

Subd. 13. Any claim for a loss caused by the condition of unimproved real property owned by a municipality, which means land that the municipality has not improved, land that is owned or administered by the municipality that contains idled or abandoned mine pits or shafts, and appurtenances, fixtures and attachments to land that the municipality has neither affixed nor improved.

Approved April 14, 1988

CHAPTER 531—S.F.No. 1561

An act relating to game and fish; prohibiting the use of certain meat in baiting bears; amending Minnesota Statutes 1986, section 97B.425.

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

Section 1. Minnesota Statutes 1986, section 97B.425, is amended to read:

97B.425 BAITING BEARS.

A person placing bait to take bear must display a tag at each site where bait is placed and register the sites. The commissioner shall prescribe the method of tagging and registering the sites. ~~A person may not use solid waste containing bottles, cans, plastic, paper, metal, or other materials that are not readily biodegradable as a bait to attract bear.~~ To attract bear a person may not use a bait with:

- (1) meat from mammals, if the meat contains bones;
- (2) bones of mammals;
- (3) solid waste containing bottles, cans, plastic, paper, or metal;
- (4) materials that are not readily biodegradable; or
- (5) any part of a swine.

Approved April 14, 1988

CHAPTER 532—S.F.No. 1620

An act relating to human services; regulating payments for certain services for adults with mental retardation and related conditions; providing protection for the mentally retarded; providing for therapeutic work activities; negotiating medical assistance utilization review appeals; regulating child support; amending Minnesota Statutes 1986, section 246.56; Min-

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nesota Statutes 1987 Supplement, sections 252.41, subdivision 7; 252.46, subdivisions 1, 2, 3, 4, 5, and 12; 252.47; 252A.111, subdivision 6; 254B.05, subdivision 1; 254B.09, subdivision 5; 256B.04, subdivision 15; and 518.64, subdivision 2.

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

Section 1. Minnesota Statutes 1986, section 246.56, is amended to read:

246.56 PREVOCATIONAL TRAINING FOR PATIENTS WITH MENTAL ILLNESS OR RESIDENTS WITH MENTAL RETARDATION; ADMINISTRATION.

Subdivision 1. The commissioner of human services is hereby authorized to establish, subject to the approval of the commissioner of jobs and training, ~~within the state hospitals for the patients with mental illness or residents with mental retardation,~~ work activity programs for the purpose of providing therapeutic work activities for regional treatment center patients with mental illness and regional treatment center residents with mental retardation. Work activity programs may be established for the provision of services and for the manufacture, processing and repairing of goods, wares, and merchandise for the purpose of providing therapeutic work activities for patients and residents. Work activity programs may be located on the grounds of the regional treatment center or at work sites in the community. In establishing services the commissioner shall cooperate with existing agencies to avoid duplication of available services to the extent feasible.

Subd. 2. **POWERS OF COMMISSIONER.** The work activity programs authorized herein shall be planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make productive capacity inconsequential. Notwithstanding section 177.24, the activities within this program shall conform to the rules and regulations relating to work activity centers promulgated by the United States Department of Labor. To accomplish the foregoing purpose the commissioner of human services shall have the power and authority to:

(a) use the diversified labor fund established by Laws 1945, chapter 575, section 19, to purchase equipment and remodel facilities of the state hospitals referred to in subdivision 1 to initiate the work activity program,

(b) formulate a system of records and accounts which shall at all times indicate the extent of purchases, sales, wages, and bidding practices and which shall be open to public inspection,

(c) contract with public or private entities for the provision of custodial, domestic, maintenance, and other services carried out by patients or residents. To the extent that a qualified direct care employee of a regional treatment center is available, staff services required by the contract shall be provided by that direct care employee.

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The commissioner of human services shall, subject to the approval of the commissioner of education, have the power and authority to:

- (a) create a work activity center revolving fund for the purpose of receiving and expending money in the operation of the said programs,
- (b) contract with public and private industries for the manufacture, repair, or assembling of work according to standard bidding practices,
- (c) use the revenue from the operation of said programs to pay wages to patients or residents according to their productivity, purchase equipment and supplies and pay other expenses necessary to the operation of the said programs,
- (d) establish an advisory committee consisting of representatives from the departments of health, jobs and training, and human services, labor and business groups, interested community agencies, including but not limited to the Minnesota association of rehabilitation facilities, the Minnesota association for retarded children, and the Minnesota association for mental health, and the general public. This committee will act in an advisory capacity with respect to the scope of work activity programs, the nature of the goods to be produced and services to be performed in such programs,
- (e) utilize all available vocational rehabilitation services and encourage the integration of the work activity program into existing vocational rehabilitation and community based programs, so that the work activity program will neither duplicate nor unfairly compete with existing public or private community programs.

Sec. 2. Minnesota Statutes 1987 Supplement, section 252.41, subdivision 7, is amended to read:

Subd. 7. **REGIONAL CENTER.** "Regional center" means any one of the ~~eight~~ seven state-operated facilities under the direct administrative authority of the commissioner that serve persons with mental retardation and related conditions. The following facilities are regional centers: ~~Anoka-Metro Regional Treatment Center~~; Brainerd Regional Human Services Center; Cambridge Regional Treatment Center; Faribault Regional Center; Fergus Falls Regional Treatment Center; Moose Lake Regional Treatment Center; St. Peter Regional Treatment Center; and Willmar Regional Treatment Center.

