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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 2373

03/13/2017 Authored by Liebling
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; requiring home and community-based services providers
1.3 to document certain information and submit certain data; requiring the
1.4 commissioner of human services to study consolidating the four disability home
1.5 and community-based waivers; appropriating money; amending Minnesota Statutes
1.6 2016, sections 256B.4912, by adding subdivisions; 256B.4914, subdivision 5.

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

1.8 Section 1. Minnesota Statutes 2016, section 256B.4912, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 11. Service documentation and billing requirements. (a) Only a service provided
1.11 as specified in a federally approved waiver plan, as authorized under sections 256B.0913,
1.12 256B.0915, 256B.092, and 256B.49, is eligible for payment. As a condition of payment, a
1.13 home and community-based waiver provider must document each time a service was
1.14 provided to a recipient. Payment for a service not documented according to this subdivision
1.15 or not specified in a federally approved waiver plan shall be recovered by the department
1.16 under section 256B.064. For payment of a service, documentation must meet the standards
1.17 in this paragraph and paragraphs (b) to (i).

1.18 (b) The service delivered to a recipient must be documented in the provider's record of
1.19 service delivery.

1.20 (c) The recipient's name and recipient identification number must be entered on each
1.21 document.

1.22 (d) The provider's record of service delivery must be in English and must be legible
1.23 according to the standard of a reasonable person.

2.1 (e) The provider's record of service delivery must contain a statement that it is a federal
2.2 crime to provide false information on service billings for medical assistance or services
2.3 under a federally approved waiver plan, as authorized under sections 256B.0913, 256B.0915,
2.4 256B.092, and 256B.49.

2.5 (f) If an entry is a time-based service, each entry in the provider's record of service
2.6 delivery must contain:

2.7 (1) the date that the entry was made;

2.8 (2) the day, month, and year when the service was provided;

2.9 (3) the service name or description of the service provided;

2.10 (4) the start and stop times with a.m. and p.m. designations, except for case management
2.11 services as defined under sections 256B.092, subdivision 1a, and 256B.49, subdivision 13;
2.12 and

2.13 (5) the name, signature, and title, if any, of the provider of service. If the service is
2.14 provided by multiple staff members, the provider may designate a staff member responsible
2.15 for verifying services and completing the documentation required by this paragraph.

2.16 (g) For all other services, each record must contain:

2.17 (1) the date the entry of service delivery was made;

2.18 (2) the day, month, and year when the service was provided;

2.19 (3) a service name or description of the service provided; and

2.20 (4) the name, signature, and title, if any, of the person providing the service. If the service
2.21 is provided by multiple staff, the provider may designate a staff person responsible for
2.22 verifying services and completing the documentation required by this paragraph.

2.23 (h) If the service billed is transportation, each entry must contain the information from
2.24 paragraphs (a) to (d) and (f). A provider must:

2.25 (1) maintain odometer and other records pursuant to section 256B.0625, subdivision
2.26 17b, paragraph (b), clause (3), sufficient to distinguish an individual trip with a specific
2.27 vehicle and driver for a transportation service that is billed by mileage, except if the provider
2.28 is a common carrier as defined by Minnesota Rules, part 9505.0315, subpart 1, item B, or
2.29 a publicly operated transit system. This documentation may be collected and maintained
2.30 electronically or in paper form, but must be made available and produced upon request;

3.1 (2) maintain documentation demonstrating that a vehicle and a driver meet the standards
3.2 determined by the Department of Human Services on vehicle and driver qualifications;

3.3 (3) only bill a waived transportation service if the transportation is not to or from a
3.4 health care service available through the Medicaid state plan; and

3.5 (4) only bill a waived transportation service when the rate for waiver service does not
3.6 include transportation.

3.7 (i) If the service provided is equipment or supplies, the documentation must contain the
3.8 information from paragraphs (a) to (d) and:

3.9 (1) the recipient's assessed need for the equipment or supplies and the reason the
3.10 equipment or supplies are not covered by the Medicaid state plan;

3.11 (2) the type and brand name of equipment or supplies delivered to or purchased by the
3.12 recipient, including whether the equipment or supplies were rented or purchased;

3.13 (3) the quantity of supplies delivered or purchased;

3.14 (4) the shipping invoice or a delivery service tracking log or other documentation showing
3.15 the date of delivery that proves the equipment or supplies were delivered to the recipient
3.16 or a receipt if the equipment or supplies were purchased by the recipient; and

3.17 (5) the cost of equipment or supplies if the amount paid for the service depends on the
3.18 cost.

