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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1157

03/04/2013 Authored by Norton; Benson, M., and Fritz

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 medical assistance provisions related
1.3 to quality assurance; amending Minnesota Statutes 2012, sections 256B.095;
1.4 256B.0951, subdivisions 1, 4; 256B.0952, subdivisions 1, 5; 256B.0955;
1.5 256B.097, subdivisions 1, 3; repealing Minnesota Statutes 2012, section
1.6 256B.096, subdivisions 1, 2, 3, 4.

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

1.8 Section 1. Minnesota Statutes 2012, section 256B.095, is amended to read:

1.9 **256B.095 QUALITY ASSURANCE SYSTEM ESTABLISHED.**

1.10 (a) Effective July 1, 1998, a quality assurance system for persons with developmental
1.11 disabilities, which includes an alternative quality assurance licensing system for programs,
1.12 is established in Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice,
1.13 Steele, Wabasha, and Winona Counties for the purpose of improving the quality of
1.14 services provided to persons with developmental disabilities. A county, at its option, may
1.15 choose to have all programs for persons with developmental disabilities located within
1.16 the county licensed under chapter 245A using standards determined under the alternative
1.17 quality assurance licensing system or may continue regulation of these programs under the
1.18 licensing system operated by the commissioner. ~~The project expires on June 30, 2014.~~

1.19 (b) Effective July 1, 2003, a county not listed in paragraph (a) may apply to
1.20 participate in the quality assurance system established under paragraph (a). The
1.21 commission established under section 256B.0951 may, at its option, allow additional
1.22 counties to participate in the system.

1.23 (c) Effective July 1, 2003, any county or group of counties not listed in paragraph (a)
1.24 may establish a quality assurance system under this section. A new system established
1.25 under this section shall have the same rights and duties as the system established

2.1 under paragraph (a). A new system shall be governed by a commission under section
 2.2 256B.0951. The commissioner shall appoint the initial commission members based
 2.3 on recommendations from advocates, families, service providers, and counties in the
 2.4 geographic area included in the new system. Counties that choose to participate in a
 2.5 new system shall have the duties assigned under section 256B.0952. The new system
 2.6 shall establish a quality assurance process under section 256B.0953. The provisions of
 2.7 section 256B.0954 shall apply to a new system established under this paragraph. The
 2.8 commissioner shall delegate authority to a new system established under this paragraph
 2.9 according to section 256B.0955.

2.10 (d) Effective July 1, 2007, the quality assurance system may be expanded to include
 2.11 all programs for persons with disabilities and older adults.

2.12 (e) Effective July 1, 2013, a provider of service located in a non-opted-in county may
 2.13 opt-in to the quality assurance system provided the county where services are provided
 2.14 indicates its agreement with another host county.

2.15 **EFFECTIVE DATE.** This section is effective July 1, 2013.

2.16 Sec. 2. Minnesota Statutes 2012, section 256B.0951, subdivision 1, is amended to read:

2.17 Subdivision 1. **Membership.** The Quality Assurance Commission is established.
 2.18 The commission consists of at least 14 but not more than 21 members as follows: at
 2.19 least three but not more than five members representing advocacy organizations; at
 2.20 least three but not more than five members representing consumers, families, and their
 2.21 legal representatives; at least three but not more than five members representing service
 2.22 providers; at least three but not more than five members representing counties; and the
 2.23 commissioner of human services or the commissioner's designee. The first commission
 2.24 shall establish membership guidelines for the transition and recruitment of membership for
 2.25 the commission's ongoing existence. Members of the commission who do not receive a
 2.26 salary or wages from an employer for time spent on commission duties may receive a per
 2.27 diem payment when performing commission duties and functions. All members may be
 2.28 reimbursed for expenses related to commission activities. ~~Notwithstanding the provisions~~
 2.29 ~~of section 15.059, subdivision 5, the commission expires on June 30, 2014.~~