Sec. 3. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 1, is amended to read:

Subdivision 1. **RATES ESTABLISHED THROUGH FOR CALENDAR YEARS 1988 AND 1989.** Payment rates to vendors, except regional centers, for county-funded day training and habilitation services and transportation provided to persons receiving day training and habilitation services established by a county board ~~before January 1, for calendar years 1988 and~~ 1989; are governed by subdivisions 2 to 10.

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"Payment rate" as used in subdivisions 2 to 10 refers to three kinds of payment rates: a full-day service rate for persons who receive at least six service hours a day, including the time it takes to transport the person to and from the service site; a partial-day service rate that must not exceed 75 percent of the full-day service rate for persons who receive less than a full day of service; and a transportation rate for providing, or arranging and paying for, transportation of a person to and from the person's residence to the service site.

Sec. 4. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 2, is amended to read:

Subd. 2. ~~1987 AND 1988 AND 1989~~ **MINIMUM**. Unless a variance is granted under subdivision 6, the minimum payment rates set by a county board for each vendor for ~~1987 and~~ calendar years 1988 and 1989 must be equal to the payment rates approved by the commissioner for that vendor in effect January 1, ~~1986~~ 1987, and January 1, ~~1987~~ 1988, respectively.

Sec. 5. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 3, is amended to read:

Subd. 3. ~~1987 AND 1988 AND 1989~~ **MAXIMUM**. Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for ~~1987 and~~ calendar years 1988 and 1989 must be equal to the payment rates approved by the commissioner for that vendor in effect December 1, ~~1986~~ 1987, and December 1, ~~1987~~ 1988, respectively, increased by no more than the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the upcoming calendar year over the current calendar year.

Sec. 6. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 4, is amended to read:

Subd. 4. **NEW VENDORS**. Payment rates established by a county ~~before January 1, for~~ calendar years 1988 and 1989, for a new vendor for which there were no previous rates must not exceed 125 percent of the average payment rates in the regional development commission district under sections 462.381 to 462.396 in which the new vendor is located.

Sec. 7. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 5, is amended to read:

Subd. 5. **SUBMITTING RECOMMENDED RATES**. The county board shall submit recommended payment rates to the commissioner on forms supplied by the commissioner ~~by November 1, 1987, and~~ at least 60 days before revised payment rates or payment rates for new vendors are to be effective. The forms must require the county board's written verification of the individual documentation required under section 252.44, clause (a). If the number of days of service provided by a licensed vendor are projected to increase, the county board must recommend payment rates based on the projected increased days of

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attendance and resulting lower per unit fixed costs. If a vendor provides services at more than one licensed site, the county board may recommend the same payment rates for each site based on the average rate for all sites. The county board may also recommend differing payment rates for each licensed site if it would result in a total annual payment to the vendor that is equal to or less than the total annual payment that would result if the average rates had been used for all sites. For purposes of this subdivision, the average payment rate for all service sites used by a vendor must be computed by adding the amounts that result when the payment rates for each licensed site are multiplied by the projected annual number of service units to be provided at that site and dividing the sum of those amounts by the total units of service to be provided by the vendor at all sites.

Sec. 8. Minnesota Statutes 1987 Supplement, section 252.46, subdivision 12, is amended to read:

Subd. 12. **RATES ESTABLISHED AFTER ~~1988~~ 1989.** Payment rates established by a county board to be paid to a vendor on or after January 1, ~~1989~~ 1990, must be determined under permanent rules adopted by the commissioner. No county shall pay a rate that is less than the minimum rate determined by the commissioner.

In developing procedures for setting minimum payment rates and procedures for establishing payment rates, the commissioner shall consider the following factors:

- (1) a vendor's payment rate and historical cost in the previous year;
- (2) current economic trends and conditions;
- (3) costs that a vendor must incur to operate efficiently, effectively and economically and still provide training and habilitation services that comply with quality standards required by state and federal regulations;
- (4) increased liability insurance costs;
- (5) costs incurred for the development and continuation of supported employment services;
- (6) cost variations in providing services to people with different needs;
- (7) the adequacy of reimbursement rates that are more than 15 percent below the statewide average; and
- (8) other appropriate factors.

The commissioner may develop procedures to establish differing hourly rates that take into account variations in the number of clients per staff hour, to assess the need for day training and habilitation services, and to control the utilization of services.

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In developing procedures for setting transportation rates, the commissioner may consider allowing the county board to set those rates or may consider developing a uniform standard.

Medical assistance rates for home and community-based services provided under section 256B.501 by licensed vendors of day training and habilitation services must not be greater than the rates for the same services established by counties under sections 252.40 to 252.47.