3.19 (j) A service defined as "adult day care" under section 245A.02, subdivision 2a, must
3.20 meet the documentation standards specified in paragraphs (a) to (e) and must comply with
3.21 the following:

3.22 (1) individual recipient's service records must contain the following:

3.23 (i) the recipient's needs assessment and current plan of care according to section
3.24 245A.143, subdivisions 4 to 7, or Minnesota Rules, part 9555.9700, if applicable; and

3.25 (ii) the day, month, and year the service was provided, including arrival and departure
3.26 times with a.m. and p.m. designations and the first and last name of the individual making
3.27 the entry; and

3.28 (2) entity records must contain the following:

3.29 (i) the monthly and quarterly program requirements in Minnesota Rules, part 9555.9710,
3.30 subparts 1, items E and H, and 3, 4, and 6, if applicable;

4.1 (ii) the names and qualifications of the registered physical therapists, registered nurses,
 4.2 and registered dietitian who provide services to the adult day care or nonresidential program;

4.3 (iii) the location where the service was provided and, if the location is an alternate
 4.4 location than the primary place of service, the record must contain the address, or the
 4.5 description if the address is not available, of both the origin and destination location and
 4.6 the length of time at the alternate location with a.m. and p.m. designations, and a list of
 4.7 participants who went to the alternate location; and

4.8 (iv) documentation that the program is maintaining the appropriate staffing levels
 4.9 according to licensing standards and the federally approved waiver plan.

4.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.11 Sec. 2. Minnesota Statutes 2016, section 256B.4912, is amended by adding a subdivision
 4.12 to read:

4.13 **Subd. 12. Annual data submission.** (a) As determined by the commissioner, a provider
 4.14 of home and community-based services for the elderly under section 256B.0915, home and
 4.15 community-based services for people with developmental disabilities under section 256B.092,
 4.16 and home and community-based services for people with disabilities under section 256B.49
 4.17 shall submit data to the commissioner on the following:

4.18 (1) wages of workers;

4.19 (2) hours worked;

4.20 (3) benefits paid and accrued;

4.21 (4) staff retention rates;

4.22 (5) amount of overtime paid;

4.23 (6) amount of travel time paid;

4.24 (7) vacancy rates; and

4.25 (8) other related data requested by the commissioner.

4.26 (b) The commissioner may adjust reporting requirements for a self-employed worker.

4.27 (c) This subdivision also applies to a provider of personal care assistance services under
 4.28 section 256B.0625, subdivision 19a; community first services and supports under section
 4.29 256B.85; consumer support grants under section 256.476; nursing services and home health
 4.30 services under section 256B.0625, subdivision 6a; home care nursing services under section
 4.31 256B.0625, subdivision 7; or day training and habilitation services for residents of

5.1 intermediate care facilities for persons with developmental disabilities under section
5.2 256B.501.

5.3 (d) A provider shall submit the data annually on a date specified by the commissioner.
5.4 The commissioner shall give a provider at least 30 calendar days to submit the data. If a
5.5 provider fails to timely submit the requested data, medical assistance reimbursement may
5.6 be delayed.

5.7 (e) Individually identifiable data submitted to the commissioner in this section are
5.8 considered private data on an individual, as defined by section 13.02, subdivision 12.

5.9 (f) The commissioner shall analyze data annually for workforce assessments and how
5.10 the data impact service access.

5.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.12 Sec. 3. Minnesota Statutes 2016, section 256B.4914, subdivision 5, is amended to read:

5.13 Subd. 5. **Base wage index and standard component values.** (a) The base wage index
5.14 is established to determine staffing costs associated with providing services to individuals
5.15 receiving home and community-based services. For purposes of developing and calculating
5.16 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
5.17 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
5.18 the most recent edition of the Occupational Handbook must be used. The base wage index
5.19 must be calculated as follows:

5.20 (1) for residential direct care staff, the sum of:

5.21 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and home
5.22 health aide (SOC code 39-9021); 30 percent of the median wage for nursing aide (SOC
5.23 code 31-1012); and 20 percent of the median wage for social and human services aide (SOC
5.24 code 21-1093); and

5.25 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
5.26 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
5.27 (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012);
5.28 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20
5.29 percent of the median wage for social and human services aide (SOC code 21-1093);

5.30 (2) for day services, 20 percent of the median wage for nursing aide (SOC code 31-1012);
5.31 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60
5.32 percent of the median wage for social and human services aide (SOC code 21-1093);

