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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4568

03/04/2024 Authored by Virnig and Curran
The bill was read for the first time and referred to the Committee on Human Services Policy
03/21/2024 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; modifying state disability determination procedures;
1.3 modifying provisions governing consumer-directed community supports; amending
1.4 Minnesota Statutes 2022, sections 256.01, subdivision 29; 256B.4911, by adding
1.5 subdivisions.

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

1.7 Section 1. Minnesota Statutes 2022, section 256.01, subdivision 29, is amended to read:

1.8 Subd. 29. State medical review team. (a) To ensure the timely processing of
1.9 determinations of disability by the commissioner's state medical review team under sections
1.10 256B.055, subdivisions 7, paragraph (b), and 12, and 256B.057, subdivision 9, the
1.11 commissioner shall review all medical evidence and seek information from providers,
1.12 applicants, and enrollees to support the determination of disability where necessary. Disability
1.13 shall be determined according to the rules of title XVI and title XIX of the Social Security
1.14 Act and pertinent rules and policies of the Social Security Administration.

1.15 (b) Prior to a denial or withdrawal of a requested determination of disability due to
1.16 insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary
1.17 and appropriate to a determination of disability, and (2) assist applicants and enrollees to
1.18 obtain the evidence, including, but not limited to, medical examinations and electronic
1.19 medical records.

1.20 (c) Any appeal made under section 256.045, subdivision 3, of a disability determination
1.21 made by the state medical review team must be decided according to the timelines under
1.22 section 256.0451, subdivision 22, paragraph (a). If a written decision is not issued within

2.1 the timelines under section 256.0451, subdivision 22, paragraph (a), the appeal must be
 2.2 immediately reviewed by the chief human services judge.

2.3 (d) The commissioner must accept a referral for a determination of disability under this
 2.4 subdivision from any hospital-based or clinic-based licensed independent clinical social
 2.5 worker, licensed graduate social worker, or licensed independent social worker in the state
 2.6 of Minnesota, regardless of whether the referring social worker is employed by a county or
 2.7 Tribal agency.

2.8 Sec. 2. Minnesota Statutes 2022, section 256B.4911, is amended by adding a subdivision
 2.9 to read:

2.10 Subd. 7. **Budget procedures.** When a lead agency authorizes or reauthorizes
 2.11 consumer-directed community supports services for a home and community-based services
 2.12 waiver participant, the lead agency must provide to the waiver participant and the waiver
 2.13 participant's legal representative the following information in an accessible format and in
 2.14 a manner that meets the participant's needs:

2.15 (1) an explanation of how the participant's consumer-directed community supports
 2.16 services budget was calculated, including a detailed explanation of the variables used in the
 2.17 budget formula;

2.18 (2) a copy of the formula used to calculate the participant's consumer-directed community
 2.19 supports services budget;

2.20 (3) an explanation of the services and an estimate of the budget that would be available
 2.21 to the participant if the participant elects to use traditional waiver services; and

2.22 (4) information about the participant's right to appeal the consumer-directed community
 2.23 supports services budget in accordance with sections 256.045 and 256.0451.

2.24 Sec. 3. Minnesota Statutes 2022, section 256B.4911, is amended by adding a subdivision
 2.25 to read:

2.26 Subd. 8. **Consumer-direct community supports policy.** Policies governing the
 2.27 consumer-directed community supports program must be created solely by the commissioner.
 2.28 Lead agencies must not create or implement any policies that are in addition to or inconsistent
 2.29 with policies created by the commissioner or federal or state laws. Any handbooks,
 2.30 procedures, or other guidance documents maintained by a lead agency do not have the force
 2.31 or effect of law, and must not be given deference if introduced in a state fair hearing
 2.32 conducted under sections 256.045 and 256.0451.

3.1 Sec. 4. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES;**
3.2 **CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

3.3 By December 31, 2024, the commissioner of human services shall seek any necessary
3.4 changes to home and community-based services waiver plans regarding consumer-directed
3.5 community supports in order to:

3.6 (1) amend the consumer-directed community supports budget formula to eliminate the
3.7 step 2 base rate adjustment that requires the base rate to be multiplied by a factor of 0.7;

3.8 (2) clarify that allowable goods and services for a consumer-directed community supports
3.9 participant do not need to be for the sole benefit of the participant, and that goods and
3.10 services may benefit others if there is also a direct benefit to the participant based on the
3.11 participant's assessed needs;

3.12 (3) clarify that goods or services that support the participant's assessed needs for
3.13 community integration and inclusion are allowable under the consumer-directed community
3.14 supports program;

3.15 (4) clarify that the rate authorized for services approved under the consumer-directed
3.16 community supports personal assistance category may exceed the reasonable range of similar
3.17 services in the participant's community if the participant has an assessed need for an enhanced
3.18 rate; and

3.19 (5) clarify that a participant's spouse or a parent of a minor participant, as defined in the
3.20 waiver plans, may be paid for consumer-directed community support services at a rate that
3.21 exceeds that which would otherwise be paid to a provider of a similar service or that exceeds
3.22 what is allowed by the commissioner for the payment of personal care assistance services
3.23 if the participant has an assessed need for an enhanced rate.