

CHAPTER 252

MENTALLY RETARDED AND EPILEPTIC;
STATE HOSPITALS

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252.24 DUTIES OF COUNTY BOARDS.

Subdivision 1. **Selection of developmental achievement centers.** The county board shall administer developmental achievement services, including training and habilitation services provided by licensed developmental achievement centers to residents of intermediate care facilities for the mentally retarded. The county board shall ensure that transportation is provided for persons who fulfill the eligibility requirements of section 252.23, clause (1), utilizing the most efficient and reasonable means available. The county board may contract for developmental achievement services and transportation from a center which is licensed under the provisions of sections 245.781 to 245.813, 252.28, and 257.175, and in the board's opinion, best provides daytime developmental achievement services for mentally retarded and cerebral palsied persons within the appropriation and medical assistance resources made available for this purpose. Daytime developmental achievement services administered by the county board shall comply with standards established by the commissioner pursuant to subdivision 2 and applicable federal regulations.

[For text of subs 2 to 4, see M.S.1982]

History: 1983 c 312 art 9 s 1

252.275 SEMI-INDEPENDENT LIVING SERVICES FOR MENTALLY RETARDED PERSONS.

Subdivision 1. **Program.** The commissioner of public welfare shall establish a statewide program to assist counties in reducing the utilization of intermediate care services in state hospitals and in community residential facilities for persons who are mentally retarded. The commissioner shall make grants to county boards to establish, operate, or contract for the provision of semi-independent living services licensed by the commissioner pursuant to sections 245.781 to 245.812 and 252.28.

Subd. 2. **Application; criteria.** To apply for a grant, a county board shall submit an application and budget for use of grant money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner.

Subd. 3. **Reimbursement.** On or before September 1 of each year, the commissioner shall allocate available funds to the counties which have approved plans and budgets. The commissioner shall disburse the funds on a quarterly basis during the fiscal year to reimburse counties for costs incurred in providing services to individual clients in accordance with the approved plans and budgets.

Subd. 4. **Formula.** The commissioner shall allocate grants under this section to finance up to 95 percent, but not less than 80 percent, of each county's cost for semi-independent living services for mentally retarded persons.

Subd. 5. **Displaced hospital workers.** Providers of semi-independent living services shall make reasonable efforts to hire qualified employees of state hospital mental retardation units who have been displaced by reorganization, closure, or consolidation of state hospital mental retardation units.

Subd. 6. **Rules.** The commissioner shall adopt temporary and permanent rules in accordance with chapter 14 to govern grant applications, criteria for approval of applications, allocation of grants, and maintenance of program and financial statements by grant recipients.

Subd. 7. **Reports.** The commissioner shall require collection of data and periodic reports necessary to demonstrate the effectiveness of semi-independent living services in helping mentally retarded persons achieve self-sufficiency and independence. The commissioner shall report to the legislature no later than January 15, 1984, on the effectiveness of the program, its effect on reducing the number of mentally retarded persons in state hospitals and in intermediate care facilities, and his recommendations regarding making this program an integral part of the social services programs administered by the counties.

Subd. 8. **Use of federal funds.** The commissioner shall maximize the use of federal funds for semi-independent living services.

History: 1983 c 310 s 1

252.28 COMMISSIONER OF PUBLIC WELFARE; DUTIES.

Subdivision 1. **Determinations; biennial redeterminations.** The commissioner of public welfare shall determine, and shall redetermine biennially, the need, location, size, and program of public and private residential and day care facilities and services for mentally retarded children and adults.

Subd. 2. **Rules; program standards; licenses.** The commissioner of public welfare shall:

(1) Establish uniform rules, regulations and program standards for each type of residential and day facility or service for mentally retarded persons, including state institutions under control of the commissioner and serving mentally retarded persons, and excluding mentally retarded persons residing with their families.

(2) Grant licenses according to the provisions of Laws 1976, chapter 243, sections 2 to 13.

Subd. 3. **Licensing determinations.** (1) No new license shall be granted pursuant to this section when the issuance of the license would substantially contribute to an excessive concentration of community residential facilities within any town, municipality or county of the state.

(2) In determining whether a license shall be issued pursuant to this subdivision, the commissioner of public welfare shall specifically consider the population, size, land use plan, availability of community services and the number and size of existing public and private community residential facilities in the town, municipality or county in which a licensee seeks to operate a residence. Under no circumstances may the commissioner newly license any facility pursuant to this section except as provided in section 245.812. The commissioner of public welfare shall establish uniform rules and regulations to implement the provisions of this subdivision.

(3) Licenses for community facilities and services shall be issued pursuant to section 245.821.

