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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 716

01/23/2023 Authored by Finke, Reyer, Noor, Fischer, Bahner and others
The bill was read for the first time and referred to the Committee on Human Services Policy
02/08/2023 Adoption of Report: Re-referred to the Committee on Human Services Finance

1.1 A bill for an act
1.2 relating to human services; expanding access to shared services under the home
1.3 and community-based services waivers; amending Minnesota Statutes 2022,
1.4 sections 256B.4912, by adding a subdivision; 256B.4914, subdivisions 8, 9;
1.5 256S.16.

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

1.7 Section 1. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 16. Shared services. (a) Medical assistance payments for shared services under
1.10 the home and community-based services waivers authorized under sections 256B.0913,
1.11 256B.092, and 256B.49 and chapter 256S are limited to this subdivision.

1.12 (b) For purposes of this subdivision, "shared services" means services provided at the
1.13 same time by the same direct care worker for individuals who have entered into an agreement
1.14 to share home and community-based services.

1.15 (c) Shared services include the following services as outlined in the coordinated service
1.16 and support plan and shared services agreement:

- 1.17 (1) chore services;
1.18 (2) extended home care services;
1.19 (3) homemaker services;
1.20 (4) individualized home supports;
1.21 (5) integrated community supports;

- 2.1 (6) night supervision services; and
- 2.2 (7) other supports as deemed appropriate based on the individuals' coordinated service
2.3 and support plans and shared services agreement.
- 2.4 (d) Shared services do not include:
- 2.5 (1) services for more than three individuals provided by one worker at one time;
- 2.6 (2) use of more than one worker for the shared services; or
- 2.7 (3) a child care program licensed under chapter 245A or operated by a local school
2.8 district or private school.
- 2.9 (e) The individuals, or the individuals' representatives as needed, must develop the plan
2.10 for shared services when developing or amending the coordinated service and support plan
2.11 and must follow the coordinated service and support plan process for approval of the plan
2.12 by the lead agency. The plan for shared services in a coordinated service and support plan
2.13 must include the intention to utilize shared services based on individuals' needs and
2.14 preferences.
- 2.15 (f) Individuals whose coordinated service and support plans include an intent to utilize
2.16 shared services must jointly develop, with the support of the individuals' representatives as
2.17 needed, a shared services agreement. This agreement must include:
- 2.18 (1) the names of the individuals receiving shared services;
- 2.19 (2) the names of the individuals' representatives, if identified in their coordinated service
2.20 and support plans, and their duties;
- 2.21 (3) the names of the case managers;
- 2.22 (4) the services provider;
- 2.23 (5) the shared services that must be provided;
- 2.24 (6) the schedule for shared services;
- 2.25 (7) the location where shared services must be provided;
- 2.26 (8) the training specific to each individual served;
- 2.27 (9) the training specific to providing shared services to the individuals identified in the
2.28 agreement;
- 2.29 (10) instructions to follow all required documentation for time and services provided;

3.1 (11) a contingency plan for each individual served that determines how services will be
 3.2 provided and billed for when a person who shares services with the individual is absent due
 3.3 to illness or other circumstances;

3.4 (12) the signatures of all parties involved in the shared services; and

3.5 (13) an agreement by each individual who is sharing services on the number of shared
 3.6 hours for services provided.

3.7 (g) An individual or an individual's representative may withdraw from participating in
 3.8 a shared services agreement at any time.

3.9 (h) The lead agency for each individual must authorize the use of the shared services
 3.10 option if the shared service is appropriate to maintain the needs, health, and safety of each
 3.11 individual for whom the lead agency provides case management or care coordination.

3.12 (i) This subdivision must not be construed to reduce the total authorized budget for an
 3.13 individual.

3.14 (j) No later than September 30, 2023, the commissioner of human services must:

3.15 (1) submit an amendment to the Centers for Medicare and Medicaid Services for the
 3.16 home and community-based services waivers authorized under sections 256B.0913,
 3.17 256B.092, and 256B.49 and chapter 256S to allow for shared services under those waivers;
 3.18 and

3.19 (2) develop guidance for shared services with stakeholder input. Guidance must include:

3.20 (i) recommendations for negotiating payment for one-to-two and one-to-three services;
 3.21 and

3.22 (ii) a template of the shared services agreement.

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

3.26 Sec. 2. Minnesota Statutes 2022, section 256B.4914, subdivision 8, is amended to read:

3.27 Subd. 8. **Unit-based services with programming; component values and calculation**
 3.28 **of payment rates.** (a) For the purpose of this section, unit-based services with programming
 3.29 include employment exploration services, employment development services, employment
 3.30 support services, individualized home supports with family training, individualized home

4.1 supports with training, and positive support services provided to an individual outside of
4.2 any service plan for a day program or residential support service.

