

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1102

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DATE	D-PG	OFFICIAL STATUS
02/16/2017	641	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; modifying the community first services and supports

1.3 program; amending Minnesota Statutes 2016, section 256B.85, subdivisions 1, 2,

1.4 7.

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

1.6 Section 1. Minnesota Statutes 2016, section 256B.85, subdivision 1, is amended to read:

1.7 Subdivision 1. **Basis and scope.** (a) Upon federal approval, the commissioner shall

1.8 establish a state plan option for the provision of home and community-based personal

1.9 assistance service and supports called "community first services and supports (CFSS)."

1.10 (b) CFSS is a participant-controlled method of selecting and providing services and

1.11 supports that allows the participant maximum control of the services and supports.

1.12 Participants may choose the degree to which they direct and manage their supports by

1.13 choosing to have a significant and meaningful role in the management of services and

1.14 supports including by directly employing support workers with the necessary supports to

1.15 perform that function.

1.16 (c) CFSS is available statewide to eligible people to assist with accomplishing activities

1.17 of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related

1.18 procedures and tasks through hands-on assistance to accomplish the task or ~~constant~~

1.19 supervision and cueing to accomplish the task; and to assist with acquiring, maintaining,

1.20 and enhancing the skills necessary to accomplish ADLs, IADLs, and health-related

1.21 procedures and tasks. CFSS allows payment for certain supports and goods such as

1.22 environmental modifications and technology that are intended to replace or decrease the

1.23 need for human assistance.

2.1 (d) Upon federal approval, CFSS will replace the personal care assistance program under
2.2 sections 256.476, 256B.0625, subdivisions 19a and 19c, and 256B.0659.

2.3 **EFFECTIVE DATE.** This section is effective upon federal approval. The service will
2.4 begin 90 days after federal approval. The commissioner of human services shall notify the
2.5 revisor of statutes when federal approval is obtained.

2.6 Sec. 2. Minnesota Statutes 2016, section 256B.85, subdivision 2, is amended to read:

2.7 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this
2.8 subdivision have the meanings given.

2.9 (b) "Activities of daily living" or "ADLs" means eating, toileting, grooming, dressing,
2.10 bathing, mobility, positioning, and transferring.

2.11 (c) "Agency-provider model" means a method of CFSS under which a qualified agency
2.12 provides services and supports through the agency's own employees and policies. The agency
2.13 must allow the participant to have a significant role in the selection and dismissal of support
2.14 workers of their choice for the delivery of their specific services and supports.

2.15 (d) "Behavior" means a description of a need for services and supports used to determine
2.16 the home care rating and additional service units. The presence of Level I behavior is used
2.17 to determine the home care rating.

2.18 (e) "Budget model" means a service delivery method of CFSS that allows the use of a
2.19 service budget and assistance from a financial management services (FMS) provider for a
2.20 participant to directly employ support workers and purchase supports and goods.

2.21 (f) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that
2.22 has been ordered by a physician, and is specified in a community services and support plan,
2.23 including:

2.24 (1) tube feedings requiring:

2.25 (i) a gastrojejunostomy tube; or

2.26 (ii) continuous tube feeding lasting longer than 12 hours per day;

2.27 (2) wounds described as:

2.28 (i) stage III or stage IV;

2.29 (ii) multiple wounds;

2.30 (iii) requiring sterile or clean dressing changes or a wound vac; or

- 3.1 (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized
3.2 care;
- 3.3 (3) parenteral therapy described as:
- 3.4 (i) IV therapy more than two times per week lasting longer than four hours for each
3.5 treatment; or
- 3.6 (ii) total parenteral nutrition (TPN) daily;
- 3.7 (4) respiratory interventions, including:
- 3.8 (i) oxygen required more than eight hours per day;
- 3.9 (ii) respiratory vest more than one time per day;
- 3.10 (iii) bronchial drainage treatments more than two times per day;
- 3.11 (iv) sterile or clean suctioning more than six times per day;
- 3.12 (v) dependence on another to apply respiratory ventilation augmentation devices such
3.13 as BiPAP and CPAP; and
- 3.14 (vi) ventilator dependence under section 256B.0651;
- 3.15 (5) insertion and maintenance of catheter, including:
- 3.16 (i) sterile catheter changes more than one time per month;
- 3.17 (ii) clean intermittent catheterization, and including self-catheterization more than six
3.18 times per day; or
- 3.19 (iii) bladder irrigations;
- 3.20 (6) bowel program more than two times per week requiring more than 30 minutes to
3.21 perform each time;
- 3.22 (7) neurological intervention, including:
- 3.23 (i) seizures more than two times per week and requiring significant physical assistance
3.24 to maintain safety; or
- 3.25 (ii) swallowing disorders diagnosed by a physician and requiring specialized assistance
3.26 from another on a daily basis; and
- 3.27 (8) other congenital or acquired diseases creating a need for significantly increased direct
3.28 hands-on assistance and interventions in six to eight activities of daily living.

4.1 (g) "Community first services and supports" or "CFSS" means the assistance and supports
4.2 program under this section needed for accomplishing activities of daily living, instrumental
4.3 activities of daily living, and health-related tasks through hands-on assistance to accomplish
4.4 the task or ~~constant~~ supervision and cueing to accomplish the task, or the purchase of goods
4.5 as defined in subdivision 7, clause (3), that replace the need for human assistance.

