRESENTATIVES

**NINETY-THIRD SESSION**

**H. F. No. 1384**

02/06/2023 Authored by Hicks, Pryor, Finke, Kozlowski, Curran and others
The bill was read for the first time and referred to the Committee on Human Services Policy

A bill for an act

relating to human services; requiring notice of the medical assistance program for employed persons with disabilities; modifying medical assistance eligibility requirements for employed persons with disabilities; amending Minnesota Statutes 2022, sections 256B.04, by adding a subdivision; 256B.056, subdivision 3; 256B.057, subdivision 9.

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

Section 1. Minnesota Statutes 2022, section 256B.04, is amended by adding a subdivision to read:

Subd. 26. **Notice of employed persons with disabilities program.** The commissioner shall provide information on the medical assistance program for employed persons with disabilities under section 256B.057, subdivision 9, to all medical assistance enrollees at the time of initial enrollment and at least annually thereafter.

Sec. 2. Minnesota Statutes 2022, section 256B.056, subdivision 3, is amended to read:

Subd. 3. **Asset limitations for certain individuals.** (a) To be eligible for medical assistance, a person must not individually own more than $3,000 in assets, or if a member of a household with two family members, husband and wife, or parent and child, the household must not own more than $6,000 in assets, plus $200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The accumulation of the clothing and personal needs allowance according to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of assets that are not considered in determining

eligibility for medical assistance is the value of those assets excluded under the Supplemental Security Income program for aged, blind, and disabled persons, with the following exceptions:

(1) household goods and personal effects are not considered;

(2) capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered;

(3) motor vehicles are excluded to the same extent excluded by the Supplemental Security Income program;

(4) assets designated as burial expenses are excluded to the same extent excluded by the Supplemental Security Income program. Burial expenses funded by annuity contracts or life insurance policies must irrevocably designate the individual's estate as contingent beneficiary to the extent proceeds are not used for payment of selected burial expenses;

(5) for a person who no longer qualifies as an employed person with a disability due to loss of earnings, assets allowed while eligible for medical assistance under section 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month of ineligibility as an employed person with a disability, to the extent that the person's total assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph (d);

(6) a designated employment incentives asset account is disregarded when determining eligibility for medical assistance for a person age 65 years or older under section 256B.055, subdivision 7. An employment incentives asset account must only be designated by a person who has been enrolled in medical assistance under section 256B.057, subdivision 9, for a 24-consecutive-month period. A designated employment incentives asset account contains qualified assets owned by the person and the person's spouse in the last month of enrollment in medical assistance under section 256B.057, subdivision 9. Qualified assets include retirement and pension accounts, medical expense accounts, and up to $17,000 of the person's other nonexcluded assets. An employment incentives asset account is no longer designated when a person loses medical assistance eligibility for a calendar month or more before turning age 65. A person who loses medical assistance eligibility before age 65 can establish a new designated employment incentives asset account by establishing a new 24-consecutive-month period of enrollment under section 256B.057, subdivision 9. The income of a spouse of a person enrolled in medical assistance under section 256B.057, subdivision 9, during each of the 24 consecutive months before the person's 65th birthday must be disregarded when determining eligibility for medical assistance under section

256B.055, subdivision 7. Persons eligible under this clause are not subject to the provisions in section 256B.059; and

(7) effective July 1, 2009, certain assets owned by American Indians are excluded as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is any person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

(b) No asset limit shall apply to persons eligible under ~~section~~ sections 256B.055, subdivision 15, and 256B.057, subdivision 9.

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever occurs later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 3. Minnesota Statutes 2022, section 256B.057, subdivision 9, is amended to read:

Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for a person who is employed and who:

(1) but for excess earnings or assets, meets the definition of disabled under the Supplemental Security Income program; and

~~(2) meets the asset limits in paragraph (d); and~~

~~(3)~~ (2) pays a premium and other obligations under paragraph ~~(c)~~ (d).

(b) For purposes of eligibility, there is a $65 earned income disregard. To be eligible for medical assistance under this subdivision, a person must have more than $65 of earned income. Earned income must have Medicare, Social Security, and applicable state and federal taxes withheld. The person must document earned income tax withholding. Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(c) After the month of enrollment, a person enrolled in medical assistance under this subdivision who:

(1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician, advanced practice registered nurse, or physician assistant; or

(2) loses employment for reasons not attributable to the enrollee, and is without receipt of earned income may retain eligibility for up to four consecutive months after the month of job loss. To receive a four-month extension, enrollees must verify the medical condition

or provide notification of job loss. All other eligibility requirements must be met and the enrollee must pay all calculated premium costs for continued eligibility.