2.30 Sec. 3. Minnesota Statutes 2012, section 256B.0951, subdivision 4, is amended to read:

2.31 Subd. 4. **Commission's authority to recommend variances of licensing**
 2.32 **standards.** The commission may recommend to the commissioners of human services
 2.33 and health variances from the standards governing licensure of programs for persons with
 2.34 ~~developmental~~ disabilities in order to improve the quality of services by implementing

3.1 an alternative ~~developmental~~ disabilities licensing system if the commission determines
 3.2 that the alternative licensing system does not adversely affect the health or safety of
 3.3 persons being served by the licensed program nor compromise the qualifications of staff
 3.4 to provide services.

3.5 Sec. 4. Minnesota Statutes 2012, section 256B.0952, subdivision 1, is amended to read:

3.6 Subdivision 1. **Notification.** Counties or providers shall give notice to the
 3.7 commission and commissioners of human services and health of intent to join the
 3.8 alternative quality assurance licensing system. A county or provider choosing to participate
 3.9 in the alternative quality assurance licensing system commits to participate for three years.

3.10 Sec. 5. Minnesota Statutes 2012, section 256B.0952, subdivision 5, is amended to read:

3.11 Subd. 5. **Quality assurance teams.** Quality assurance teams shall be comprised
 3.12 of county staff; providers; consumers, families, and their legal representatives; members
 3.13 of advocacy organizations; and other involved community members. Team members
 3.14 must satisfactorily complete the training program approved by the commission and must
 3.15 demonstrate performance-based competency. Team members are not considered to be
 3.16 county employees for purposes of workers' compensation, unemployment insurance, or
 3.17 state retirement laws solely on the basis of participation on a quality assurance team. ~~The~~
 3.18 ~~county may pay~~ A per diem may be paid to team members for time spent on alternative
 3.19 quality assurance process matters. All team members may be reimbursed for expenses
 3.20 related to their participation in the alternative process.

3.21 Sec. 6. Minnesota Statutes 2012, section 256B.0955, is amended to read:

3.22 **256B.0955 DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.**

3.23 (a) Effective July 1, 1998, the commissioner of human services shall delegate
 3.24 authority to perform licensing functions and activities, in accordance with section
 3.25 245A.16, to counties or a host county with agreement from participating counties in
 3.26 the alternative quality assurance licensing system. The commissioner shall not license
 3.27 or reimburse a facility, program, or service for persons with ~~developmental~~ disabilities
 3.28 in a county that participates in the alternative quality assurance licensing system if the
 3.29 commissioner has received from the appropriate county or host county notification that the
 3.30 facility, program, or service has been reviewed by a quality assurance team and has failed
 3.31 to qualify for licensure.

3.32 (b) The commissioner may conduct random licensing inspections based on outcomes
 3.33 adopted under section 256B.0951 at facilities, programs, and services governed by the

4.1 alternative quality assurance licensing system. The role of such random inspections shall
 4.2 be to verify that the alternative quality assurance licensing system protects the safety
 4.3 and well-being of consumers and maintains the availability of high-quality services for
 4.4 persons with developmental disabilities.

4.5 **EFFECTIVE DATE.** This section is effective July 1, 2013.

4.6 Sec. 7. Minnesota Statutes 2012, section 256B.097, subdivision 1, is amended to read:

4.7 Subdivision 1. **Scope.** (a) In order to improve the quality of services provided to
 4.8 Minnesotans with disabilities and to meet the requirements of the federally approved home
 4.9 and community-based waivers under section 1915c of the Social Security Act, a State
 4.10 Quality Assurance, Quality Improvement, and Licensing System for Minnesotans receiving
 4.11 disability services is enacted. This system is a partnership between the Department of
 4.12 Human Services and the State Quality Council established under subdivision 3.

4.13 (b) This system is a result of the recommendations from the Department of Human
 4.14 Services' licensing and alternative quality assurance study mandated under Laws 2005,
 4.15 First Special Session chapter 4, article 7, section 57, and presented to the legislature
 4.16 in February 2007.

