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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2849

03/13/2023 Authored by Hanson, J., The bill was read for the first time and referred to the Committee on Human Services Finance

1.1 A bill for an act
1.2 relating to human services; establishing a review process for denials of eligibility
1.3 for long-term services and supports; proposing coding for new law in Minnesota
1.4 Statutes, chapter 256B.

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

1.6 Section 1. [256B.0909] LONG-TERM SERVICES AND SUPPORTS DECISION
1.7 REVIEWS.

1.8 Subdivision 1. Notice of intent to deny, reduce, suspend, or terminate required. At
1.9 least ten calendar days prior to issuing a written notice of action, a lead agency must provide
1.10 in a format accessible to the person or the person's legal representative, if any, a notice of
1.11 the lead agency's intent to deny, reduce, suspend, or terminate a person's access to or
1.12 eligibility for:

1.13 (1) home and community-based waiver eligibility, including level of care determinations,
1.14 under sections 256B.092 and 256B.49;

1.15 (2) specific home and community-based services available under sections 256B.092 and
1.16 256B.49;

1.17 (3) consumer-directed community supports;

1.18 (4) the following state plan services:

1.19 (i) personal care assistance services under section 256B.0625, subdivisions 19a and 19c;

1.20 (ii) consumer support grants under section 256.476; or

1.21 (iii) community first services and supports under section 256B.85;

2.1 (5) semi-independent living services under section 252.275;

2.2 (6) relocation targeted case management services available under section 256B.0621,
2.3 subdivision 2, clause (4);

2.4 (7) case management services targeted to vulnerable adults or people with developmental
2.5 disabilities under section 256B.0924;

2.6 (8) case management services targeted to people with developmental disabilities under
2.7 Minnesota Rules, part 9525.0016; and

2.8 (9) necessary diagnostic information to gain access to or determine eligibility for services
2.9 specified under clauses (5) to (8).

2.10 Subd. 2. **Opportunity to respond required.** A lead agency must provide the person or
2.11 the person's legal representative, if any, the opportunity to respond to the agency's intent to
2.12 deny, reduce, suspend, or terminate eligibility or access to the services described in
2.13 subdivision 1. A lead agency must provide the person or the person's legal representative,
2.14 if any, ten days to respond. If the person or the person's legal representative, if any, elects
2.15 to respond, the agency must contact the person or the person's legal representative, if any,
2.16 and initiate a decision review.

2.17 Subd. 3. **Decision review.** (a) A lead agency must initiate a decision review for any
2.18 person who responds under subdivision 2.

2.19 (b) If a timely request for a decision review is received, the lead agency must schedule
2.20 the conference within five days of the request. The lead agency must conduct the decision
2.21 review in a manner that allows for an opportunity for interactive communication between
2.22 the person or the person's legal representative, if any, and a representative of the lead agency
2.23 who has specific knowledge of the proposed decision and the basis for the decision. The
2.24 interactive communication must be in a format that is accessible to the person, and may
2.25 include a telephone call, written exchange, in-person meeting, or other format as chosen by
2.26 the person or the person's legal representative, if any.

2.27 (c) During the decision review, the representative of the lead agency must provide a
2.28 thorough explanation of the lead agency's intent to deny, reduce, suspend, or terminate
2.29 eligibility or access to the services described in subdivision 1 and provide the person or the
2.30 person's legal representative, if any, an opportunity to ask questions about the decision. If
2.31 the lead agency's explanation of the decision is based on a misunderstanding of the person's
2.32 circumstances, incomplete information, missing documentation, or similar missing or

3.1 inaccurate information, the lead agency must provide the person or the person's legal
3.2 representative, if any, an opportunity to provide clarifying or additional information.

3.3 (d) A person with a representative is not required to participate in the decision review.
3.4 A person may also elect to have someone of the person's choosing participate in the decision
3.5 review.

3.6 Subd. 4. **Continuation of services.** During the decision review and until the lead agency
3.7 issues a written notice of action to deny, reduce, suspend, or terminate the eligibility or
3.8 access, the person must continue to receive covered services.

3.9 Subd. 5. **Notice of action.** Following a decision review, a lead agency may issue a notice
3.10 of action to deny, reduce, suspend, or terminate the eligibility or access after considering
3.11 the discussions and information provided during the decision review. The notice shall
3.12 incorporate additional information and relevant facts from the decision review. The notice,
3.13 written in English, must include the Department of Human Services language block. The
3.14 notice must be mailed to the person and the person's legal representative, if any.

3.15 Subd. 6. **Appeal rights.** Nothing in this section shall be construed to affect a person's
3.16 appeal rights under section 256.045.