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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 4206

03/22/2018 Authored by Zerwas
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; modifying electronic visit verification; amending Laws
1.3 2017, First Special Session chapter 6, article 3, section 49; repealing Minnesota
1.4 Statutes 2016, section 256B.0705.

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

1.6 Section 1. Laws 2017, First Special Session chapter 6, article 3, section 49, is amended
1.7 to read:

1.8 Sec. 49. ~~ELECTRONIC SERVICE DELIVERY DOCUMENTATION SYSTEM~~
1.9 VISIT VERIFICATION.

1.10 Subdivision 1. **Documentation; establishment.** The commissioner of human services
1.11 shall establish implementation requirements and standards for ~~an electronic service delivery~~
1.12 ~~documentation system~~ visit verification to comply with the 21st Century Cures Act, Public
1.13 Law 114-255. Within available appropriations, the commissioner shall take steps to comply
1.14 with the electronic visit verification requirements in the 21st Century Cures Act, Public
1.15 Law 114-255.

1.16 Subd. 2. **Definitions.** (a) For purposes of this section, the terms in this subdivision have
1.17 the meanings given them.

1.18 (b) "Electronic ~~service delivery documentation~~ visit verification" means the electronic
1.19 documentation of the:

1.20 (1) type of service performed;

1.21 (2) individual receiving the service;

1.22 (3) date of the service;

2.1 (4) location of the service delivery;

2.2 (5) individual providing the service; and

2.3 (6) time the service begins and ends.

2.4 (c) "~~Electronic service delivery documentation~~ visit verification system" means a system
2.5 that provides electronic ~~service delivery documentation~~ verification of services that complies
2.6 with the 21st Century Cures Act, Public Law 114-255, and the requirements of subdivision
2.7 3.

2.8 (d) "Service" means one of the following:

2.9 (1) personal care assistance services as defined in Minnesota Statutes, section 256B.0625,
2.10 subdivision 19a, and provided according to Minnesota Statutes, section 256B.0659; ~~or~~

2.11 (2) community first services and supports under Minnesota Statutes, section 256B.85;

2.12 (3) home health services under Minnesota Statutes, section 256B.0625, subdivision 6a;

2.13 or

2.14 (4) other medical supplies and equipment or home and community-based services that
2.15 are required to be electronically verified by the 21st Century Cures Act, Public Law 114-255.

2.16 Subd. 3. **Requirements.** (a) In developing implementation requirements for ~~an electronic~~
2.17 ~~service delivery documentation system~~ visit verification, the commissioner shall ~~consider~~
2.18 ~~electronic visit verification systems and other electronic service delivery documentation~~
2.19 ~~methods. The commissioner shall convene stakeholders that will be impacted by an electronic~~
2.20 ~~service delivery system, including service providers and their representatives, service~~
2.21 ~~recipients and their representatives, and, as appropriate, those with expertise in the~~
2.22 ~~development and operation of an electronic service delivery documentation system, to ensure~~
2.23 that the requirements:

2.24 (1) are minimally administratively and financially burdensome to a provider;

2.25 (2) are minimally burdensome to the service recipient and the least disruptive to the
2.26 service recipient in receiving and maintaining allowed services;

2.27 (3) consider existing best practices and use of electronic ~~service delivery documentation~~
2.28 visit verification;

2.29 (4) are conducted according to all state and federal laws;

2.30 (5) are effective methods for preventing fraud when balanced against the requirements
2.31 of clauses (1) and (2); and

3.1 (6) are consistent with the Department of Human Services' policies related to covered
3.2 services, flexibility of service use, and quality assurance.

3.3 (b) The commissioner shall make training available to providers on the electronic ~~service~~
3.4 ~~delivery documentation~~ visit verification system requirements.

3.5 (c) The commissioner shall establish baseline measurements related to preventing fraud
3.6 and establish measures to determine the effect of electronic ~~service-delivery documentation~~
3.7 visit verification requirements on program integrity.