~~(d) For purposes of determining eligibility under this subdivision, a person's assets must not exceed $20,000, excluding:~~

~~(1) all assets excluded under section 256B.056;~~

~~(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans;~~

~~(3) medical expense accounts set up through the person's employer; and~~

~~(4) spousal assets, including spouse's share of jointly held assets.~~

~~(e)~~ (d) All enrollees must pay a premium to be eligible for medical assistance under this subdivision, except as provided under clause ~~(5)~~ (6).

(1) An enrollee must pay the greater of a $35 premium or the premium calculated ~~based on~~ by applying the following sliding premium fee scale to the person's gross earned and unearned income and the applicable family size ~~using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines.~~:

(i) for households with income less than 250 percent of the federal poverty guidelines, the premium is zero percent of income;

(ii) for households with income equal to or greater than 250 percent of the federal poverty guidelines and less than 300 percent of the federal poverty guidelines, the sliding premium fee scale begins at zero percent of income at 250 percent of the federal poverty guidelines and increases to 2.5 percent of income for households with income up to 300 percent of the federal poverty guidelines;

(iii) for households with income equal to or greater than 300 percent of the federal poverty guidelines and less than 400 percent of the federal poverty guidelines, the sliding premium fee scale begins at 2.5 percent of income at 300 percent of the federal poverty guidelines and increases to four percent of income for households with income up to 400 percent of the federal poverty guidelines;

(iv) for households with income equal to or greater than 400 percent of the federal poverty guidelines and less than 500 percent of the federal poverty guidelines, the sliding premium fee scale begins at four percent of income at 400 percent of the federal poverty

guidelines and increases to 5.5 percent of income for households with income up to 500 percent of the federal poverty guidelines; and

(v) for households with income equal to or greater than 500 percent of the federal poverty guidelines, the premium is equal to 5.5 percent of income.

(2) Prior to determining an enrollee's income for the purposes of determining the premium amount, the lead agency must subtract the value of any Medicare premiums, coinsurance, and deductibles not reimbursed under this chapter.

~~(2)~~ (3) Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

~~(3)~~ (4) All enrollees who receive unearned income must pay one-half of one percent of unearned income in addition to the premium amount, except as provided under clause ~~(5)~~ (6).

~~(4)~~ (5) Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

~~(5)~~ (6) Effective July 1, 2009, American Indians are exempt from paying premiums as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is any person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

~~(f)~~ (e) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

~~(g)~~ (f) Any required premium shall be determined at application and redetermined at the enrollee's ~~six-month~~ annual income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next ~~six-month~~ annual review.

~~(h)~~ (g) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner. Enrollees who fail to pay a premium must be: (1) contacted directly by letter and by preferred contact method, if known, by the lead agency within 30 calendar days following each past

due date; (2) notified of the enrollee's past due premium payments; and (3) offered either a repayment plan or an alternative medical assistance coverage option for which the enrollee is eligible. A past due notice must not include a threat of termination of medical assistance unless the commissioner provides the notice more than 120 calendar days after the initial past due notice.

(h) The commissioner has the authority to enter into repayment plans with enrollees who have past due premiums. If an enrollee requests or agrees to a repayment plan, the commissioner shall negotiate terms of a repayment plan with the enrollee for any amount of past due premiums to be repaid over a period of months agreed to by the commissioner and the enrollee, not to exceed a period of 48 months. Repayment plan terms must be tailored to the individualized needs of the enrollee. An enrollee's coverage must not be closed due to past due premiums while the enrollee is participating in a repayment plan. Participation in a repayment plan includes making payments pursuant to the agreed upon repayment plan. Repayment plans must also be available upon reapplication by an enrollee whose employed persons with disabilities coverage has been closed and a past due premium applies.

(i) Nonpayment of the premium after 180 calendar days shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. "Good cause" means an excuse for the enrollee's failure to pay the required premium when due because the circumstances were beyond the enrollee's control or not reasonably foreseeable. The commissioner shall determine whether good cause exists based on the weight of the supporting evidence submitted by the enrollee to demonstrate good cause. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

(j) For enrollees ~~whose income does not exceed 200 percent of the federal poverty guidelines~~ who are: (1) eligible under this subdivision and ~~who are~~ also enrolled in Medicare~~,~~; and (2) not eligible for medical assistance reimbursement of Medicare premiums under subdivisions 3, 3a, 3b, or 4, the commissioner shall reimburse the enrollee for Medicare part A and Medicare part B premiums ~~under section 256B.0625, subdivision 15, paragraph (a).~~ and part A and part B coinsurance and deductibles. Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person was receiving benefits as a qualified Medicare beneficiary. Increases in benefits under Title

II of the Social Security Act must not be counted as income for purposes of this subdivision until July 1 of each year.

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever occurs later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.