

CHAPTER 254B

CHEMICAL DEPENDENCY TREATMENT

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254B.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to Laws 1986, chapter 394, sections 8 to 20.

Subd. 2. **American Indian.** For purposes of services provided under section 254B.09, subdivision 7, "American Indian" means a person who is a member of an Indian tribe, and the commissioner shall use the definitions of "Indian" and "Indian tribe" and "Indian organization" provided in Public Law Number 93-638. For purposes of services provided under section 254B.09, subdivision 4, "American Indian" means a resident of federally recognized tribal lands who is recognized as an Indian person by the federally recognized tribal governing body.

Subd. 3. **Chemical dependency services.** "Chemical dependency services" means a planned program of care for the treatment of chemical dependency or chemical abuse to minimize or prevent further chemical abuse by the person. Diagnostic, evaluation, prevention, referral, detoxification, and aftercare services that are not part of a program of care licensable as a residential or nonresidential chemical dependency treatment program are not chemical dependency services for purposes of this section.

Subd. 4. **Commissioner.** Unless otherwise indicated, "commissioner" means the commissioner of human services.

Subd. 5. **Local agency.** "Local agency" means the agency designated by a board of county commissioners, a county welfare board, or a human services board to make placements and submit state invoices according to Laws 1986, chapter 394, sections 8 to 20.

Subd. 6. **Local money.** "Local money" means county levies, community social services block grants, federal social services money, or other money that may be spent at county discretion to provide chemical dependency services eligible for payment according to Laws 1986, chapter 394, sections 8 to 20.

History: 1986 c 394 s 8; 1987 c 299 s 3

254B.02 CHEMICAL DEPENDENCY ALLOCATION PROCESS.

Subdivision 1. **Chemical dependency treatment allocation.** The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. For the fiscal year beginning July 1, 1987, funds shall be transferred to operate the vendor payment, invoice processing, and collections system for one year. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation. Twelve percent of the remaining money must be reserved for treatment of American Indians by eligible vendors under section 254B.05. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

(a) The county non-Indian and over age 14 per capita-months of eligibility for aid to families with dependent children, general assistance, and medical assistance is divided by the total state non-Indian and over age 14 per capita-months of eligibility to determine the caseload factor for each county.

(b) The average median married couple income for the previous three years for the state is divided by the average median married couple income for the previous three years for each county to determine the income factor.

(c) The non-Indian and over age 14 population of the county is multiplied by the sum of the income factor and the caseload factor to determine the adjusted population.

(d) \$15,000 shall be allocated to each county.

(e) The remaining funds shall be allocated proportional to the county adjusted population.

Subd. 2. County adjustment; maximum allocation. The commissioner shall determine the state money used by each county in fiscal year 1986, using all state data sources. If available records do not provide specific chemical dependency expenditures for every county, the commissioner shall determine the amount of state money using estimates based on available data. In state fiscal year 1988, a county must not be allocated more than 150 percent of the state money spent by or on behalf of the county in fiscal year 1986 for chemical dependency treatment services eligible for payment under section 254B.05 but not including expenditures made for persons eligible for placement under section 254B.09, subdivision 6. The allocation maximums must be increased by 25 percent each year. After fiscal year 1992, there must be no allocation maximum. The commissioner shall reallocate the excess over the maximum to counties allocated less than the fiscal year 1986 state money, using the following process:

(a) The allocation is divided by 1986 state expenditures to determine percentage of prior expenditure, and counties are ranked by percentage of prior expenditure less expenditures for persons eligible for placement under section 254B.09, subdivision 6.

(b) The allocation of the lowest ranked county is raised to the same percentage of prior expenditure as the second lowest ranked county. The allocation of these two counties is then raised to the percentage of prior expenditures of the third lowest ranked county.

(c) The operations under paragraph (b) are repeated with each county by ranking until the money in excess of the allocation maximum has been allocated.

Subd. 3. Reserve account. The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency services from local money. The commissioner shall establish the base level for fiscal year 1988 as the amount of local money used for eligible services in calendar year 1986. In later years, the base level must be increased in the same proportion as state appropriations to implement Laws 1986, chapter 394, sections 8 to 20, are increased. The base level must be decreased if the fund balance from which allocations are made under section 254B.02, subdivision 1, is decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2.

