

**SENATE**  
**STATE OF MINNESOTA**  
**NINETY-FIRST SESSION**

**S.F. No. 3362**

(SENATE AUTHORS: UTKE)

DATE  
02/20/2020

D-PG

OFFICIAL STATUS  
Introduction and first reading  
Referred to Human Services Reform Finance and Policy

1.1 A bill for an act

1.2 relating to human services; codifying existing session law governing

1.3 consumer-directed community supports; amending Minnesota Statutes 2018,

1.4 section 256B.49, subdivision 16; Minnesota Statutes 2019 Supplement, sections

1.5 256B.0711, subdivision 1; 256S.01, subdivision 6; 256S.19, subdivision 4;

1.6 proposing coding for new law in Minnesota Statutes, chapter 256B; repealing

1.7 Laws 2005, First Special Session chapter 4, article 7, sections 50; 51; Laws 2012,

1.8 chapter 247, article 4, section 47, as amended; Laws 2015, chapter 71, article 7,

1.9 section 54, as amended; Laws 2017, First Special Session chapter 6, article 1,

1.10 sections 44, as amended; 45, as amended.

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

1.12 style="text-align:center">**ARTICLE 1**

1.13 style="text-align:center">**CONSUMER-DIRECTED COMMUNITY SUPPORTS CODIFICATION**

1.14 Section 1. **[256B.4911] CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

1.15 Subdivision 1. Federal authority. Consumer-directed community supports, as referenced

1.16 in sections 256B.0913, subdivision 5, clause (17); 256B.092, subdivision 1b, clause (4);

1.17 256B.49, subdivision 16, paragraph (c); and chapter 256S are governed, in whole, by the

1.18 federally-approved waiver plans for home and community-based services.

1.19 Subd. 2. Costs associated with physical activities. The expenses allowed for adults

1.20 under the consumer-directed community supports option must include the costs at the lowest

1.21 rate available considering daily, monthly, semiannual, annual, or membership rates, including

1.22 transportation, associated with physical exercise or other physical activities to maintain or

1.23 improve the person's health and functioning.

1.24 Subd. 3. Expansion and increase of budget exceptions. (a) The commissioner of human

1.25 services must provide up to 30 percent more funds for either:

2.1 (1) consumer-directed community supports participants under sections 256B.092 and  
 2.2 256B.49 who have a coordinated service and support plan which identifies the need for  
 2.3 more services or supports under consumer-directed community supports than the amount  
 2.4 the participants are currently receiving under the consumer-directed community supports  
 2.5 budget methodology to:

2.6 (i) increase the amount of time a person works or otherwise improves employment  
 2.7 opportunities;

2.8 (ii) plan a transition to, move to, or live in a setting described in section 256D.44,  
 2.9 subdivision 5, paragraph (g), clause (1), item (iii); or

2.10 (iii) develop and implement a positive behavior support plan; or

2.11 (2) home and community-based waiver participants under sections 256B.092 and 256B.49  
 2.12 who are currently using licensed providers for: (i) employment supports or services during  
 2.13 the day; or (ii) residential services, either of which cost more annually than the person would  
 2.14 spend under a consumer-directed community supports plan for any or all of the supports  
 2.15 needed to meet a goal identified in clause (1), item (i), (ii), or (iii).

2.16 (b) The exception under paragraph (a), clause (1), is limited to persons who can  
 2.17 demonstrate that they will have to discontinue using consumer-directed community supports  
 2.18 and accept other non-self-directed waiver services because their supports needed for a goal  
 2.19 described in paragraph (a), clause (1), item (i), (ii), or (iii), cannot be met within the  
 2.20 consumer-directed community supports budget limits.

2.21 (c) The exception under paragraph (a), clause (2), is limited to persons who can  
 2.22 demonstrate that, upon choosing to become a consumer-directed community supports  
 2.23 participant, the total cost of services, including the exception, will be less than the cost of  
 2.24 current waiver services.

