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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE NO. 911

February 12, 2007

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The bill was read for the first time and referred to the Committee on Health and Human Services

February 19, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Governmental Operations, Reform, Technology and Elections

March 8, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to human services; establishing a self-directed personal supports option;
1.3 modifying the Minnesota supplemental aid standard; directing the commissioner
1.4 to license programs for youth with disabilities; requiring reports; appropriating
1.5 money; amending Minnesota Statutes 2006, sections 256B.0625, by adding
1.6 a subdivision; 256D.44, subdivisions 2, 5; proposing coding for new law in
1.7 Minnesota Statutes, chapter 256B.

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

1.9 Section 1. Minnesota Statutes 2006, section 256B.0625, is amended by adding a
1.10 subdivision to read:

1.11 Subd. 49. Self-directed supports option. Upon federal approval, medical
1.12 assistance covers the self-directed supports option as defined under section 256B.0657 and
1.13 section 6087 of the Federal Deficit Reduction Act of 2005, Public Law 109-171.

1.14 EFFECTIVE DATE. This section is effective upon federal approval of the state
1.15 Medicaid plan amendment. The commissioner of human services shall inform the Office
1.16 of the Revisor of Statutes when approval is obtained.

1.17 Sec. 2. [256B.0657] SELF-DIRECTED SUPPORTS OPTION.

1.18 Subdivision 1. Definition. "Self-directed supports option" means personal
1.19 assistance, supports, items, and related services purchased under an approved budget plan
1.20 and budget by a participant who is otherwise eligible for personal care assistance under
1.21 section 256B.0655 and lives in the participant's own apartment or home which is not
1.22 owned, operated, or controlled by a provider of services not related by blood or marriage.

1.23 Subd. 2. Assessment and plan requirements. The self-directed supports option
1.24 assessment and plan must meet the following requirements:

2.1 (a) The assessment and plan must be completed using a person-centered process that:

2.2 (1) builds upon the participant's capacity to engage in activities that promote
2.3 community life;

2.4 (2) respects the participant's preferences, choices, and abilities; and

2.5 (3) involves families, friends, and professionals in the planning or delivery of
2.6 services or supports as desired or required by the participant.

2.7 (b) The person-centered assessment and annual reassessments shall be completed
2.8 with the assistance of a county public health nurse considering the participant's needs,
2.9 strengths, and preferences using the process for a medical assistance home care assessment
2.10 under section 256B.0658, subdivision 3.

2.11 (c) The plan for the self-directed supports option for the participant shall be
2.12 developed annually by the participant, guardian or parent of a minor child, and, if the
2.13 participant chooses, with the assistance of an enrolled medical assistance provider
2.14 who meets the requirements established for using a person-centered planning process.
2.15 The commissioner shall establish the format and criteria for the plan as well as the
2.16 requirements for providers who assist with plan development.

2.17 Subd. 3. **Self-directed budget requirements.** The budget for the provision of the
2.18 self-directed supports option must meet the following requirements:

2.19 (a) The budget available is equal to either (1) the annual amount of personal care
2.20 assistant services under section 256B.0655, which the participant has used in the most
2.21 recent 12-month period, or (2) the amount determined using the consumer support grant
2.22 methodology under section 256.476, subdivision 11, except that the budget amount shall
2.23 include the federal share of the average service costs as well as the nonfederal share,
2.24 whichever is greater. The budget amount may be used for:

2.25 (1) personal care assistant services under section 256B.0655; and

2.26 (2) items, related services, and supports, including assistive technology, that increase
2.27 independence or substitute for human assistance to the extent expenditures would
2.28 otherwise be used for human assistance.

2.29 Items, supports, and related services purchased under this option are not considered
2.30 home care services for purposes of section 144A.43.

2.31 (b) The participant has the responsibility and authority to hire, fire, supervise,
2.32 establish staff compensation, and manage the individuals providing services, and to choose
2.33 and obtain items, related services, and supports as described in the participant's plan.

2.34 (c) The budget may not restrict access to other medically necessary care and services
2.35 furnished under the plan and approved by the state but not included in the budget, except

3.1 that persons receiving home and community-based waiver services are not eligible for
3.2 funding under the self-directed supports option.

3.3 (d) The plan for self-directed supports must include the total budget amount
3.4 available divided in monthly amounts, which cover the number of months of personal care
3.5 assistant service authorization included in the budget. The amount used each month may
3.6 vary; however, additional funds will not be provided beyond the annual personal care
3.7 assistant services authorized amount unless a change in condition is documented.

