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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 394

02/06/2013 Authored by Fritz, Abeler and Allen

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; modifying residential treatment services for children;
1.3 amending Minnesota Statutes 2012, sections 245.4882, subdivisions 1, 4, by
1.4 adding a subdivision; 245.4885, subdivision 1; repealing Minnesota Statutes
1.5 2012, sections 245.4885, subdivision 3; 253C.01.

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

1.7 Section 1. Minnesota Statutes 2012, section 245.4882, subdivision 1, is amended to read:

1.8 Subdivision 1. **Availability of residential treatment services.** ~~County boards~~
1.9 The commissioner must provide or contract for enough residential treatment services
1.10 to meet the clinical treatment needs of each child with severe emotional disturbance
1.11 residing in the ~~county~~ state and needing this level of care. Length of stay is based on the
1.12 child's residential treatment need ~~and shall be subject to the six-month review process~~
1.13 ~~established in section 260C.203, and for children in voluntary placement for treatment, the~~
1.14 ~~court review process in section 260D.06.~~ Services must be appropriate to the child's age
1.15 and treatment needs and must be made available as close to the county of residence as
1.16 possible. Residential treatment must be designed to:

1.17 (1) prevent placement in settings that are more intensive, costly, or restrictive than
1.18 necessary and appropriate to meet the child's needs;

1.19 (2) help the child improve family living and social interaction skills;

1.20 (3) help the child gain the necessary skills to return to the community;

1.21 (4) stabilize crisis admissions; and

1.22 (5) work with families throughout the placement to improve the ability of the
1.23 families to care for children with severe emotional disturbance in the home.

1.24 Sec. 2. Minnesota Statutes 2012, section 245.4882, subdivision 4, is amended to read:

2.1 Subd. 4. **Admission, continued stay, and discharge criteria.** ~~No later than~~
 2.2 ~~January 1, 1992,~~ The ~~county board~~ commissioner shall ensure that placement decisions
 2.3 for residential treatment services are based on the clinical needs of the child. The ~~county~~
 2.4 ~~board~~ commissioner shall ensure that each entity under contract to provide residential
 2.5 treatment services has admission, continued stay, discharge criteria and discharge planning
 2.6 criteria as part of the contract. Contracts shall specify specific responsibilities between
 2.7 the ~~county state~~ and service providers to ensure comprehensive planning and continuity
 2.8 of care between needed services according to data privacy requirements. The ~~county~~
 2.9 ~~board~~ commissioner shall ensure that, at least ten days prior to discharge, the operator
 2.10 of the residential treatment facility shall provide written notification of the discharge to
 2.11 the child's parent or caretaker, the local education agency in which the child is enrolled,
 2.12 and the receiving education agency to which the child will be transferred upon discharge.
 2.13 When the child has an individualized education program, the notice shall include a copy
 2.14 of the individualized education program. All contracts for the provision of residential
 2.15 services must include provisions guaranteeing clients the right to appeal under section
 2.16 245.4887 and to be advised of their appeal rights.

2.17 Sec. 3. Minnesota Statutes 2012, section 245.4882, is amended by adding a subdivision
 2.18 to read:

2.19 Subd. 6. **Maintenance of effort.** The county must maintain a level of expenditures
 2.20 for mental health residential services under this section, in accordance with section
 2.21 245.4835.

2.22 Sec. 4. Minnesota Statutes 2012, section 245.4885, subdivision 1, is amended to read:

2.23 Subdivision 1. **Admission criteria.** (a) Prior to admission, except in the case of
 2.24 emergency admission, all children referred for treatment of severe emotional disturbance
 2.25 in a treatment foster care setting, residential treatment facility, or informally admitted to a
 2.26 regional treatment center shall undergo an assessment to determine the appropriate level
 2.27 of care if public funds are used to pay for the services.

2.28 (b) ~~The county board shall determine the appropriate level of care when~~
 2.29 ~~county-controlled funds are used to pay for the services.~~ When the child is enrolled in
 2.30 a prepaid health program under section 256B.69, the enrolled child's contracted health
 2.31 plan must determine the appropriate level of care. When Indian Health Services funds
 2.32 or funds of a tribally owned facility funded under the Indian Self-Determination and
 2.33 Education Assistance Act, Public Law 93-638, are to be used, the Indian Health Services
 2.34 or 638 tribal health facility must determine the appropriate level of care. When more than

3.1 one entity bears responsibility for coverage, the entities shall coordinate level of care
3.2 determination activities to the extent possible.