2.25 **Subd. 4. Budget exception for persons leaving institutions and crisis residential**  
 2.26 **settings.** (a) The commissioner must establish an institutional and crisis bed  
 2.27 consumer-directed community supports budget exception process in the home and  
 2.28 community-based services waivers under sections 256B.092 and 256B.49. This budget  
 2.29 exception process must be available for any individual who:

2.30 (1) is not offered available and appropriate services within 60 days since approval for  
 2.31 discharge from the individual's current institutional setting; and

2.32 (2) requires services that are more expensive than appropriate services provided in a  
 2.33 noninstitutional setting using the consumer-directed community supports option.

3.1 (b) Institutional settings for purposes of this exception include intermediate care facilities  
3.2 for persons with developmental disabilities; nursing facilities; acute care hospitals; Anoka  
3.3 Metro Regional Treatment Center; Minnesota Security Hospital; and crisis beds.

3.4 (c) The budget exception must be limited to no more than the amount of appropriate  
3.5 services provided in a noninstitutional setting as determined by the lead agency managing  
3.6 the individual's home and community-based services waiver. The lead agency must notify  
3.7 the Department of Human Services of the budget exception.

3.8 Subd. 5. **Shared services.** (a) Medical assistance payments for shared services under  
3.9 consumer-directed community supports are limited to this subdivision.

3.10 (b) For purposes of this subdivision, "shared services" means services provided at the  
3.11 same time by the same direct care worker for individuals who have entered into an agreement  
3.12 to share consumer-directed community support services.

3.13 (c) Shared services may include services in the personal assistance category as outlined  
3.14 in the consumer-directed community supports community support plan and shared services  
3.15 agreement, except:

3.16 (1) services for more than three individuals provided by one worker at one time;

3.17 (2) use of more than one worker for the shared services; and

3.18 (3) a child care program licensed under chapter 245A or operated by a local school  
3.19 district or private school.

3.20 (d) The individuals, or as needed the individuals' representatives, must develop the plan  
3.21 for shared services when developing or amending the consumer-directed community supports  
3.22 plan, and must follow the consumer-directed community supports process for approval of  
3.23 the plan by the lead agency. The plan for shared services in an individual's consumer-directed  
3.24 community supports plan must include the intention to utilize shared services based on  
3.25 individuals' needs and preferences.

3.26 (e) Individuals sharing services must use the same financial management services  
3.27 provider.

3.28 (f) Individuals whose consumer-directed community supports community support plans  
3.29 include an intent to utilize shared services must jointly develop, with the support of the  
3.30 individuals' representatives as needed, a shared services agreement. This agreement must  
3.31 include:

3.32 (1) the names of the individuals receiving shared services;

- 4.1 (2) the individuals' representative, if identified in their consumer-directed community  
4.2 supports plans, and their duties;
- 4.3 (3) the names of the case managers;
- 4.4 (4) the financial management services provider;
- 4.5 (5) the shared services that must be provided;
- 4.6 (6) the schedule for shared services;
- 4.7 (7) the location where shared services must be provided;
- 4.8 (8) the training specific to each individual served;
- 4.9 (9) the training specific to providing shared services to the individuals identified in the  
4.10 agreement;
- 4.11 (10) instructions to follow all required documentation for time and services provided;
- 4.12 (11) a contingency plan for each individual that accounts for service provision and billing  
4.13 in the absence of one of the individuals in a shared services setting due to illness or other  
4.14 circumstances;
- 4.15 (12) signatures of all parties involved in the shared services; and
- 4.16 (13) agreement by each individual who is sharing services on the number of shared hours  
4.17 for services provided.
- 4.18 (g) Any individual or any individual's representative may withdraw from participating  
4.19 in a shared services agreement at any time.
- 4.20 (h) The lead agency for each individual must authorize the use of the shared services  
4.21 option based on the criteria that the shared service is appropriate to meet the needs, health,  
4.22 and safety of each individual for whom they provide case management or care coordination.
- 4.23 (i) This subdivision must not be construed to reduce the total authorized  
4.24 consumer-directed community supports budget for an individual.
- 4.25 (j) No later than September 30, 2019, the commissioner of human services must:
- 4.26 (1) submit an amendment to the Centers for Medicare and Medicaid Services for the  
4.27 home and community-based services waivers authorized under sections 256B.0913,  
4.28 256B.092, and 256B.49, and chapter 256S, to allow for a shared services option under  
4.29 consumer-directed community supports; and