Subd. 4. **Rules; decertification of beds.** The commissioner shall promulgate in rule criteria for decertification of beds in intermediate care facilities for the

mentally retarded, and shall encourage providers in voluntary decertification efforts. The commissioner shall not recommend to the commissioner of health the involuntary decertification of an intermediate care facility for beds for the mentally retarded prior to the availability of appropriate services for those residents affected by the decertification. The commissioner of health shall decertify those intermediate care beds determined to be not needed by the commissioner of welfare.

History: 1983 c 312 art 9 s 2

NOTE: This section is repealed effective June 30, 1984, if a home and community-based waiver under United States Code, title 42, section 1396n(c), as amended through December 31, 1982, is not approved by June 30, 1984. See Laws 1983, chapter 312, article 9, section 11.

252.291 LIMITATION ON DETERMINATION OF NEED.

Subdivision 1. **Moratorium.** Notwithstanding section 252.28, subdivision 1, or any other law or rule to the contrary, the commissioner of public welfare shall deny any request for a determination of need and refuse to grant a license pursuant to section 245.782 for any new intermediate care facility for mentally retarded persons or for an increase in the licensed capacity of an existing facility except as provided in subdivision 2. In no event shall the total of certified intermediate care beds for mentally retarded persons in community facilities and state hospitals exceed 7,500 beds as of July 1, 1983, and 7,000 beds as of July 1, 1986. "Certified bed" means an intermediate care bed for the mentally retarded certified by the commissioner of health for the purposes of the medical assistance program under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, 1982.

Subd. 2. **Exceptions.** The commissioner of public welfare in coordination with the commissioner of health may approve a new intermediate care facility for mentally retarded persons only in the following circumstances:

(a) when the facility is developed in accordance with a request for proposal system established pursuant to subdivision 3, clause (b);

(b) when the facility is necessary to serve the needs of identifiable mentally retarded persons who are seriously behaviorally disordered or who are physically or sensorily impaired; or

(c) to license beds in new facilities where need was determined by the commissioner prior to June 10, 1983.

Subd. 3. **Duties of commissioner of public welfare.** The commissioner shall:

(a) establish standard admission criteria for state hospitals and county utilization targets to limit and reduce the number of intermediate care beds in state hospitals and community facilities in accordance with approved waivers under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, 1982, to assure that appropriate services are provided in the least restrictive setting;

(b) provide technical assistance so that county boards may establish a request for proposal system for meeting individual service plan objectives through home and community-based services; alternative community services; or, if no other alternative will meet the needs of identifiable individuals for whom the county is financially responsible, a new intermediate care facility for mentally retarded persons; and

(c) establish a client tracking and evaluation system as required under applicable federal waiver regulations, Code of Federal Regulations, title 42, sections 431, 435, 440, and 441, as amended through December 31, 1982.

(d) develop a state plan for the delivery and funding of residential day and support services to the mentally retarded in Minnesota and submit that plan to the clerk of each house of the Minnesota legislature on or before the 15th of January of each biennium beginning January 15, 1985. The biennial mental retardation plan shall include but not be limited to:

- (1) county by county maximum intermediate care bed utilization quotas;
- (2) plans for the development of the number and types of services alternative to intermediate care beds;
- (3) procedures for the administration and management of the plan;
- (4) procedures for the evaluation of the implementation of the plan; and
- (5) the number, type, and location of intermediate care beds targeted for decertification.

The commissioner shall modify the plan to ensure conformance with the medical assistance home and community-based services waiver.

Subd. 4. **Monitoring.** The commissioner of public welfare, in coordination with the commissioner of health, shall implement mechanisms to monitor and analyze the effect of the bed moratorium in the different geographic areas of the state. The commissioner of public welfare shall submit to the legislature annually beginning January 15, 1984, an assessment of the impact of the moratorium by geographic areas.

Subd. 5. **Rulemaking.** The commissioner of public welfare shall promulgate temporary and permanent rules pursuant to chapter 14, the Administrative Procedure Act, to implement this section.

History: 1983 c 312 art 9 s 3

NOTE: This section is repealed effective June 30, 1984, if a home and community-based waiver under United States Code, title 42, section 1396n(c), as amended through December 31, 1982, is not approved by June 30, 1984. See Laws 1983, chapter 312, article 9, section 11.

252.31 ADVISORY TASK FORCE.

The commissioner of public welfare may appoint an advisory task force for the mentally retarded and physically handicapped. The task force shall advise the commissioner relative to those laws for which the commissioner is responsible to administer and enforce relating to mental retardation and physical disabilities. The task force shall consist of persons who are providers or consumers of service for the mentally retarded or physically handicapped, or who are interested citizens. The task force shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

History: 1983 c 260 s 54

252.32 FAMILY SUBSIDY PROGRAM.

Within the limits of appropriations, the commissioner of public welfare may provide subsidies to families with mentally retarded children in order to enable those families to continue caring for the children in their own homes. The commissioner may establish criteria for determining eligibility for a subsidy and subsidy amounts and conditions for use of subsidies.

History: 1983 c 312 art 1 s 22