3.8 Subd. 4. **Quality assurance and risk management.** The commissioner is required
3.9 to establish quality assurance and risk management techniques for use in developing and
3.10 implementing self-directed plans and budgets that recognize the roles and responsibilities
3.11 involved in obtaining services in a self-directed manner and that assure the appropriateness
3.12 of such plans and budgets based upon a participant's resources and capabilities.

3.13 Subd. 5. **Financial management services.** Each participant shall choose a financial
3.14 management services provider certified by the commissioner to make payments for
3.15 services, items, supports, and costs related to managing a self-directed service plan
3.16 authorized for payment in the approved plan and budget. The commissioner shall certify
3.17 both fiscal support entities and agencies with choice models of financial management
3.18 services and assure that both are available to participants throughout the state.

3.19 Subd. 6. **Advisory task force.** The commissioner shall establish a statewide
3.20 consumer-directed services advisory task force, including representatives of all types of
3.21 consumer-directed service users, advocacy organizations, county, and consumer-directed
3.22 service providers. The advisory task force shall meet at least three times per year and
3.23 provide advice on policy, implementation, and other aspects of consumer and self-directed
3.24 services. The commissioner shall seek recommendations from this advisory task
3.25 force in developing the self-directed plan format; requirements and guidelines for the
3.26 person-centered plan assessment and planning process; and implementation of the option,
3.27 the quality assurance and risk management techniques, standards, and requirements,
3.28 including rates, for the personal support plan development provider and the fiscal support
3.29 entity, and other self-directed supports option policies, training, and implementation issues.

3.30 **EFFECTIVE DATE.** Subdivisions 1 to 5 are effective upon federal approval of
3.31 the state Medicaid plan amendment. The commissioner of human services shall inform
3.32 the Office of the Revisor of Statutes when federal approval is obtained. Subdivision 6
3.33 is effective July 1, 2007.

3.34 Sec. 3. Minnesota Statutes 2006, section 256D.44, subdivision 2, is amended to read:

4.1 Subd. 2. **Standard of assistance for persons eligible for medical assistance**
4.2 **waivers or at risk of placement in a group residential housing facility.** The state
4.3 standard of assistance for a person (1) who is eligible for a medical assistance home
4.4 and community-based services waiver ~~or a person, (2) who has been determined by the~~
4.5 local agency to meet the plan requirements for placement in a group residential housing
4.6 facility under section 256I.04, subdivision 1a, or (3) who is eligible for a shelter needy
4.7 payment under subdivision 5, paragraph (f), is the standard established in subdivision 3,
4.8 paragraph (a) or (b).

4.9 Sec. 4. Minnesota Statutes 2006, section 256D.44, subdivision 5, is amended to read:

4.10 Subd. 5. **Special needs.** In addition to the state standards of assistance established in
4.11 subdivisions 1 to 4, payments are allowed for the following special needs of recipients of
4.12 Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
4.13 center, or a group residential housing facility.

4.14 (a) The county agency shall pay a monthly allowance for medically prescribed
4.15 diets if the cost of those additional dietary needs cannot be met through some other
4.16 maintenance benefit. The need for special diets or dietary items must be prescribed by
4.17 a licensed physician. Costs for special diets shall be determined as percentages of the
4.18 allotment for a one-person household under the thrifty food plan as defined by the United
4.19 States Department of Agriculture. The types of diets and the percentages of the thrifty
4.20 food plan that are covered are as follows:

4.21 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

4.22 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent
4.23 of thrifty food plan;

4.24 (3) controlled protein diet, less than 40 grams and requires special products, 125
4.25 percent of thrifty food plan;

4.26 (4) low cholesterol diet, 25 percent of thrifty food plan;

4.27 (5) high residue diet, 20 percent of thrifty food plan;

4.28 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

4.29 (7) gluten-free diet, 25 percent of thrifty food plan;

4.30 (8) lactose-free diet, 25 percent of thrifty food plan;

4.31 (9) antidumping diet, 15 percent of thrifty food plan;

4.32 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

4.33 (11) ketogenic diet, 25 percent of thrifty food plan.

4.34 (b) Payment for nonrecurring special needs must be allowed for necessary home
4.35 repairs or necessary repairs or replacement of household furniture and appliances using

5.1 the payment standard of the AFDC program in effect on July 16, 1996, for these expenses,
5.2 as long as other funding sources are not available.

5.3 (c) A fee for guardian or conservator service is allowed at a reasonable rate
5.4 negotiated by the county or approved by the court. This rate shall not exceed five percent
5.5 of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the
5.6 guardian or conservator is a member of the county agency staff, no fee is allowed.

5.7 (d) The county agency shall continue to pay a monthly allowance of \$68 for
5.8 restaurant meals for a person who was receiving a restaurant meal allowance on June 1,
5.9 1990, and who eats two or more meals in a restaurant daily. The allowance must continue
5.10 until the person has not received Minnesota supplemental aid for one full calendar month
5.11 or until the person's living arrangement changes and the person no longer meets the criteria
5.12 for the restaurant meal allowance, whichever occurs first.

