

9525.1860 REIMBURSABLE SERVICES.

Subpart 1. **General limits.** Only costs for services listed in the approved Minnesota DD or ACS waiver plan shall be reimbursed under the medical assistance program.

A. Services reimbursable through the DD waiver plan are:

- (1) case management;
- (2) residential habilitation services including in-home family support, supported living services for adults, and supported living services for children;
- (3) day training and habilitation, including supported employment;
- (4) homemaker services;
- (5) respite care; and
- (6) minor adaptations and equipment.

B. Services reimbursable through the ACS waiver plan are:

- (1) residential habilitation services including in-home family support, supported living services for adults, and supported living services for children;
- (2) day training and habilitation, including supported employment;
- (3) homemaker services;
- (4) respite care; and
- (5) adaptive modifications and equipment.

Subp. 2. [Repealed, 16 SR 2238]

Subp. 3. **Billing for services.** Billings submitted by the provider, except a provider of adaptive modifications and equipment, must be limited to time actually and reasonably spent:

A. In direct contact with the person to assist the person in attaining the goals and objectives specified in the person's individual service plan. Direct contact time includes time spent traveling to and from service sites.

B. [Repealed, L 2013 c 108 art 13 s 14]

C. [Repealed, L 2013 c 108 art 13 s 14]

Subp. 4. **Service limitations.** The provision of home and community-based services is limited as stated in items A to H.

A. Case management services may be provided as a single service for a period of no more than 90 days.

B. Day training and habilitation services must:

(1) only be provided to persons who receive a residential-based habilitation service;

(2) not include sheltered work or work activity services funded or certified by the Minnesota Division of Vocational Rehabilitation;

(3) be provided at a different service site than the person's place of residence unless medically contraindicated, as required in Minnesota Statutes, section 252.41, subdivision 3; and

(4) be provided by an organization that does not have a direct or indirect financial interest in the organization that provides the person's residential services unless the person is residing with:

(a) his or her family; or

(b) a foster family that does not have a direct or indirect financial interest in the organization that provides the person's residential services.

C. Homemaker services may be provided only if:

(1) the person regularly responsible for these activities is temporarily absent or is unable to manage the home and care for the person; or

(2) there is no person, other than the person, regularly responsible for these activities and the person is unable to manage the home and his or her own care without ongoing monitoring or assistance. Homemaker services include meal preparation, cleaning, simple household repairs, laundry, shopping, and other routine household tasks.

D. [Repealed, L 2013 c 108 art 13 s 14]

E. The average dollar amount available for reimbursement for adaptive modifications and equipment shall be determined annually based on the approved waiver plan.

Adaptive modifications and equipment must be constructed or installed to meet or exceed applicable federal, state, and local building codes.

F. Home and community-based services are not reimbursable if provided to a person while the person is a resident of or on leave from an ICF/DD, nursing facility, or a hospital. This item shall not apply to leave days authorized according to item C for a person who is hospitalized.

G. Respite care must:

(1) be provided only for the relief of the person's family or foster family, or if the person is receiving a supported living service in the provider's residence, for the relief of the person's primary caregiver; and

(2) be provided in a service site serving no more than six persons at one time.

If there are no service sites that meet the requirements in subitem (2) available in the community to serve persons with multiple disabilities, the county board may grant a variance to the requirement for a period of no more than one year for each person. When a variance is granted, the county board must submit to the commissioner a written plan documenting the need for the variance and stating the actions that will be taken to develop services within one year that meet the requirements of subitem (2).

H. Room and board costs are not allowable costs for home and community-based services except respite care provided out of the person's residence. All room and board costs must be directly identified on reports submitted by the provider to the county board.

Subp. 5. [Repealed, 16 SR 2238]

Subp. 5a. **Other medical or related costs.** The cost of other medical or related services reimbursable under the Minnesota State Medicaid Plan must not be included in the rate or rates billed by the provider or providers for reimbursement under parts 9525.1800 to 9525.1930.

Subp. 6. **Other applicable rules.** Home and community-based services must be provided as required under items A to H unless a variance has been approved by the commissioner.

A. Homemaker services must be provided in compliance with parts 9565.1000 to 9565.1300.

B. Day training and habilitation services must be licensed by the department.

C. Supported living services for children must be provided by a service provider licensed under Minnesota Statutes, chapter 245B and at a site licensed under parts 9545.0010 to 9545.0260.

D. Supported living services provided at a service site serving four or fewer adults must be provided by a service provider licensed under Minnesota Statutes, chapter 245B and the residence must be licensed under parts 9555.5105 to 9555.6265. Supported living services provided at a single residence serving five or six adults must be licensed under Minnesota Statutes, chapter 245B.

E. Respite care provided at a service site serving more than four persons must be licensed under Minnesota Statutes, chapter 245B. Respite care provided at a service

site serving four or fewer persons under 18 years of age must be licensed under parts 9545.0010 to 9545.0260, unless the commissioner waives this requirement according to Minnesota Statutes, section 256B.092, subdivision 4a. Respite care provided at a service site serving four or fewer adults must be licensed under parts 9555.5105 to 9555.6265, unless the commissioner waives this requirement according to Minnesota Statutes, section 256B.092, subdivision 4a. This item shall not apply to a person who provides respite care and who is not required to be licensed under Minnesota Statutes, chapter 245A.

Subp. 7. **Licensing variances.** Requests for variances to the licensing requirements in subpart 6 must be handled according to items A to C.

A. The county board may request a variance from compliance with parts 9545.0010 to 9545.0260 as required in subpart 6, item C, D, or E, for a provider who provides services to persons under 18 years of age if the county board determines that no providers who meet the licensing requirements are available and that granting the variance will not endanger the health, safety, or development of the persons. The written variance request must be submitted to the commissioner and must contain:

- (1) the sections of parts 9545.0010 to 9545.0260 with which the provider cannot comply;
- (2) the reasons why the provider cannot comply with the specified section or sections; and
- (3) the specific measures that will be taken by the provider to ensure the health, safety, or development of the persons.

The commissioner shall grant the variance request if the commissioner determines that the variance was submitted according to this item and that granting the variance will not endanger the health, safety, or development of the persons receiving the services.

The commissioner shall review the county board's variance request and notify the county board, in writing, within 30 days if the variance request has been granted or denied. If the variance request is denied, the notice must state the reasons why the variance request was denied and inform the county board of its right to request that the commissioner reconsider the variance request.

B. The county board may grant a written variance from compliance with parts 9555.5105 to 9555.6265 as required in subpart 6, items D and E, for a provider who provides services to adults if the county board determines that no providers who meet the licensing requirements are available and that granting the variance will not endanger the health, safety, or development of the persons.

C. Requests for a variance of the provisions must be submitted according to Minnesota Statutes, chapter 245B.

Statutory Authority: *MS s 256B.092; 256B.501; 256B.502; 256B.503*

History: *10 SR 838; 12 SR 1148; 16 SR 2238; L 2005 c 56 s 2; L 2010 c 382 s 86; L 2013 c 108 art 13 s 14*

Published Electronically: *January 2, 2014*