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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5124

03/21/2024 Authored by Keeler, Bierman, Curran and Reyer
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying payment rates to Indian health services
1.3 facilities for certain medications; modifying requirements for hospitals serving as
1.4 adult day treatment providers; amending Minnesota Statutes 2023 Supplement,
1.5 sections 256B.0625, subdivision 34; 256B.0671, subdivision 3.

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

1.7 Section 1. Minnesota Statutes 2023 Supplement, section 256B.0625, subdivision 34, is
1.8 amended to read:

1.9 Subd. 34. Indian health services facilities. (a) Medical assistance payments and
1.10 MinnesotaCare payments to facilities of the Indian health service and facilities operated by
1.11 a Tribe or Tribal organization under funding authorized by United States Code, title 25,
1.12 sections 450f to 450n, or title III of the Indian Self-Determination and Education Assistance
1.13 Act, Public Law 93-638, for enrollees who are eligible for federal financial participation,
1.14 shall be at the option of the facility in accordance with the rate published by the United
1.15 States Assistant Secretary for Health under the authority of United States Code, title 42,
1.16 sections 248(a) and 249(b). MinnesotaCare payments for enrollees who are not eligible for
1.17 federal financial participation at facilities of the Indian health service and facilities operated
1.18 by a Tribe or Tribal organization for the provision of outpatient medical services must be
1.19 in accordance with the medical assistance rates paid for the same services when provided
1.20 in a facility other than a facility of the Indian health service or a facility operated by a Tribe
1.21 or Tribal organization.

1.22 (b) Medical assistance payments to facilities of the Indian health service that purchase
1.23 drugs through the Federal Supply Schedule (FSS) of the United States General Services
1.24 Administration for enrollees who are eligible for federal financial participation must be the

2.1 FSS actual acquisition cost plus the professional dispensing fee for covered outpatient  
 2.2 pharmacy claims that have an actual acquisition cost that exceeds the rate described in  
 2.3 paragraph (a). Indian health services providers must submit the FSS rate as the ingredient  
 2.4 cost and the dispensing fee in subdivision 13e, paragraph (a), as the dispensing fee on the  
 2.5 claim with the basis of cost indicator of "08." Indian health services providers may establish  
 2.6 written protocols for establishing or calculating the facility's FSS actual acquisition drug  
 2.7 cost based on a monthly, quarterly, or other average of the facility's actual acquisition drug  
 2.8 cost through the FSS. A written protocol must not include an inflation, markup, spread, or  
 2.9 margin added to the facility's actual purchase price after subtracting all discounts.

2.10 (c) Medical assistance payments to facilities of the Indian health service that purchase  
 2.11 drugs through the federal 340B Drug Pricing Program for enrollees who are eligible for  
 2.12 federal financial participation must be at the 340B reimbursement rate in subdivision 13e  
 2.13 for covered outpatient pharmacy claims that have an actual acquisition cost that exceeds  
 2.14 the rate described in paragraph (a). Indian health services providers must submit the 340B  
 2.15 acquisition cost as the ingredient cost and the dispensing fee in subdivision 13e, paragraph  
 2.16 (a), as the dispensing fee on the claim with the basis of cost indicator of "08" and submission  
 2.17 clarification code of "20." Indian health services providers may establish written protocols  
 2.18 for establishing or calculating the facility's 340B actual acquisition drug cost based on a  
 2.19 monthly, quarterly, or other average of the facility's actual acquisition drug cost through  
 2.20 the 340B program. A written protocol must not include an inflation, markup, spread, or  
 2.21 margin added to the facility's actual purchase price after subtracting all discounts.

2.22 Sec. 2. Minnesota Statutes 2023 Supplement, section 256B.0671, subdivision 3, is amended  
 2.23 to read:

2.24 Subd. 3. **Adult day treatment services.** (a) Medical assistance covers adult day treatment  
 2.25 (ADT) services that are provided under contract with the county board. Adult day treatment  
 2.26 payment is subject to the conditions in paragraphs (b) to (e). The provider must make  
 2.27 reasonable and good faith efforts to report individual client outcomes to the commissioner  
 2.28 using instruments, protocols, and forms approved by the commissioner.