Subd. 4. Allocation spending limits. Money allocated according to subdivision 1 and section 254B.09, subdivision 4, is available for payments for up to two years. The commissioner shall deduct payments from the most recent year allocation in which money is available. Allocations under this section that are not used within two years must be reallocated to the reserve account for payments under subdivision 3. Allocations under section 254B.09, subdivision 4, that are not used within two years must be reallocated for payments under section 254B.09, subdivision 5.

Subd. 5. Administrative adjustment. The commissioner may make payments to local agencies from money allocated under this section to support administrative activities under sections 254B.03 and 254B.04. The administrative payment must not exceed five percent of the first \$50,000, four percent of the next \$50,000, and three percent of

the remaining payments for services from the allocation. Twenty-five percent of the administrative allowance shall be advanced at the beginning of each quarter, based on the payments for services made in the most recent quarter for which data is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the administrative allowance for any succeeding quarter.

History: 1986 c 394 s 9; 1987 c 299 s 4-7; 1989 c 282 art 2 s 103

254B.03 RESPONSIBILITY TO PROVIDE CHEMICAL DEPENDENCY TREATMENT.

Subdivision 1. Local agency duties. (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or non-residential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

Subd. 2. Chemical dependency services. (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification that, if located outside of federally recognized tribal lands, would be required to be licensed by the commissioner as a chemical dependency treatment or rehabilitation program under sections 245A.01 to 245A.16, and services other than detoxification provided in another state that would be required to be licensed as a chemical dependency program if the program were in the state. Out of state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide chemical dependency treatment. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. Except for chemical dependency transitional rehabilitation programs, vendors receiving payments from the chemical dependency fund must not require copayment from a recipient of benefits for services provided under this subdivision.

(b) A county may, from its own resources, provide chemical dependency services for which state payments are not made. A county may elect to use the same invoice procedures and obtain the same state payment services as are used for chemical dependency services for which state payments are made under this section if county payments are made to the state in advance of state payments to vendors. When a county uses the state system for payment, the commissioner shall make monthly billings to the county using the most recent available information to determine the anticipated services for which payments will be made in the coming month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

(c) The commissioner shall coordinate chemical dependency services and determine whether there is a need for any proposed expansion of chemical dependency treat-

ment services. The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the expansion of existing program capacity. The commissioner shall consider the provider's capacity to obtain clients from outside the state based on plans, agreements, and previous utilization history, when determining the need for new treatment services.

Subd. 3. Local agencies to pay state for county share. Local agencies shall submit invoices to the state on forms supplied by the commissioner and according to procedures established by the commissioner. Local agencies shall pay the state for the county share of the invoiced services. Payments shall be made at the beginning of each month for services provided in the previous month. The commissioner shall bill the county monthly for services, based on the most recent month for which expenditure information is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

Subd. 4. Division of costs. Except for services provided by a county under section 254B.09, subdivision 1, or services provided under section 256B.69 or 256D.03, subdivision 4, paragraph (b), the county shall, out of local money, pay the state for 15 percent of the cost of chemical dependency services, including those services provided to persons eligible for medical assistance under chapter 256B and general assistance medical care under chapter 256D. Counties may use the indigent hospitalization levy for treatment and hospital payments made under this section. Fifteen percent of any state collections from private or third-party pay, less 15 percent of the cost of payment and collections, must be distributed to the county that paid for a portion of the treatment under this section. If all funds allocated according to section 254B.02 are exhausted by a county and the county has met or exceeded the base level of expenditures under section 254B.02, subdivision 3, the county shall pay the state for 15 percent of the costs paid by the state under this section. The commissioner may refuse to pay state funds for services to persons not eligible under section 254B.04, subdivision 1, if the county financially responsible for the persons has exhausted its allocation.