3.8 (d) The commissioner shall make a state-selected electronic visit verification system
3.9 available to providers of services. Providers of services may select their own electronic visit
3.10 verification system that meets the requirements established by the commissioner.

3.11 (e) All electronic visit verification systems used by providers to comply with the
3.12 requirements established by the commissioner must provide data to the commissioner in a
3.13 format and at a frequency to be established by the commissioner.

3.14 ~~Subd. 4. Legislative report. (a) The commissioner shall submit a report by January 15,~~
3.15 ~~2018, to the chairs and ranking minority members of the legislative committees with~~
3.16 ~~jurisdiction over human services with recommendations, based on the requirements of~~
3.17 ~~subdivision 3, to establish electronic service-delivery documentation system requirements~~
3.18 ~~and standards. The report shall identify:~~

3.19 (1) ~~the essential elements necessary to operationalize a base-level electronic service~~
3.20 ~~delivery documentation system to be implemented by January 1, 2019; and~~

3.21 (2) ~~enhancements to the base-level electronic service-delivery documentation system to~~
3.22 ~~be implemented by January 1, 2019, or after, with projected operational costs and the costs~~
3.23 ~~and benefits for system enhancements.~~

3.24 (b) ~~The report must also identify current regulations on service providers that are either~~
3.25 ~~inefficient, minimally effective, or will be unnecessary with the implementation of an~~
3.26 ~~electronic service-delivery documentation system.~~

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

3.28 Sec. 2. **REVISOR'S INSTRUCTION.**

3.29 The revisor of statutes shall codify Laws 2017, First Special Session chapter 6, article
3.30 3, section 49, as amended in this act, in Minnesota Statutes, chapter 256B.

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

4.1 Sec. 3. **REPEALER.**

4.2 Minnesota Statutes 2016, section 256B.0705, is repealed.

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

256B.0705 PERSONAL CARE ASSISTANCE SERVICES; MANDATED SERVICE VERIFICATION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Personal care assistance services" or "PCA services" means services provided according to section 256B.0659.

(c) "Personal care assistant" or "PCA" has the meaning given in section 256B.0659, subdivision 1.

(d) "Service verification" means a random, unscheduled telephone call made for the purpose of verifying that the individual personal care assistant is present at the location where personal care assistance services are being provided and is providing services as scheduled.

Subd. 2. **Verification schedule.** An agency that submits claims for reimbursement for PCA services under this chapter must develop and implement administrative policies and procedures by which the agency verifies the services provided by a PCA. For each service recipient, the agency must conduct at least one service verification every 90 days. If more than one PCA provides services to a single service recipient, the agency must conduct a service verification for each PCA providing services before conducting a service verification for a PCA whose services were previously verified by the agency. Service verification must occur on an ongoing basis while the agency provides PCA services to the recipient. During service verification, the agency must speak with both the PCA and the service recipient or recipient's authorized representative. Only qualified professional service verifications are eligible for reimbursement. An agency may substitute a visit by a qualified professional that is eligible for reimbursement under section 256B.0659, subdivision 14 or 19.

Subd. 3. **Documentation of verification.** An agency must fully document service verifications in a legible manner and must maintain the documentation on site for at least five years from the date of documentation. For each service verification, documentation must include:

(1) the names and signatures of the service recipient or recipient's authorized representative, the PCA and any other agency staff present with the PCA during the service verification, and the staff person conducting the service verification; and

(2) the start and end time, day, month, and year of the service verification, and the corresponding PCA time sheet.

Subd. 4. **Variance.** The Office of Inspector General at the Department of Human Services may grant a variance to the service verification requirements in this section if an agency uses an electronic monitoring system or other methods that verify a PCA is present at the location where services are provided and is providing services according to the prescribed schedule. A decision to grant or deny a variance request is final and not subject to appeal under chapter 14.