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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2536

03/14/2019 Authored by Mann; Richardson; Hassan; Xiong, J.; Bahner and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; modifying personal care assistance program; amending
1.3 Minnesota Statutes 2018, section 256B.0659, subdivisions 1, 6.

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

1.5 Section 1. Minnesota Statutes 2018, section 256B.0659, subdivision 1, is amended to read:

1.6 Subdivision 1. Definitions. (a) For the purposes of this section, the terms defined in
1.7 paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

1.8 (b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility,
1.9 positioning, eating, and toileting.

1.10 (c) "Behavior," effective January 1, 2010, means a category to determine the home care
1.11 rating and is based on the criteria found in this section. "Level I behavior" means physical
1.12 aggression towards toward self, others, or destruction of property that requires the immediate
1.13 response of another person.

1.14 (d) "Complex health-related needs," effective January 1, 2010, means a category to
1.15 determine the home care rating and is based on the criteria found in this section.

1.16 (e) "Critical activities of daily living," effective January 1, 2010, means transferring,
1.17 mobility, eating, and toileting.

1.18 (f) "Dependency in activities of daily living" means a person requires assistance to begin
1.19 and complete one or more of the activities of daily living.

1.20 (g) "Extended personal care assistance service" means personal care assistance services
1.21 included in a service plan under one of the home and community-based services waivers

2.1 authorized under sections 256B.0915, 256B.092, subdivision 5, and 256B.49, which exceed
2.2 the amount, duration, and frequency of the state plan personal care assistance services for
2.3 participants who:

2.4 (1) need assistance provided periodically during a week, but less than daily will not be
2.5 able to remain in their homes without the assistance, and other replacement services are
2.6 more expensive or are not available when personal care assistance services are to be reduced;
2.7 or

2.8 (2) need additional personal care assistance services beyond the amount authorized by
2.9 the state plan personal care assistance assessment in order to ensure that their safety, health,
2.10 and welfare are provided for in their homes.

2.11 (h) "Health-related procedures and tasks" means procedures and tasks that can be
2.12 delegated or assigned by a licensed health care professional under state law to be performed
2.13 by a personal care assistant.

2.14 (i) "Instrumental activities of daily living" means activities to include meal planning and
2.15 preparation; basic assistance with paying bills; shopping for food, clothing, and other
2.16 essential items; performing household tasks integral to the recipient's personal care assistance
2.17 services needs; communication by telephone and other media; and ~~traveling, including.~~ For
2.18 the purposes of this paragraph, traveling includes driving and accompanying the recipient
2.19 in the recipient's chosen mode of transportation to medical appointments and to participate
2.20 in the community, according to the recipient's service plan.

2.21 (j) "Managing employee" has the same definition as Code of Federal Regulations, title
2.22 42, section 455.

2.23 (k) "Qualified professional" means a professional providing supervision of personal care
2.24 assistance services and staff as defined in section 256B.0625, subdivision 19c.

2.25 (l) "Personal care assistance provider agency" means a medical assistance enrolled
2.26 provider that provides or assists with providing personal care assistance services and includes
2.27 a personal care assistance provider organization, personal care assistance choice agency,
2.28 class A licensed nursing agency, and Medicare-certified home health agency.

2.29 (m) "Personal care assistant" or "PCA" means an individual employed by a personal
2.30 care assistance agency who provides personal care assistance services.

2.31 (n) "Personal care assistance care plan" means a written description of personal care
2.32 assistance services developed by the personal care assistance provider according to the
2.33 service plan.

3.1 (o) "Responsible party" means an individual who is capable of providing the support
3.2 necessary to assist the recipient to live in the community.

3.3 (p) "Self-administered medication" means medication taken orally, by injection, nebulizer,
3.4 or insertion, or applied topically without the need for assistance.

3.5 (q) "Service plan" means a written summary of the assessment and description of the
3.6 services needed by the recipient.

3.7 (r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes,
3.8 Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage
3.9 reimbursement, health and dental insurance, life insurance, disability insurance, long-term
3.10 care insurance, uniform allowance, and contributions to employee retirement accounts.

3.11 **EFFECTIVE DATE.** This section is effective contingent on federal approval. The
3.12 commissioner of human services shall notify the revisor of statutes when federal approval
3.13 is obtained.

3.14 Sec. 2. Minnesota Statutes 2018, section 256B.0659, subdivision 6, is amended to read:

3.15 Subd. 6. **Service plan.** The service plan must be completed by the assessor with the
3.16 recipient and responsible party on a form determined by the commissioner and include a
3.17 summary of the assessment with a description of the need, authorized amount, and expected
3.18 outcomes and goals of personal care assistance services. The recipient and the provider
3.19 chosen by the recipient or responsible party must be given a copy of the completed service
3.20 plan within ten working days of the assessment. The recipient or responsible party must be
3.21 given information by the assessor about the options in the personal care assistance program
3.22 to allow for review and decision making. The service plan must specify traveling needs of
3.23 the recipient, if any.

3.24 **EFFECTIVE DATE.** This section is effective contingent on federal approval for section
3.25 1.