Subd. 5. Rules; appeal. The commissioner shall adopt rules as necessary to implement Laws 1986, chapter 394, sections 8 to 20. The commissioner shall ensure that the rules are effective on July 1, 1987. The commissioner shall establish an appeals process for use by recipients when services certified by the county are disputed. The commissioner shall adopt rules and standards for the appeal process to assure adequate redress for persons referred to inappropriate services.

Subd. 6. [Repealed, 1989 c 155 s 5]

Subd. 7. Commissioner review; complaints. The commissioner shall:

- (1) provide training and assistance to counties on procedures for processing placements and making payments;
- (2) visit facilities and review records as necessary to determine compliance with procedures established by law and rule;
- (3) take complaints from vendors and recipients and investigate county placement activities as needed to determine compliance with law and rule.

Counties and vendors shall make regular reports as required by the commissioner to facilitate commissioner review.

Subd. 8. Report to legislature. The commissioner shall report to the legislature each biennium beginning in 1989 on chemical dependency services provided and expenditures made, and shall make recommendations regarding funding levels and new legislation.

History: 1986 c 394 s 10; 1Sp1986 c 3 art 2 s 2; 1987 c 299 s 8-12; 1987 c 333 s 22; 1989 c 209 art 2 s 1; 1989 c 282 art 2 s 104,105; 1990 c 422 s 10; 1990 c 568 art 2 s 58

254B.04 ELIGIBILITY FOR CHEMICAL DEPENDENCY FUND SERVICES.

Subdivision 1. Eligibility. (a) Persons eligible for benefits under Code of Federal

Regulations, title 25, part 20, persons eligible for medical assistance benefits under sections 256B.055 and 256B.056 or who meet the income standards of section 256B.056, subdivision 4, and persons eligible for general assistance medical care under section 256D.03, subdivision 3, are entitled to chemical dependency fund services.

(b) A person not entitled to services under paragraph (a), but with family income that is less than 60 percent of the state median income for a family of like size and composition, shall be eligible to receive chemical dependency fund services within the limit of funds available after persons entitled to services under paragraph (a) have been served. A county may spend money from its own sources to serve persons under this paragraph.

(c) Persons whose income is between 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph.

Subd. 2. [Repealed, 1989 c 155 s 5]

Subd. 3. **Amount of contribution.** The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons under this section. The commissioner may adopt rules to amend existing fee scales. The commissioner may establish a separate fee scale for recipients of chemical dependency transitional and extended care rehabilitation services that provides for the collection of fees for board and lodging expenses. The fee schedule shall ensure that employed persons are allowed the income disregards and savings accounts that are allowed residents of community mental illness facilities under section 256D.06, subdivisions 1 and 1b. The fee scale must not provide assistance to persons whose income is more than 115 percent of the state median income. Payments of liabilities under this section are medical expenses for purposes of determining spend-down under sections 256B.055, 256B.056, 256B.06, and 256D.01 to 256D.21. The required amount of contribution established by the fee scale in this subdivision is also the cost of care responsibility subject to collection under section 254B.06, subdivision 1.

History: 1986 c 394 s 11; 1987 c 299 s 13; 1988 c 689 art 2 s 268; 1989 c 282 art 2 s 106; 1990 c 568 art 2 s 59

NOTE: This section, as amended by Laws 1990, chapter 568, article 2, section 59, is effective July 1, 1991. See Laws 1990, chapter 568, article 2, section 104, subdivision 3.

254B.041 CHEMICAL DEPENDENCY RULES.

Subdivision 1. **Rule amendment.** The commissioner shall, by emergency rulemaking, amend Minnesota Rules, parts 9530.6600 to 9530.7030, in order to contain costs and increase collections for the consolidated chemical dependency treatment fund. The amendment must establish criteria that will:

- (1) increase the use of outpatient treatment for individuals who can abstain from mood-altering chemicals long enough to benefit from outpatient treatment;
- (2) increase the use of outpatient treatment in combination with primary residential treatment;
- (3) increase the use of long-term treatment programs for individuals who are not likely to benefit from primary residential treatment; and
- (4) limit the repeated use of residential placements for individuals who have been shown not to benefit from residential placements, including long-term residential treatment.