5.1 (2) with stakeholder input, develop guidance for shared services in consumer-directed  
5.2 community-supports within the community-based services manual. Guidance must include:

5.3 (i) recommendations for negotiating payment for one-to-two and one-to-three services;  
5.4 and

5.5 (ii) a template of the shared services agreement.

5.6 **EFFECTIVE DATE.** This section is effective the day following final enactment, except  
5.7 for subdivision 5, paragraphs (a) to (i), which are effective the day following final enactment  
5.8 or upon federal approval, whichever occurs later. The commissioner of human services  
5.9 must notify the revisor of statutes when federal approval is obtained.

5.10 Sec. 2. **TREATMENT OF PREVIOUSLY OBTAINED FEDERAL APPROVALS.**

5.11 This act must not be construed to require the commissioner to seek federal approval for  
5.12 provisions for which the commissioner has already received federal approval. Federal  
5.13 approvals the commissioner previously obtained for provisions repealed in section 3 survive  
5.14 and apply to the corresponding subdivisions of section 1.

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

5.16 Sec. 3. **REPEALER.**

5.17 (a) Laws 2005, First Special Session chapter 4, article 7, section 50, is repealed.

5.18 (b) Laws 2005, First Special Session chapter 4, article 7, section 51, is repealed.

5.19 (c) Laws 2012, chapter 247, article 4, section 47, as amended by Laws 2014, chapter  
5.20 312, article 27, section 72, Laws 2015, chapter 71, article 7, section 58, Laws 2016, chapter  
5.21 144, section 1, Laws 2017, First Special Session chapter 6, article 1, section 43, Laws 2017,  
5.22 First Special Session chapter 6, article 1, section 54, is repealed.

5.23 (d) Laws 2015, chapter 71, article 7, section 54, as amended by Laws 2017, First Special  
5.24 Session chapter 6, article 1, section 54, is repealed.

5.25 (e) Laws 2017, First Special Session chapter 6, article 1, section 44, as amended by  
5.26 Laws 2019, First Special Session chapter 9, article 5, section 80, is repealed.

5.27 (f) Laws 2017, First Special Session chapter 6, article 1, section 45, as amended by Laws  
5.28 2019, First Special Session chapter 9, article 5, section 81, is repealed.

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

6.1

**ARTICLE 2**

6.2

**CORRECTIONS**

6.3 Section 1. Minnesota Statutes 2019 Supplement, section 256B.0711, subdivision 1, is  
6.4 amended to read:

6.5 Subdivision 1. **Definitions.** For purposes of this section:

6.6 (a) "Commissioner" means the commissioner of human services unless otherwise  
6.7 indicated.

6.8 (b) "Covered program" means a program to provide direct support services funded in  
6.9 whole or in part by the state of Minnesota, including the community first services and  
6.10 supports program under section 256B.85, subdivision 2, paragraph (e); consumer-directed  
6.11 consumer-directed community supports ~~services~~ and extended state plan personal care  
6.12 assistance services available under programs established pursuant to home and  
6.13 community-based service waivers authorized under section 1915(c) of the Social Security  
6.14 Act, and Minnesota Statutes, including, but not limited to, chapter 256S and sections  
6.15 256B.092 and 256B.49, and under the alternative care program, ~~as offered pursuant to~~ under  
6.16 section 256B.0913; the personal care assistance choice program, ~~as established pursuant to~~  
6.17 under section 256B.0659, subdivisions 18 to 20; and any similar program that may provide  
6.18 similar services in the future.