4.3 (b) Component values for unit-based services with programming are:

4.4 (1) competitive workforce factor: 4.7 percent;

4.5 (2) supervisory span of control ratio: 11 percent;

4.6 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

4.7 (4) employee-related cost ratio: 23.6 percent;

4.8 (5) program plan support ratio: 15.5 percent;

4.9 (6) client programming and support ratio: 4.7 percent, updated as specified in subdivision
4.10 5b;

4.11 (7) general administrative support ratio: 13.25 percent;

4.12 (8) program-related expense ratio: 6.1 percent; and

4.13 (9) absence and utilization factor ratio: 3.9 percent.

4.14 (c) A unit of service for unit-based services with programming is 15 minutes, except
4.15 that for individualized home supports with training, a unit of service is one hour or 15
4.16 minutes.

4.17 (d) Payments for unit-based services with programming must be calculated as follows,
4.18 unless the services are reimbursed separately as part of a residential support services or day
4.19 program payment rate:

4.20 (1) determine the number of units of service to meet a recipient's needs;

4.21 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
4.22 provided in subdivisions 5 and 5a;

4.23 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
4.24 product of one plus the competitive workforce factor;

4.25 (4) for a recipient requiring customization for deaf and hard-of-hearing language
4.26 accessibility under subdivision 12, add the customization rate provided in subdivision 12
4.27 to the result of clause (3);

4.28 (5) multiply the number of direct staffing hours by the appropriate staff wage;

4.29 (6) multiply the number of direct staffing hours by the product of the supervisory span
4.30 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

5.1 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
5.2 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
5.3 rate;

5.4 (8) for program plan support, multiply the result of clause (7) by one plus the program
5.5 plan support ratio;

5.6 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
5.7 employee-related cost ratio;

5.8 (10) for client programming and supports, multiply the result of clause (9) by one plus
5.9 the client programming and support ratio;

5.10 (11) this is the subtotal rate;

5.11 (12) sum the standard general administrative support ratio, the program-related expense
5.12 ratio, and the absence and utilization factor ratio;

5.13 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
5.14 total payment amount;

5.15 (14) for services provided in a shared manner, ~~divide the total payment in clause (13)~~
5.16 ~~as follows:~~

5.17 (i) for employment exploration services, divide the total payment in clause (13) by the
5.18 number of service recipients, not to exceed five;

5.19 (ii) for employment support services, divide the total payment in clause (13) by the
5.20 number of service recipients, not to exceed six; and

5.21 (iii) for individualized home supports with training and individualized home supports
5.22 with family training, ~~divide by the number of service recipients, not to exceed two~~ multiply
5.23 the total payment in clause (13) when two persons are sharing services by no more than one
5.24 and one-half, and when three persons are sharing services by no more than two. These rates
5.25 apply only when all of the criteria for the shared service have been met; and

5.26 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
5.27 to adjust for regional differences in the cost of providing services.

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

6.1 Sec. 3. Minnesota Statutes 2022, section 256B.4914, subdivision 9, is amended to read:

6.2 Subd. 9. **Unit-based services without programming; component values and**
6.3 **calculation of payment rates.** (a) For the purposes of this section, unit-based services
6.4 without programming include individualized home supports without training and night
6.5 supervision provided to an individual outside of any service plan for a day program or
6.6 residential support service. Unit-based services without programming do not include respite.

6.7 (b) Component values for unit-based services without programming are:

6.8 (1) competitive workforce factor: 4.7 percent;

6.9 (2) supervisory span of control ratio: 11 percent;

6.10 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

6.11 (4) employee-related cost ratio: 23.6 percent;

6.12 (5) program plan support ratio: 7.0 percent;

6.13 (6) client programming and support ratio: 2.3 percent, updated as specified in subdivision
6.14 5b;

6.15 (7) general administrative support ratio: 13.25 percent;

6.16 (8) program-related expense ratio: 2.9 percent; and

6.17 (9) absence and utilization factor ratio: 3.9 percent.

6.18 (c) A unit of service for unit-based services without programming is 15 minutes.