Subd. 2. **Vendor collections; rule amendment.** The commissioner may amend Minnesota Rules, parts 9530.7000 to 9530.7025, to require a vendor of chemical dependency transitional and extended care rehabilitation services to collect the cost of care received under a program from an eligible person who has been determined to be par-

tially responsible for treatment costs, and to remit the collections to the commissioner. The commissioner shall pay to a vendor, for the collections, an amount equal to five percent of the collections remitted to the commissioner by the vendor. The amendment may be adopted under the emergency rulemaking provisions of sections 14.29 to 14.36.

History: 1990 c 568 art 2 s 91

254B.05 VENDOR ELIGIBILITY.

Subdivision 1. Licensure required. Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs located on federally recognized tribal lands that provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors. Detoxification programs are not eligible vendors. Programs that are not licensed as a chemical dependency residential or nonresidential treatment program by the commissioner or by tribal government are not eligible vendors. To be eligible for payment under the Consolidated Chemical Dependency Treatment Fund, a vendor must participate in the Drug and Alcohol Abuse Normative Evaluation System or a comparable system approved by the commissioner.

Subd. 2. Regulatory methods. (a) Where appropriate and feasible, the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

- (1) expansion of the types and categories of licenses that may be granted;
- (2) when the standards of an independent accreditation body have been shown to predict compliance with the rules, the commissioner shall consider compliance with the accreditation standards to be equivalent to partial compliance with the rules; and
- (3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

If the commissioner determines that the methods in clause (2) or (3) can be used in licensing a program, the commissioner may reduce any fee set under section 254B.03, subdivision 3, by up to 50 percent.

(b) The commissioner shall work with the commissioners of health, public safety, administration, and education in consolidating duplicative licensing and certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and education in conducting joint agency inspections of programs.

(c) The commissioner shall work with the commissioners of health, public safety, administration, and education in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

Subd. 3. Fee reductions. If the commissioner determines that the methods in subdivision 2, clause (2) or (3), can be used in licensing a program, the commissioner shall reduce licensure fees by up to 50 percent. The commissioner may adopt rules to provide for the reduction of fees when a license holder substantially exceeds the basic standards for licensure.

History: 1986 c 394 s 12; 1987 c 299 s 14; 1987 c 333 s 22; 1988 c 532 s 11;

254B.06 REIMBURSEMENT; PAYMENT; DENIAL.

Subdivision 1. State collections. The commissioner is responsible for all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under Laws 1986, chapter 394, sections 8 to 20. The commissioner may initiate, or request the attorney general to initiate, necessary civil action to recover the unpaid cost of care. The commissioner may collect all third-party payments

for chemical dependency services provided under Laws 1986, chapter 394, sections 8 to 20, including private insurance and federal Medicaid and Medicare financial participation. The commissioner shall deposit in a dedicated account a percentage of collections to pay for the cost of operating the chemical dependency consolidated treatment fund invoice processing and vendor payment system, billing, and collections. The remaining receipts must be deposited in the chemical dependency fund.

Subd. 2. Allocation of collections. The commissioner shall allocate all federal financial participation collections to the reserve fund under section 254B.02, subdivision 3. The commissioner shall retain 85 percent of patient payments and third-party payments and allocate the collections to the treatment allocation for the county that is financially responsible for the person. Fifteen percent of patient and third-party payments must be paid to the county financially responsible for the patient. Collections for patient payment and third-party payment for services provided under section 254B.09 shall be allocated to the allocation of the tribal unit which placed the person. Collections of federal financial participation for services provided under section 254B.09 shall be allocated to the tribal reserve account under section 254B.09, subdivision 5.

Subd. 3. Payment; denial. The commissioner shall pay eligible vendors for placements made by local agencies under section 254B.03, subdivision 1, and placements by tribal designated agencies according to section 254B.09. The commissioner may reduce or deny payment of the state share when services are not provided according to the placement criteria established by the commissioner. The commissioner may pay for all or a portion of improper county chemical dependency placements and bill the county for the entire payment made when the placement did not comply with criteria established by the commissioner.

History: 1986 c 394 s 13; 1987 c 299 s 15; 1989 c 282 art 2 s 107

254B.07 THIRD-PARTY LIABILITY.