6.19 (c) "Direct support services" means personal care assistance services covered by medical  
6.20 assistance under section 256B.0625, subdivisions 19a and 19c; assistance with activities of  
6.21 daily living as defined in section 256B.0659, subdivision 1, paragraph (b), and instrumental  
6.22 activities of daily living as defined in section 256B.0659, subdivision 1, paragraph (i); and  
6.23 other similar, in-home, nonprofessional long-term services and supports provided to an  
6.24 elderly person or person with a disability by the person's employee or the employee of the  
6.25 person's representative to meet such person's daily living needs and ensure that such person  
6.26 may adequately function in the person's home and have safe access to the community.

6.27 (d) "Individual provider" means an individual selected by and working under the direction  
6.28 of a participant in a covered program, or a participant's representative, to provide direct  
6.29 support services to the participant, but does not include an employee of a provider agency,  
6.30 subject to the agency's direction and control commensurate with agency employee status.

6.31 (e) "Participant" means a person who receives direct support services through a covered  
6.32 program.

7.1 (f) "Participant's representative" means a participant's legal guardian or an individual  
 7.2 having the authority and responsibility to act on behalf of a participant with respect to the  
 7.3 provision of direct support services through a covered program.

7.4 Sec. 2. Minnesota Statutes 2018, section 256B.49, subdivision 16, is amended to read:

7.5 Subd. 16. **Services and supports.** (a) Services and supports included in the home and  
 7.6 community-based waivers for persons with disabilities ~~shall~~ must meet the requirements  
 7.7 set out in United States Code, title 42, section 1396n. The services and supports, which are  
 7.8 offered as alternatives to institutional care, ~~shall~~ must promote consumer choice, community  
 7.9 inclusion, self-sufficiency, and self-determination.

7.10 (b) ~~Beginning January 1, 2003,~~ The commissioner ~~shall~~ must simplify and improve  
 7.11 access to home and community-based waived services, to the extent possible, through the  
 7.12 establishment of a common service menu that is available to eligible recipients regardless  
 7.13 of age, disability type, or waiver program.

7.14 (c) ~~Consumer directed community support services shall~~ Consumer-directed community  
 7.15 supports must be offered as an option to all persons eligible for services under subdivision  
 7.16 11, ~~by January 1, 2002.~~

7.17 (d) Services and supports ~~shall~~ must be arranged and provided consistent with  
 7.18 individualized written plans of care for eligible waiver recipients.

7.19 (e) A transitional supports allowance ~~shall~~ must be available to all persons under a home  
 7.20 and community-based waiver who are moving from a licensed setting to a community  
 7.21 setting. "Transitional supports allowance" means a onetime payment of up to \$3,000, to  
 7.22 cover the costs, not covered by other sources, associated with moving from a licensed setting  
 7.23 to a community setting. Covered costs include:

7.24 (1) lease or rent deposits;

7.25 (2) security deposits;

7.26 (3) utilities setup costs, including telephone;

7.27 (4) essential furnishings and supplies; and

7.28 (5) personal supports and transports needed to locate and transition to community settings.

7.29 (f) The state of Minnesota and county agencies that administer home and  
 7.30 community-based waived services for persons with disabilities, ~~shall~~ must not be liable  
 7.31 for damages, injuries, or liabilities sustained through the purchase of supports by the  
 7.32 individual, the individual's family, legal representative, or the authorized representative

8.1 with funds received through ~~the~~ consumer-directed community ~~support service~~ supports  
 8.2 under this section. Liabilities include but are not limited to: workers' compensation liability,  
 8.3 the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act  
 8.4 (FUTA).