Sec. 9. Minnesota Statutes 1987 Supplement, section 252.47, is amended to read:

252.47 RULES.

To implement sections 252.40 to 252.47, the commissioner shall adopt permanent rules under sections 14.01 to 14.38. The rules may include a plan for phasing in implementation of the procedures and rates established by the rules. The phase-in may occur prior to calendar year 1990. The commissioner shall establish an advisory task force to advise and make recommendations to the commissioner during the rulemaking process. The advisory task force must include legislators, vendors, residential service providers, counties, consumers, department personnel, and others as determined by the commissioner.

Sec. 10. Minnesota Statutes 1987 Supplement, section 252A.111, subdivision 6, is amended to read:

Subd. 6. **SPECIAL DUTIES.** In exercising powers and duties under this chapter, the commissioner shall:

- (1) maintain close contact with the ward, visiting at least twice a year;
- (2) prohibit filming a ward in any way that would reveal the identity of the ward unless the commissioner determines the filming to be in the best interests of the ward. The commissioner may give written consent for filming of the ward after permitting and encouraging input by the nearest relative of the ward;
- (3) take actions and make decisions on behalf of the ward that encourage and allow the maximum level of independent functioning in a manner least restrictive of the ward's personal freedom consistent with the need for supervision and protection; and
- (4) permit and encourage maximum self-reliance on the part of the ward and permit and encourage input by the nearest relative of the ward in planning and decision making on behalf of the ward.

Sec. 11. Minnesota Statutes 1987 Supplement, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **LICENSURE REQUIRED.** Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to

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be eligible vendors, notwithstanding the provisions of section 245.791. American Indian programs ~~that, if located outside of federally recognized tribal lands, would be required to be licensed to~~ located on federally recognized tribal lands that provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors. Detoxification programs are not eligible vendors. Programs ~~that, if located outside of federally recognized tribal lands, would be~~ are not licensed as a chemical dependency residential or nonresidential treatment program ~~under sections 245.781 to 245.812 by the commissioner or by tribal government~~ are not eligible vendors. To be eligible for payment under the Consolidated Chemical Dependency Treatment Fund, a vendor must participate in the Drug and Alcohol Abuse Normative Evaluation System or a comparable system approved by the commissioner.

Sec. 12. Minnesota Statutes 1987 Supplement, section 254B.09, subdivision 5, is amended to read:

Subd. 5. **TRIBAL RESERVE ACCOUNT.** The commissioner shall reserve 7.5 percent of the American Indian chemical dependency account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2. An American Indian tribal governing body may receive not more than 30 percent of the reserve account in a year. Reserve payments shall be made only for persons entitled to services under section 254B.04, subdivision 1. The commissioner may refuse to make reserve payments for persons not eligible under section 254B.04, subdivision 1, if the tribal governing body responsible for treatment placement has exhausted its allocation. Money must be allocated as invoices are received.

Sec. 13. Minnesota Statutes 1987 Supplement, section 256B.04, subdivision 15, is amended to read:

Subd. 15. **UTILIZATION REVIEW.** (1) Establish on a statewide basis a new program to safeguard against unnecessary or inappropriate use of medical assistance services, against excess payments, against unnecessary or inappropriate hospital admissions or lengths of stay, and against underutilization of services in prepaid health plans, long-term care facilities or any health care delivery system subject to fixed rate reimbursement. In implementing the program, the state agency shall utilize both prepayment and postpayment review systems to determine if utilization is reasonable and necessary. The determination of whether services are reasonable and necessary shall be made by the commissioner in consultation with a professional services advisory group appointed by the commissioner. ~~An aggrieved party may appeal the commissioner's determination pursuant to the contested case procedures of chapter 14.~~

(2) Contracts entered into for purposes of meeting the requirements of this subdivision shall not be subject to the set-aside provisions of chapter 16B.

(3) A recipient aggrieved by the commissioner's termination of services or

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denial of future services may appeal pursuant to section 256.045. A vendor aggrieved by the commissioner's determination that services provided were not reasonable or necessary may appeal pursuant to the contested case procedures of chapter 14. To appeal, the vendor shall notify the commissioner in writing within 30 days of receiving the commissioner's notice. The appeal request shall specify each disputed item, the reason for the dispute, an estimate of the dollar amount involved for each disputed item, the computation that the vendor believes is correct, the authority in statute or rule upon which the vendor relies for each disputed item, the name and address of the person or firm with whom contacts may be made regarding the appeal, and other information required by the commissioner.

Sec. 14. Minnesota Statutes 1987 Supplement, section 518.64, subdivision 2, is amended to read:

Subd. 2. **MODIFICATION.** The terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost-of-living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair. On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court shall take into consideration the needs of the children and shall not consider the financial circumstances of each party's spouse, if any. A modification ~~which decreases~~ of support or maintenance may be made retroactive only with respect to any period during which the ~~support obligor~~ petitioning party has pending a motion for modification but only from the date ~~that of service of~~ notice of the motion has been given to on the obligee and to the court or other entity which issued each support order. ~~A modification which increases support or maintenance shall not be made retroactive if the obligor has substantially complied with the previous order~~ responding party. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

Sec. 15. **EFFECTIVE DATE.**

This act is effective the day after final enactment.

Approved April 14, 1988

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