6.1 (3) for residential asleep-overnight staff, the wage will be \$7.66 per hour, except in a
6.2 family foster care setting, the wage is \$2.80 per hour;

6.3 (4) for behavior program analyst staff, 100 percent of the median wage for mental health
6.4 counselors (SOC code 21-1014);

6.5 (5) for behavior program professional staff, 100 percent of the median wage for clinical
6.6 counseling and school psychologist (SOC code 19-3031);

6.7 (6) for behavior program specialist staff, 100 percent of the median wage for psychiatric
6.8 technicians (SOC code 29-2053);

6.9 (7) for supportive living services staff, 20 percent of the median wage for nursing aide
6.10 (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code
6.11 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
6.12 21-1093);

6.13 (8) for housing access coordination staff, 50 percent of the median wage for community
6.14 and social services specialist (SOC code 21-1099); and 50 percent of the median wage for
6.15 social and human services aide (SOC code 21-1093);

6.16 (9) for in-home family support staff, 20 percent of the median wage for nursing aide
6.17 (SOC code 31-1012); 30 percent of the median wage for community social service specialist
6.18 (SOC code 21-1099); 40 percent of the median wage for social and human services aide
6.19 (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC
6.20 code 29-2053);

6.21 (10) for independent living skills staff, 40 percent of the median wage for community
6.22 social service specialist (SOC code 21-1099); 50 percent of the median wage for social and
6.23 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
6.24 technician (SOC code 29-2053);

6.25 (11) for supported employment staff, 20 percent of the median wage for nursing aide
6.26 (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code
6.27 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
6.28 21-1093);

6.29 (12) for adult companion staff, 50 percent of the median wage for personal and home
6.30 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides,
6.31 orderlies, and attendants (SOC code 31-1012);

6.32 (13) for night supervision staff, 20 percent of the median wage for home health aide
6.33 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide

7.1 (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012);
7.2 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20
7.3 percent of the median wage for social and human services aide (SOC code 21-1093);

7.4 (14) for respite staff, 50 percent of the median wage for personal and home care aide
7.5 (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and
7.6 attendants (SOC code 31-1012);

7.7 (15) for personal support staff, 50 percent of the median wage for personal and home
7.8 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides,
7.9 orderlies, and attendants (SOC code 31-1012);

7.10 (16) for supervisory staff, the basic wage is \$17.43 per hour with exception of the
7.11 supervisor of behavior analyst and behavior specialists, which must be \$30.75 per hour;

7.12 (17) for registered nurse, the basic wage is \$30.82 per hour; and

7.13 (18) for licensed practical nurse, the basic wage is \$18.64 per hour.

7.14 (b) Component values for residential support services are:

7.15 (1) supervisory span of control ratio: 11 percent;

7.16 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;

7.17 (3) employee-related cost ratio: 23.6 percent;

7.18 (4) general administrative support ratio: 13.25 percent;

7.19 (5) program-related expense ratio: 1.3 percent; and

7.20 (6) absence and utilization factor ratio: 3.9 percent.

7.21 (c) Component values for family foster care are:

7.22 (1) supervisory span of control ratio: 11 percent;

7.23 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;

7.24 (3) employee-related cost ratio: 23.6 percent;

7.25 (4) general administrative support ratio: 3.3 percent;

7.26 (5) program-related expense ratio: 1.3 percent; and

7.27 (6) absence factor: 1.7 percent.

7.28 (d) Component values for day services for all services are:

7.29 (1) supervisory span of control ratio: 11 percent;

- 8.1 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.2 (3) employee-related cost ratio: 23.6 percent;
- 8.3 (4) program plan support ratio: 5.6 percent;
- 8.4 (5) client programming and support ratio: ten percent;
- 8.5 (6) general administrative support ratio: 13.25 percent;
- 8.6 (7) program-related expense ratio: 1.8 percent; and
- 8.7 (8) absence and utilization factor ratio: 3.9 percent.
- 8.8 (e) Component values for unit-based services with programming are:
- 8.9 (1) supervisory span of control ratio: 11 percent;
- 8.10 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.11 (3) employee-related cost ratio: 23.6 percent;
- 8.12 (4) program plan supports ratio: 3.1 percent;
- 8.13 (5) client programming and supports ratio: 8.6 percent;
- 8.14 (6) general administrative support ratio: 13.25 percent;
- 8.15 (7) program-related expense ratio: 6.1 percent; and
- 8.16 (8) absence and utilization factor ratio: 3.9 percent.
- 8.17 (f) Component values for unit-based services without programming except respite are:
- 8.18 (1) supervisory span of control ratio: 11 percent;
- 8.19 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.20 (3) employee-related cost ratio: 23.6 percent;
- 8.21 (4) program plan support ratio: 3.1 percent;
- 8.22 (5) client programming and support ratio: 8.6 percent;
- 8.23 (6) general administrative support ratio: 13.25 percent;
- 8.24 (7) program-related expense ratio: 6.1 percent; and
- 8.25 (8) absence and utilization factor ratio: 3.9 percent.
- 8.26 (g) Component values for unit-based services without programming for respite are:
- 8.27 (1) supervisory span of control ratio: 11 percent;