8.5 Sec. 3. Minnesota Statutes 2019 Supplement, section 256S.01, subdivision 6, is amended  
 8.6 to read:

8.7 Subd. 6. **Immunity; consumer-directed community supports.** The state of Minnesota,  
 8.8 or a county, managed care plan, county-based purchasing plan, or tribal government under  
 8.9 contract to administer the elderly waiver, is not liable for damages, injuries, or liabilities  
 8.10 sustained as a result of the participant, the participant's family, or the participant's authorized  
 8.11 representatives purchasing direct supports or goods with funds received through  
 8.12 consumer-directed community ~~support services~~ supports under the elderly waiver. Liabilities  
 8.13 include, but are not limited to, workers' compensation liability, Federal Insurance  
 8.14 Contributions Act under United States Code, title 26, subtitle c, chapter 21, or Federal  
 8.15 Unemployment Tax Act under Internal Revenue Code, chapter 23.

8.16 Sec. 4. Minnesota Statutes 2019 Supplement, section 256S.19, subdivision 4, is amended  
 8.17 to read:

8.18 Subd. 4. **Calculation of monthly conversion budget cap with consumer-directed**  
 8.19 **community supports.** For the elderly waiver monthly conversion budget cap for the cost  
 8.20 of elderly waiver services with consumer-directed community ~~support services~~ supports,  
 8.21 the nursing facility case mix adjusted total payment rate used under subdivision 3 to calculate  
 8.22 the monthly conversion budget cap for elderly waiver services without consumer-directed  
 8.23 community supports must be reduced by a percentage equal to the percentage difference  
 8.24 between the consumer-directed ~~services~~ community supports budget limit that would be  
 8.25 assigned according to the elderly waiver plan and the corresponding monthly case mix  
 8.26 budget cap under this chapter, but not to exceed 50 percent.



*Laws 2005, First Special Session chapter 4, article 7, section 50*

**Sec. 50. CONSUMER-DIRECTED COMMUNITY SUPPORTS METHODOLOGY.**

(a) Effective upon federal approval, for persons using the home and community-based waiver for persons with developmental disabilities whose consumer-directed community supports budgets were reduced by the October 2004, state-set budget methodology, the commissioner of human services must allow exceptions to exceed the state-set budget formula up to the daily average cost during calendar year 2004 or for persons who graduated from school during 2004, the average daily cost during July through December 2004, less one-half of case management and home modifications over \$5,000 when the individual's county of financial responsibility determines that:

(1) necessary alternative services will cost the same or more than the person's current budget; and

(2) administrative expenses or provider rates will result in fewer hours of needed staffing for the person than under the consumer-directed community supports option. Any exceptions the county grants must be within the county's allowable aggregate amount for the home and community-based waiver for persons with developmental disabilities.

(b) This section expires on the date the commissioner of human services implements a new consumer-directed community supports budget methodology that is based on information about the services and supports intensity needs of persons using the option and that adequately accounts for the increased costs of adults who graduate from school and need services funded by the waiver during the day.

*Laws 2005, First Special Session chapter 4, article 7, section 51*

**Sec. 51. COSTS ASSOCIATED WITH PHYSICAL ACTIVITIES.**

Effective upon federal approval, the expenses allowed for adults under the consumer-directed community supports option shall include the costs at the lowest rate available considering daily, monthly, semi-annual, annual, or membership rates, including transportation, associated with physical exercise or other physical activities to maintain or improve the person's health and functioning.

*Laws 2012, chapter 247, article 4, section 47, as amended by Laws 2014, chapter 312, article 27, section 72; as amended by Laws 2015, chapter 71, article 7, section 58; as amended by Laws 2016, chapter 144, section 1; as amended by Laws 2017, First Special Session chapter 6, article 1, section 54*

Sec. 72. Laws 2012, chapter 247, article 4, section 47, is amended to read:

**Sec. 47. COMMISSIONER TO SEEK AMENDMENT FOR EXCEPTION TO CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY.**

By July 1, 2014, if necessary, the commissioner shall request an amendment to the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49, to establish an exception to the consumer-directed community supports budget methodology to provide up to 20 percent more funds for those participants who have their 21st birthday and graduate from high school between 2013 to 2015 and are authorized for more services under consumer-directed community supports prior to graduation than the amount they are eligible to receive under the current consumer-directed community supports budget methodology. The exception is limited to those who can demonstrate that they will have to leave consumer-directed community supports and use other waiver services because their need for day or employment supports cannot be met within the consumer-directed community supports budget limits. The commissioner shall consult with the stakeholder group authorized under Minnesota Statutes, section 256B.0657, subdivision 11, to implement this provision. The exception process shall be effective upon federal approval for persons eligible through June 30, 2017.

*Laws 2015, chapter 71, article 7, section 54, as amended by Laws 2017, First Special Session chapter 6, article 1, section 54*

**Sec. 54. CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY EXCEPTION.**

(a) No later than September 30, 2015, if necessary, the commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49, to establish an exception to the consumer-directed community supports budget methodology to provide up to 20 percent more funds for:

(1) consumer-directed community supports participants who have graduated from high school and have a coordinated service and support plan which identifies the need for more services under consumer-directed community supports, either prior to graduation or in order to increase the amount of time a person works or to improve their employment opportunities, than the amount they are eligible to receive under the current consumer-directed community supports budget methodology; and

(2) home and community-based waiver participants who are currently using licensed services for employment supports or services during the day which cost more annually than the person would spend under a consumer-directed community supports plan for individualized employment supports or services during the day.

(b) The exception under paragraph (a) is limited to those persons who can demonstrate either that they will have to leave consumer-directed community supports and use other waiver services because their need for day or employment supports cannot be met within the consumer-directed community supports budget limits or they will move to consumer-directed community supports and their services will cost less than services currently being used.

**EFFECTIVE DATE.** The exception under this section is effective October 1, 2015, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when this occurs.

*Laws 2017, First Special Session chapter 6, article 1, section 44, as amended by Laws 2019, First Special Session chapter 9, article 5, section 80*

Sec. 80. Laws 2017, First Special Session chapter 6, article 1, section 44, is amended to read:

**Sec. 44. EXPANSION OF CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY EXCEPTION.**

(a) No later than September 30, 2017, if necessary, the commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49, to expand the exception to the consumer-directed community supports budget methodology under Laws 2015, chapter 71, article 7, section 54, to provide up to 30 percent more funds for either:

(1) consumer-directed community supports participants who have a coordinated service and support plan which identifies the need for an increased amount of services or supports under consumer-directed community supports than the amount they are currently receiving under the consumer-directed community supports budget methodology:

(i) to increase the amount of time a person works or otherwise improves employment opportunities;

(ii) to plan a transition to, move to, or live in a setting described in Minnesota Statutes, section 256D.44, subdivision 5, paragraph (g), clause (1), item (iii); or

(iii) to develop and implement a positive behavior support plan; or

(2) home and community-based waiver participants who are currently using licensed providers for (i) employment supports or services during the day; or (ii) residential services, either of which cost more annually than the person would spend under a consumer-directed community supports plan for any or all of the supports needed to meet the goals identified in paragraph (a), clause (1), items (i), (ii), and (iii).

(b) The exception under paragraph (a), clause (1), is limited to those persons who can demonstrate that they will have to discontinue using consumer-directed community supports and accept other non-self-directed waiver services because their supports needed for the goals described in paragraph

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(a), clause (1), items (i), (ii), and (iii), cannot be met within the consumer-directed community supports budget limits.

(c) The exception under paragraph (a), clause (2), is limited to those persons who can demonstrate that, upon choosing to become a consumer-directed community supports participant, the total cost of services, including the exception, will be less than the cost of current waiver services.