2.29 (b) Adult day treatment is an intensive psychotherapeutic treatment to reduce or relieve  
 2.30 the effects of mental illness on a client to enable the client to benefit from a lower level of  
 2.31 care and to live and function more independently in the community. Adult day treatment  
 2.32 services must be provided to a client to stabilize the client's mental health and to improve  
 2.33 the client's independent living and socialization skills. Adult day treatment must consist of  
 2.34 at least one hour of group psychotherapy and must include group time focused on

3.1 rehabilitative interventions or other therapeutic services that a multidisciplinary team provides  
3.2 to each client. Adult day treatment services are not a part of inpatient or residential treatment  
3.3 services. The following providers may apply to become adult day treatment providers:

3.4 (1) a hospital ~~accredited by the Joint Commission on Accreditation of Health~~  
3.5 ~~Organizations~~ and licensed under sections 144.50 to 144.55;

3.6 (2) a community mental health center under section 256B.0625, subdivision 5; or

3.7 (3) an entity that is under contract with the county board to operate a program that meets  
3.8 the requirements of section 245.4712, subdivision 2, and Minnesota Rules, parts 9505.0170  
3.9 to 9505.0475.

3.10 (c) An adult day treatment services provider must:

3.11 (1) ensure that the commissioner has approved of the organization as an adult day  
3.12 treatment provider organization;

3.13 (2) ensure that a multidisciplinary team provides ADT services to a group of clients. A  
3.14 mental health professional must supervise each multidisciplinary staff person who provides  
3.15 ADT services;

3.16 (3) make ADT services available to the client at least two days a week for at least three  
3.17 consecutive hours per day. ADT services may be longer than three hours per day, but medical  
3.18 assistance may not reimburse a provider for more than 15 hours per week;

3.19 (4) provide ADT services to each client that includes group psychotherapy by a mental  
3.20 health professional or clinical trainee and daily rehabilitative interventions by a mental  
3.21 health professional, clinical trainee, or mental health practitioner; and

3.22 (5) include ADT services in the client's individual treatment plan, when appropriate.

3.23 The adult day treatment provider must:

3.24 (i) complete a functional assessment of each client under section 245I.10, subdivision  
3.25 9;

3.26 (ii) notwithstanding section 245I.10, subdivision 8, review the client's progress and  
3.27 update the individual treatment plan at least every 90 days until the client is discharged  
3.28 from the program; and

3.29 (iii) include a discharge plan for the client in the client's individual treatment plan.

3.30 (d) To be eligible for adult day treatment, a client must:

3.31 (1) be 18 years of age or older;

4.1 (2) not reside in a nursing facility, hospital, institute of mental disease, or state-operated  
4.2 treatment center unless the client has an active discharge plan that indicates a move to an  
4.3 independent living setting within 180 days;

4.4 (3) have the capacity to engage in rehabilitative programming, skills activities, and  
4.5 psychotherapy in the structured, therapeutic setting of an adult day treatment program and  
4.6 demonstrate measurable improvements in functioning resulting from participation in the  
4.7 adult day treatment program;

4.8 (4) have a level of care assessment under section 245I.02, subdivision 19, recommending  
4.9 that the client participate in services with the level of intensity and duration of an adult day  
4.10 treatment program; and

4.11 (5) have the recommendation of a mental health professional for adult day treatment  
4.12 services. The mental health professional must find that adult day treatment services are  
4.13 medically necessary for the client.

4.14 (e) Medical assistance does not cover the following services as adult day treatment  
4.15 services:

4.16 (1) services that are primarily recreational or that are provided in a setting that is not  
4.17 under medical supervision, including sports activities, exercise groups, craft hours, leisure  
4.18 time, social hours, meal or snack time, trips to community activities, and tours;

4.19 (2) social or educational services that do not have or cannot reasonably be expected to  
4.20 have a therapeutic outcome related to the client's mental illness;

4.21 (3) consultations with other providers or service agency staff persons about the care or  
4.22 progress of a client;

4.23 (4) prevention or education programs that are provided to the community;

4.24 (5) day treatment for clients with a primary diagnosis of a substance use disorder;

4.25 (6) day treatment provided in the client's home;

4.26 (7) psychotherapy for more than two hours per day; and

4.27 (8) participation in meal preparation and eating that is not part of a clinical treatment  
4.28 plan to address the client's eating disorder.