4.17 (c) The disability services eligible under this section include:

4.18 (1) the home and community-based services waiver programs for persons with
 4.19 developmental disabilities under section 256B.092, subdivision 4, or section 256B.49,
 4.20 including brain injuries and services for those who qualify for nursing facility level of care
 4.21 or hospital facility level of care and any other services licensed under chapter 245D;

4.22 (2) home care services under section 256B.0651;

4.23 (3) family support grants under section 252.32;

4.24 (4) consumer support grants under section 256.476;

4.25 (5) semi-independent living services under section 252.275; and

4.26 (6) services provided through an intermediate care facility for the developmentally
 4.27 disabled.

4.28 (d) For purposes of this section, the following definitions apply:

4.29 (1) "commissioner" means the commissioner of human services;

4.30 (2) "council" means the State Quality Council under subdivision 3;

4.31 (3) "Quality Assurance Commission" means the commission under section
 4.32 256B.0951; and

4.33 (4) "system" means the State Quality Assurance, Quality Improvement and
 4.34 Licensing System under this section.

5.1 Sec. 8. Minnesota Statutes 2012, section 256B.097, subdivision 3, is amended to read:

5.2 Subd. 3. **State Quality Council.** (a) There is hereby created a State Quality
5.3 Council which must define regional quality councils, and carry out a community-based,
5.4 person-directed quality review component, and a comprehensive system for effective
5.5 incident reporting, investigation, analysis, and follow-up.

5.6 (b) By August 1, 2011, the commissioner of human services shall appoint the
5.7 members of the initial State Quality Council. Members shall include representatives
5.8 from the following groups:

5.9 (1) disability service recipients and their family members;

5.10 (2) during the first ~~two~~ four years of the State Quality Council, there must be at least
5.11 three members from the Region 10 stakeholders. As regional quality councils are formed
5.12 under subdivision 4, each regional quality council shall appoint one member;

5.13 (3) disability service providers;

5.14 (4) disability advocacy groups; and

5.15 (5) county human services agencies and staff from the Department of Human
5.16 Services and Ombudsman for Mental Health and Developmental Disabilities.

5.17 (c) Members of the council who do not receive a salary or wages from an employer
5.18 for time spent on council duties may receive a per diem payment when performing council
5.19 duties and functions.

5.20 (d) The State Quality Council shall:

5.21 (1) assist the Department of Human Services in fulfilling federally mandated
5.22 obligations by monitoring disability service quality and quality assurance and
5.23 improvement practices in Minnesota;

5.24 (2) establish state quality improvement priorities with methods for achieving results
5.25 and provide an annual report to the legislative committees with jurisdiction over policy
5.26 and funding of disability services on the outcomes, improvement priorities, and activities
5.27 undertaken by the commission during the previous state fiscal year;

5.28 (3) identify issues pertaining to financial and personal risk that impede Minnesotans
5.29 with disabilities from optimizing choice of community-based services; and

5.30 (4) recommend to the chairs and ranking minority members of the legislative
5.31 committees with jurisdiction over human services and civil law by January 15, ~~2013~~
5.32 2014, statutory and rule changes related to the findings under clause (3) that promote
5.33 individualized service and housing choices balanced with appropriate individualized
5.34 protection.

5.35 (e) The State Quality Council, in partnership with the commissioner, shall:

6.1 (1) approve and direct implementation of the community-based, person-directed
6.2 system established in this section;

6.3 (2) recommend an appropriate method of funding this system, and determine the
6.4 feasibility of the use of Medicaid, licensing fees, as well as other possible funding options;

6.5 (3) approve measurable outcomes in the areas of health and safety, consumer
6.6 evaluation, education and training, providers, and systems;

6.7 (4) establish variable licensure periods not to exceed three years based on outcomes
6.8 achieved; and

6.9 (5) in cooperation with the Quality Assurance Commission, design a transition plan
6.10 for licensed providers from Region 10 into the alternative licensing system by July 1, 2013.