3.3 (c) The level of care determination shall determine whether the proposed treatment:

3.4 (1) is necessary;

3.5 (2) is appropriate to the child's individual treatment needs;

3.6 (3) cannot be effectively provided in the child's home; and

3.7 (4) provides a length of stay as short as possible consistent with the individual
3.8 child's need.

3.9 (d) When a level of care determination is conducted, the responsible entity may not
3.10 determine that referral or admission to a treatment foster care setting or residential treatment
3.11 facility is not appropriate solely because services were not first provided to the child in a
3.12 less restrictive setting and the child failed to make progress toward or meet treatment goals
3.13 in the less restrictive setting. The level of care determination must be based on a diagnostic
3.14 assessment that includes a functional assessment which evaluates family, school, and
3.15 community living situations; and an assessment of the child's need for care out of the home
3.16 using a validated tool which assesses a child's functional status and assigns an appropriate
3.17 level of care. The validated tool must be approved by the commissioner of human services.

3.18 If a diagnostic assessment including a functional assessment has been completed by a
3.19 mental health professional within the past 180 days, a new diagnostic assessment need not
3.20 be completed unless in the opinion of the current treating mental health professional the
3.21 child's mental health status has changed markedly since the assessment was completed.

3.22 The child's parent shall be notified if an assessment will not be completed and of the
3.23 reasons. A copy of the notice shall be placed in the child's file. Recommendations
3.24 developed as part of the level of care determination process shall include specific
3.25 community services needed by the child and, if appropriate, the child's family, and shall
3.26 indicate whether or not these services are available and accessible to the child and family.

3.27 (e) During the level of care determination process, the child, child's family, or child's
3.28 legal representative, as appropriate, must be informed of the child's eligibility for case
3.29 management services and family community support services and that an individual
3.30 family community support plan is being developed by the case manager, if assigned.

3.31 (f) ~~The level of care determination shall comply with section 260C.212.~~ The parent
3.32 shall be consulted in the process, unless clinically detrimental to the child.

3.33 (g) The level of care determination, and placement decision, and recommendations
3.34 for mental health services must be documented in the child's record.

3.35 Sec. 5. **REPEALER.**

4.1 Minnesota Statutes 2012, sections 245.4885, subdivision 3; and 253C.01, are
4.2 repealed.

245.4885 SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.

Subd. 3. **Individual placement agreement.** The county board shall enter into an individual placement agreement with a provider of residential treatment services to a child eligible for county-paid services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

**253C.01 REPORTING BY RESIDENTIAL TREATMENT PROGRAMS
REQUIRED.**

Subdivision 1. **Definition.** As used in this section, "residential program" means (1) a hospital-based primary treatment program that provides residential treatment to minors with emotional disturbance as defined by the Comprehensive Children's Mental Health Act in sections 245.487 to 245.4889, or (2) a facility licensed by the state under Minnesota Rules, parts 9545.0900 to 9545.1090, to provide services to minors on a 24-hour basis.

Subd. 2. **Information required.** Beginning June 1, 1986, each residential program shall collect the information listed in this subdivision. Each residential program shall provide the required information annually on a date to be determined by the commissioner of human services. All residential programs shall report to the commissioner of human services. The summary reports on each program are public data and must contain at least the following information for the period covered by the report:

- (1) number of minors admitted to the program;
- (2) number of minors discharged from the program;
- (3) number of minors served during the reporting period;
- (4) number of minors who remained in residence for less than 30 days;
- (5) number of minors who remained in residence for between 30 and 60 days;
- (6) number of minors who remained in residence for more than 60 days;
- (7) average length of stay of minors in the program;
- (8) number of minors who have received psychotropic medications as part of treatment in the program;
- (9) age, race, and sex of each minor admitted to the program;
- (10) number of minors admitted who have previously had residential treatment;
- (11) number of minors discharged who are on private pay or third-party reimbursement payment and number who are receiving government funds for treatment;
- (12) the county of residence of discharged minors;
- (13) number of admitted minors whose admission is court-ordered; and
- (14) number of beds on a locked unit and number of beds on an unlocked unit.

Subd. 3. **Release and summary of data.** The reporting requirement of this section must not release individual names of minors or other identifying information. The commissioner of health and the commissioner of human services shall make the reports available to interested persons upon request.