*Laws 2017, First Special Session chapter 6, article 1, section 45, as amended by Laws 2019, First Special Session chapter 9, article 5, section 81*

Sec. 81. Laws 2017, First Special Session chapter 6, article 1, section 45, is amended to read:

**Sec. 45. CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY.**

Subdivision 1. **Exception for persons leaving institutions and crisis residential settings.** (a) By September 30, 2017, the commissioner shall establish an institutional and crisis bed consumer-directed community supports budget exception process in the home and community-based services waivers under Minnesota Statutes, sections 256B.092 and 256B.49. This budget exception process shall be available for any individual who:

(1) is not offered available and appropriate services within 60 days since approval for discharge from the individual's current institutional setting; and

(2) requires services that are more expensive than appropriate services provided in a noninstitutional setting using the consumer-directed community supports option.

(b) Institutional settings for purposes of this exception include intermediate care facilities for persons with developmental disabilities; nursing facilities; acute care hospitals; Anoka Metro Regional Treatment Center; Minnesota Security Hospital; and crisis beds. The budget exception shall be limited to no more than the amount of appropriate services provided in a noninstitutional setting as determined by the lead agency managing the individual's home and community-based services waiver. The lead agency shall notify the Department of Human Services of the budget exception.

Subd. 2. **Shared services.** (a) Medical assistance payments for shared services under consumer-directed community supports are limited to this subdivision.

(b) For purposes of this subdivision, "shared services" means services provided at the same time by the same direct care worker for individuals who have entered into an agreement to share consumer-directed community support services.

(c) Shared services may include services in the personal assistance category as outlined in the consumer-directed community supports community support plan and shared services agreement, except:

(1) services for more than three individuals provided by one worker at one time;

(2) use of more than one worker for the shared services; and

(3) a child care program licensed under chapter 245A or operated by a local school district or private school.

(d) The individuals or, as needed, their representatives shall develop the plan for shared services when developing or amending the consumer-directed community supports plan, and must follow the consumer-directed community supports process for approval of the plan by the lead agency. The plan for shared services in an individual's consumer-directed community supports plan shall include the intention to utilize shared services based on individuals' needs and preferences.

(e) Individuals sharing services must use the same financial management services provider.

(f) Individuals whose consumer-directed community supports community support plans include the intention to utilize shared services must also jointly develop, with the support of their representatives as needed, a shared services agreement. This agreement must include:

(1) the names of the individuals receiving shared services;

(2) the individuals' representative, if identified in their consumer-directed community supports plans, and their duties;

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- (3) the names of the case managers;
- (4) the financial management services provider;
- (5) the shared services that must be provided;
- (6) the schedule for shared services;
- (7) the location where shared services must be provided;
- (8) the training specific to each individual served;
- (9) the training specific to providing shared services to the individuals identified in the agreement;
- (10) instructions to follow all required documentation for time and services provided;
- (11) a contingency plan for each of the individuals that accounts for service provision and billing in the absence of one of the individuals in a shared services setting due to illness or other circumstances;
- (12) signatures of all parties involved in the shared services; and
- (13) agreement by each of the individuals who are sharing services on the number of shared hours for services provided.

(g) Any individual or any individual's representative may withdraw from participating in a shared services agreement at any time.

(h) The lead agency for each individual must authorize the use of the shared services option based on the criteria that the shared service is appropriate to meet the needs, health, and safety of each individual for whom they provide case management or care coordination.

(i) Nothing in this subdivision must be construed to reduce the total authorized consumer-directed community supports budget for an individual.

(j) No later than September 30, 2019, the commissioner of human services shall:

(1) submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.0913, 256B.0915, 256B.092, and 256B.49, to allow for a shared services option under consumer-directed community supports; and

(2) with stakeholder input, develop guidance for shared services in consumer-directed community-supports within the Community Based Services Manual. Guidance must include:

- (i) recommendations for negotiating payment for one-to-two and one-to-three services; and
- (ii) a template of the shared services agreement.

**EFFECTIVE DATE.** This section is effective October 1, 2019, or upon federal approval, whichever is later, except for subdivision 2, paragraph (j), which is effective the day following final enactment. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.