5.13 (e) A fee of ten percent of the recipient's gross income or \$25, whichever is less,
5.14 is allowed for representative payee services provided by an agency that meets the
5.15 requirements under SSI regulations to charge a fee for representative payee services. This
5.16 special need is available to all recipients of Minnesota supplemental aid regardless of
5.17 their living arrangement.

5.18 (f) Notwithstanding the language in this subdivision, an amount equal to the
5.19 maximum allotment authorized by the federal Food Stamp Program for a single individual
5.20 which is in effect on the first day of ~~January~~ July of the ~~previous~~ each year will be added to
5.21 the standards of assistance established in subdivisions 1 to 4 for ~~individuals~~ adults under
5.22 the age of 65 who qualify as shelter needy and are: (1) relocating from an institution, or
5.23 an adult mental health residential treatment program under section 256B.0622, and who
5.24 ~~are shelter needy; (2) self-directed supports option participants defined under section~~
5.25 256B.0657 if enacted in the 2007 legislative session; or (3) home and community-based
5.26 waiver recipients living in their own rented, leased, or owned apartment or home not
5.27 owned, operated, or controlled by a provider of service not related by blood or marriage.
5.28 Notwithstanding subdivision 3, paragraph (c), an individual eligible for the shelter needy
5.29 benefit under subdivision 5, paragraph (f), is considered a household of one. An eligible
5.30 individual who receives this benefit prior to age 65 may continue to receive the benefit
5.31 after the age of 65.

5.32 (g)(1) Persons eligible for shelter needy funding under paragraph (f), who are not
5.33 receiving medial assistance home and community-based waiver services, are eligible for
5.34 a state-funded transitional supports allowance under section 256B.49, subdivision 16,
5.35 paragraph (e), to establish their own residence not owned, operated, or controlled by a
5.36 provider of service not related by blood or marriage.

6.1 (2) "Shelter needy" means that the assistance unit incurs monthly shelter costs that
6.2 exceed 40 percent of the assistance unit's gross income before the application of this
6.3 special needs standard. "Gross income" for the purposes of this section is the applicant's or
6.4 recipient's income as defined in section 256D.35, subdivision 10, or the standard specified
6.5 in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or
6.6 state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be
6.7 considered shelter needy for purposes of this paragraph.

6.8 Sec. 5. **LICENSURE; SERVICES FOR YOUTH WITH DISABILITIES.**

6.9 (a) Notwithstanding the requirements of Minnesota Statutes, chapter 245A, upon the
6.10 recommendation of a county agency, the commissioner of human services shall grant a
6.11 license with any necessary variances to a nonresidential program for youth which provides
6.12 services to youth with disabilities under age 21 during nonschool hours established
6.13 to ensure health and safety, prevent out-of-home placement, and increase community
6.14 inclusion of youth with disabilities. The nonresidential youth program is subject to the
6.15 conditions of any variances granted and with consumer rights under Minnesota Statutes,
6.16 section 245B.04, consumer protection standards under Minnesota Statutes, section
6.17 245B.05, service standards under Minnesota Statutes, section 245B.06, management
6.18 standards under Minnesota Statutes, section 245B.07, and fire marshal inspections under
6.19 Minnesota Statutes, section 245A.151, until the commissioner develops other licensure
6.20 requirements for this type of program.

6.21 (b) By February 1, 2008, the commissioner shall recommend amendments to
6.22 licensure requirements in Minnesota Statutes, chapter 245A, to allow licensure of
6.23 appropriate services for school-age youth with disabilities under age 21 who need
6.24 supervision and services to develop skills necessary to maintain personal safety and
6.25 increase their independence, productivity, and participation in their communities during
6.26 nonschool hours. As part of developing the recommendations, the commissioner shall
6.27 survey county agencies to determine how the needs of youth with disabilities under age 21
6.28 who require supervision and support services are being met and the funding sources used.
6.29 The recommendations must be provided to the house and senate chairs of the committees
6.30 with jurisdiction over licensing of programs for youth with disabilities.

6.31 Sec. 6. **APPROPRIATIONS.**

6.32 \$..... is appropriated from the general fund to the commissioner of human services
6.33 to provide the nonfederal Medicaid match for the assessment, self-directed supports option
6.34 plan development, and other administrative costs related to implementing and managing

- 7.1 the self-directed supports option, including quality assurance measures. Federal Medicaid
- 7.2 match obtained for administrative activities for this option must be dedicated to the
- 7.3 commissioner for this purpose.