9.1 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;

9.2 (3) employee-related cost ratio: 23.6 percent;

9.3 (4) general administrative support ratio: 13.25 percent;

9.4 (5) program-related expense ratio: 6.1 percent; and

9.5 (6) absence and utilization factor ratio: 3.9 percent.

9.6 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph
 9.7 (a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor
 9.8 Statistics available on December 31, 2016. The commissioner shall publish these updated
 9.9 values and load them into the rate management system. This adjustment occurs every five
 9.10 years. For adjustments in 2021 and beyond, the commissioner shall use the data available
 9.11 on December 31 of the calendar year five years prior.

9.12 (i) On July 1, 2017, the commissioner shall update the framework components in
 9.13 paragraphs (b) to (g); subdivision 6, clauses (8) and (9); and subdivision 7, clauses (16) and
 9.14 (17), for changes in the Consumer Price Index. The commissioner will adjust these values
 9.15 higher or lower by the percentage change in the Consumer Price Index-All Items, United
 9.16 States city average (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner
 9.17 shall publish these updated values and load them into the rate management system. This
 9.18 adjustment occurs every five years. For adjustments in 2021 and beyond, the commissioner
 9.19 shall use the data available on January 1 of the calendar year four years prior and January
 9.20 1 of the current calendar year.

9.21 (j) The commissioner must ensure that wage values and component values in subdivisions
 9.22 5 to 9 reflect the cost to provide a service. As determined by the commissioner, a provider
 9.23 enrolled to provide services with rates determined under this section must submit business
 9.24 cost data to the commissioner in concurrence with the five-year provider revalidation cycle.
 9.25 Reporting elements include, but are not limited to:

9.26 (1) worker wage costs;

9.27 (2) benefits paid;

9.28 (3) supervisor wage costs;

9.29 (4) executive wage costs;

9.30 (5) vacation, sick, and training time paid;

9.31 (6) taxes, workers' compensation, and unemployment insurance costs paid;

10.1 (7) administrative costs paid;

10.2 (8) program costs paid;

10.3 (9) transportation costs paid;

10.4 (10) vacancy rates; and

10.5 (11) other data relating to costs required to provide services requested by the
10.6 commissioner.

10.7 (k) A provider must submit cost component data with provider revalidation and
10.8 reenrollment required under section 256B.04, subdivision 22. If a provider fails to submit
10.9 required reporting data, the commissioner may disenroll the provider.

10.10 (l) The commissioner shall conduct a random audit of data submitted under paragraph
10.11 (j) to ensure data accuracy.

10.12 (m) The commissioner shall analyze cost documentation in paragraph (j) and submit
10.13 recommendations on component value and inflationary factor adjustments to the chairs and
10.14 ranking minority members of the legislative committees with jurisdiction over human
10.15 services every four years beginning January 1, 2020. The commissioner shall make
10.16 recommendations in conjunction with reports submitted to the legislature according to
10.17 subdivision 10, paragraph (e).

10.18 (n) In this subdivision, if Bureau of Labor Statistics occupational codes or Consumer
10.19 Price Index items are unavailable in the future, the commissioner shall recommend codes
10.20 or items to update and replace missing component values.

10.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.22 Sec. 4. **APPROPRIATION; WAIVER CONSOLIDATION STUDY.**

10.23 \$110,000 in fiscal year 2018 and \$140,000 in fiscal year 2019 are appropriated from the
10.24 general fund to the commissioner of human services to conduct a study on consolidating
10.25 the four disability home and community-based services waivers into one program. The
10.26 commissioner of human services shall submit recommendations to the chairs and ranking
10.27 minority members of the legislative committees with oversight over health and human
10.28 services by January 15, 2019. This is a onetime appropriation.