6.11 (f) The State Quality Council shall notify the commissioner of human services that a
6.12 facility, program, or service has been reviewed by quality assurance team members under
6.13 subdivision 4, paragraph (b), clause (13), and qualifies for a license.

6.14 (g) The State Quality Council, in partnership with the commissioner, shall establish
6.15 an ongoing review process for the system. The review shall take into account the
6.16 comprehensive nature of the system which is designed to evaluate the broad spectrum of
6.17 licensed and unlicensed entities that provide services to persons with disabilities. The
6.18 review shall address efficiencies and effectiveness of the system.

6.19 (h) The State Quality Council may recommend to the commissioner certain
6.20 variances from the standards governing licensure of programs for persons with disabilities
6.21 in order to improve the quality of services so long as the recommended variances do
6.22 not adversely affect the health or safety of persons being served or compromise the
6.23 qualifications of staff to provide services.

6.24 (i) The safety standards, rights, or procedural protections referenced under
6.25 subdivision 2, paragraph (c), shall not be varied. The State Quality Council may make
6.26 recommendations to the commissioner or to the legislature in the report required under
6.27 paragraph (c) regarding alternatives or modifications to the safety standards, rights, or
6.28 procedural protections referenced under subdivision 2, paragraph (c).

6.29 (j) The State Quality Council may hire staff to perform the duties assigned in this
6.30 subdivision.

6.31 **Sec. 9. REPEALER.**

6.32 Minnesota Statutes 2012, section 256B.096, subdivisions 1, 2, 3, and 4, are repealed.

256B.096 QUALITY MANAGEMENT, ASSURANCE, AND IMPROVEMENT SYSTEM FOR MINNESOTANS RECEIVING DISABILITY SERVICES.

Subdivision 1. **Scope.** In order to improve the quality of services provided to Minnesotans with disabilities and to meet the requirements of the federally approved home and community-based waivers under section 1915c of the Social Security Act, a statewide quality assurance and improvement system for Minnesotans receiving disability services shall be developed. The disability services included are the home and community-based services waiver programs for persons with developmental disabilities under section 256B.092, subdivision 4, and for persons with disabilities under section 256B.49.

Subd. 2. **Stakeholder advisory group.** The commissioner shall consult with a stakeholder advisory group on the development and implementation of the state quality management, assurance, and improvement system, including representatives of disability service recipients, disability service providers, disability advocacy groups, county human service agencies, and state agency staff from the Departments of Human Services and Health, and the ombudsman for mental health and developmental disabilities on the development of a statewide quality assurance and improvement system.

Subd. 3. **Annual survey of service recipients.** The commissioner, in consultation with the stakeholder advisory group, shall develop an annual independent random statewide survey of between five and ten percent of service recipients to determine the effectiveness and quality of disability services. The survey shall be consistent with the system performance expectations of the Centers for Medicare and Medicaid Services quality management requirements and framework. The survey shall analyze whether desired outcomes have been achieved for persons with different demographic, diagnostic, health, and functional needs receiving different types of services, in different settings, with different costs. The survey shall be field tested during 2008. The biennial report established in subdivision 5 shall include recommendations on statewide and regional reports of the survey results that, if published, would be useful to regions, counties, and providers to plan and measure the impact of quality improvement activities.

Subd. 4. **Improvements for incident reporting, investigation, analysis, and follow-up.** In consultation with the stakeholder advisory group, the commissioner shall identify the information, data sources, and technology needed to improve the system of incident reporting, including:

- (1) reports made under the Maltreatment of Minors and Vulnerable Adults Acts; and
- (2) investigation, analysis, and follow-up for disability services.

The commissioner must ensure that the federal home and community-based waiver requirements are met and that incidents that may have jeopardized safety and health or violated service-related assurances, civil and human rights, and other protections designed to prevent abuse, neglect, and exploitation, are reviewed, investigated, and acted upon in a timely manner.