6.19 (d) Payments for unit-based services without programming must be calculated as follows
6.20 unless the services are reimbursed separately as part of a residential support services or day
6.21 program payment rate:

6.22 (1) determine the number of units of service to meet a recipient's needs;

6.23 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
6.24 provided in subdivisions 5 to 5a;

6.25 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
6.26 product of one plus the competitive workforce factor;

6.27 (4) for a recipient requiring customization for deaf and hard-of-hearing language
6.28 accessibility under subdivision 12, add the customization rate provided in subdivision 12
6.29 to the result of clause (3);

6.30 (5) multiply the number of direct staffing hours by the appropriate staff wage;

7.1 (6) multiply the number of direct staffing hours by the product of the supervisory span
7.2 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

7.3 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
7.4 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
7.5 rate;

7.6 (8) for program plan support, multiply the result of clause (7) by one plus the program
7.7 plan support ratio;

7.8 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
7.9 employee-related cost ratio;

7.10 (10) for client programming and supports, multiply the result of clause (9) by one plus
7.11 the client programming and support ratio;

7.12 (11) this is the subtotal rate;

7.13 (12) sum the standard general administrative support ratio, the program-related expense
7.14 ratio, and the absence and utilization factor ratio;

7.15 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
7.16 total payment amount;

7.17 (14) for ~~individualized home supports without training~~ night supervision provided in a
7.18 shared manner, divide the total payment amount in clause (13) by the number of service
7.19 recipients, not to exceed two; ~~and~~

7.20 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
7.21 to adjust for regional differences in the cost of providing services; and

7.22 (16) for individualized home supports without training for two persons sharing services,
7.23 the rate paid to a provider must not exceed one and one-half times the rate paid for serving
7.24 a single individual, and for three persons sharing services, the rate paid to a provider must
7.25 not exceed two times the rate paid for serving a single individual. These rates apply only
7.26 when all of the criteria for the shared service have been met.

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

8.1 Sec. 4. Minnesota Statutes 2022, section 256S.16, is amended to read:

8.2 **256S.16 AUTHORIZATION OF ELDERLY WAIVER SERVICES AND SERVICE**
8.3 **RATES.**

8.4 Subdivision 1. Generally. A lead agency must use the service rates and service rate
8.5 limits published by the commissioner to authorize services.

8.6 Subd. 2. Shared services; rates. The commissioner shall provide a rate system for
8.7 shared chore services and shared homemaker services based on the chore services rate for
8.8 a single individual under section 256S.215, subdivision 7, and the homemaker services rates
8.9 for a single individual under section 256S.215, subdivisions 9 to 11. For two persons sharing
8.10 services, the rate paid to a provider must not exceed one and one-half times the rate paid
8.11 for serving a single individual, and for three persons sharing services, the rate paid to a
8.12 provider must not exceed two times the rate paid for serving a single individual. These rates
8.13 apply only when all of the criteria for the shared service have been met.

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

8.17 Sec. 5. **DIRECTION TO COMMISSIONER; DISABILITY WAIVER SHARED**
8.18 **SERVICES RATES.**

8.19 The commissioner of human services shall provide a rate system for shared chore services
8.20 and shared homemaker services provided under Minnesota Statutes, sections 256B.092 and
8.21 256B.49. For two persons sharing services, the rate paid to a provider must not exceed one
8.22 and one-half times the rate paid for serving a single individual, and for three persons sharing
8.23 services, the rate paid to a provider must not exceed two times the rate paid for serving a
8.24 single individual. These rates apply only when all of the criteria for the shared service have
8.25 been met.

8.26 Sec. 6. **DIRECTION TO COMMISSIONER; INDIRECT BILLING AUTHORIZED**
8.27 **FOR INDIVIDUALIZED HOME SUPPORTS WITH TRAINING.**

8.28 By December 1, 2023, the commissioner of human services shall submit to the federal
8.29 Centers for Medicare and Medicaid Services any necessary changes to home and
8.30 community-based services waiver plans to allow for providers providing individualized
8.31 home supports with training to bill for services provided indirectly on behalf of the person.
8.32 Allowable tasks include:

9.1 (1) coordinating health providers and scheduling medical appointments; and

9.2 (2) general care coordination to support individuals living independently.

9.3 **Sec. 7. DIRECTION TO COMMISSIONER; OUT-OF-STATE BILLING.**

9.4 By December 1, 2023, the commissioner of human services shall submit to the federal
9.5 Centers for Medicare and Medicaid Services any necessary changes to home and
9.6 community-based services waiver plans to ensure that individualized home supports with
9.7 training and individualized home supports without training are included in the definition of
9.8 "direct care staff services" that may be authorized and provided to a waiver participant who
9.9 is either traveling temporarily out-of-state or attending an out-of-state postsecondary school.