The state agency provision and payment of, or liability for, chemical dependency medical care is the same as in section 256B.042.

History: 1986 c 394 s 14

254B.08 FEDERAL WAIVERS.

The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation for the provision of services to persons who need chemical dependency services. The commissioner may seek amendments to the waivers or apply for additional waivers to contain costs. The commissioner shall ensure that payment for the cost of providing chemical dependency services under the federal waiver plan does not exceed the cost of chemical dependency services that would have been provided without the waived services.

History: 1986 c 394 s 15; 1987 c 299 s 16; 1988 c 689 art 2 s 268; 1990 c 568 art 2 s 60

254B.09 INDIAN RESERVATION ALLOCATION OF CHEMICAL DEPENDENCY FUND.

Subdivision 1. American Indian chemical dependency account. The commissioner shall pay eligible vendors for chemical dependency services to American Indians on the same basis as other payments, except that no local match is required when an invoice is submitted by the governing authority of a federally recognized American Indian tribal body or a county if the tribal governing body has not entered into an agreement under subdivision 2 on behalf of a current resident of the reservation under this section.

Subd. 2. American Indian agreements. The commissioner may enter into agreements with federally recognized tribal units to pay for chemical dependency treatment services provided under Laws 1986, chapter 394, sections 8 to 20. The agreements must require the governing body of the tribal unit to fulfill all county responsibilities regarding the form and manner of invoicing, and provide that only invoices for eligible ven-

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dors according to section 254B.05 will be included in invoices sent to the commissioner for payment, to the extent that money allocated under subdivisions 3, 4, and 5 is used.

Subd. 3. [Repealed, 1989 c 282 art 2 s 219]

Subd. 4. **Tribal allocation.** Forty-two and one-half percent of the American Indian chemical dependency account must be allocated to the federally recognized American Indian tribal governing bodies that have entered into an agreement under subdivision 2 as follows: \$10,000 must be allocated to each governing body and the remainder must be allocated in direct proportion to the population of the reservation according to the most recently available estimates from the federal Bureau of Indian Affairs. When a tribal governing body has not entered into an agreement with the commissioner under subdivision 2, the county may use funds allocated to the reservation to pay for chemical dependency services for a current resident of the county and of the reservation.

Subd. 5. **Tribal reserve account.** The commissioner shall reserve 7.5 percent of the American Indian chemical dependency account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2 and to counties submitting invoices for American Indians under subdivision 1 when all money allocated under subdivision 4 has been used. An American Indian tribal governing body or a county submitting invoices under subdivision 1 may receive not more than 30 percent of the reserve account in a year. The commissioner may refuse to make reserve payments for persons not eligible under section 254B.04, subdivision 1, if the tribal governing body responsible for treatment placement has exhausted its allocation. Money must be allocated as invoices are received.

Subd. 6. **American Indian tribal placements.** After entering into an agreement under subdivision 2, the governing authority of each reservation may submit invoices to the state for the cost of providing chemical dependency services to residents of the reservation according to the placement rules governing county placements, except that local match requirements are waived. The governing body may designate an agency to act on its behalf to provide placement services and manage invoices by written notice to the commissioner and evidence of agreement by the agency designated.

Subd. 7. **Nonreservation Indian account.** Fifty percent of the American Indian chemical dependency allocation must be held in reserve by the commissioner in an account for treatment of Indians not residing on lands of a reservation receiving money under subdivision 4. This money must be used to pay for services certified by county invoice to have been provided to an American Indian eligible recipient. Money allocated under this subdivision may be used for payments on behalf of American Indian county residents only if, in addition to other placement standards, the county certifies that the placement was appropriate to the cultural orientation of the client. Any funds for treatment of nonreservation Indians remaining at the end of a fiscal year shall be reallocated under section 254B.02.

History: 1985 c 248 s 70; 1986 c 394 s 16; 1987 c 299 s 17-19; 1988 c 532 s 12; 1989 c 282 art 2 s 108-110

254B.10 [Repealed, 1989 c 282 art 2 s 219]