4.6 (h) "Community first services and supports service delivery plan" or "CFSS service
4.7 delivery plan" means a written document detailing the services and supports chosen by the
4.8 participant to meet assessed needs that are within the approved CFSS service authorization,
4.9 as determined in subdivision 8. Services and supports are based on the coordinated service
4.10 and support plan identified in section 256B.0915, subdivision 6.

4.11 (i) "Consultation services" means a Minnesota health care program enrolled provider
4.12 organization that provides assistance to the participant in making informed choices about
4.13 CFSS services in general and self-directed tasks in particular, and in developing a
4.14 person-centered CFSS service delivery plan to achieve quality service outcomes.

4.15 (j) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

4.16 (k) "Dependency" in activities of daily living means a person requires hands-on assistance
4.17 or ~~constant~~ supervision and cueing to accomplish one or more of the activities of daily living
4.18 every day or on the days during the week that the activity is performed; however, a child
4.19 may not be found to be dependent in an activity of daily living if, because of the child's age,
4.20 an adult would either perform the activity for the child or assist the child with the activity
4.21 and the assistance needed is the assistance appropriate for a typical child of the same age.

4.22 (l) "Extended CFSS" means CFSS services and supports provided under CFSS that are
4.23 included in the CFSS service delivery plan through one of the home and community-based
4.24 services waivers and as approved and authorized under sections 256B.0915; 256B.092,
4.25 subdivision 5; and 256B.49, which exceed the amount, duration, and frequency of the state
4.26 plan CFSS services for participants.

4.27 (m) "Financial management services provider" or "FMS provider" means a qualified
4.28 organization required for participants using the budget model under subdivision 13 that is
4.29 an enrolled provider with the department to provide vendor fiscal/employer agent financial
4.30 management services (FMS).

4.31 (n) "Health-related procedures and tasks" means procedures and tasks related to the
4.32 specific assessed health needs of a participant that can be taught or assigned by a
4.33 state-licensed health care or mental health professional and performed by a support worker.

5.1 (o) "Instrumental activities of daily living" means activities related to living independently
5.2 in the community, including but not limited to: meal planning, preparation, and cooking;
5.3 shopping for food, clothing, or other essential items; laundry; housecleaning; assistance
5.4 with medications; managing finances; communicating needs and preferences during activities;
5.5 arranging supports; and assistance with traveling around and participating in the community.

5.6 (p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, paragraph
5.7 (e).

5.8 (q) "Legal representative" means parent of a minor, a court-appointed guardian, or
5.9 another representative with legal authority to make decisions about services and supports
5.10 for the participant. Other representatives with legal authority to make decisions include but
5.11 are not limited to a health care agent or an attorney-in-fact authorized through a health care
5.12 directive or power of attorney.

5.13 (r) "Level I behavior" means physical aggression towards self or others or destruction
5.14 of property that requires the immediate response of another person.

5.15 (s) "Medication assistance" means providing verbal or visual reminders to take regularly
5.16 scheduled medication, and includes any of the following supports listed in clauses (1) to
5.17 (3) and other types of assistance, except that a support worker may not determine medication
5.18 dose or time for medication or inject medications into veins, muscles, or skin:

5.19 (1) under the direction of the participant or the participant's representative, bringing
5.20 medications to the participant including medications given through a nebulizer, opening a
5.21 container of previously set-up medications, emptying the container into the participant's
5.22 hand, opening and giving the medication in the original container to the participant, or
5.23 bringing to the participant liquids or food to accompany the medication;

5.24 (2) organizing medications as directed by the participant or the participant's representative;
5.25 and

5.26 (3) providing verbal or visual reminders to perform regularly scheduled medications.

5.27 (t) "Participant" means a person who is eligible for CFSS.

5.28 (u) "Participant's representative" means a parent, family member, advocate, or other
5.29 adult authorized by the participant or participant's legal representative, if any, to serve as a
5.30 representative in connection with the provision of CFSS. This authorization must be in
5.31 writing or by another method that clearly indicates the participant's free choice and may be
5.32 withdrawn at any time. The participant's representative must have no financial interest in
5.33 the provision of any services included in the participant's CFSS service delivery plan and

6.1 must be capable of providing the support necessary to assist the participant in the use of
6.2 CFSS. If through the assessment process described in subdivision 5 a participant is
6.3 determined to be in need of a participant's representative, one must be selected. If the
6.4 participant is unable to assist in the selection of a participant's representative, the legal
6.5 representative shall appoint one. Two persons may be designated as a participant's
6.6 representative for reasons such as divided households and court-ordered custodies. Duties
6.7 of a participant's representatives may include:

6.8 (1) being available while services are provided in a method agreed upon by the participant
6.9 or the participant's legal representative and documented in the participant's CFSS service
6.10 delivery plan;

6.11 (2) monitoring CFSS services to ensure the participant's CFSS service delivery plan is
6.12 being followed; and

6.13 (3) reviewing and signing CFSS time sheets after services are provided to provide
6.14 verification of the CFSS services.

6.15 (v) "Person-centered planning process" means a process that is directed by the participant
6.16 to plan for CFSS services and supports.

6.17 (w) "Service budget" means the authorized dollar amount used for the budget model or
6.18 for the purchase of goods.

6.19 (x) "Shared services" means the provision of CFSS services by the same CFSS support
6.20 worker to two or three participants who voluntarily enter into an agreement to receive
6.21 services at the same time and in the same setting by the same employer.

6.22 (y) "Support worker" means a qualified and trained employee of the agency-provider
6.23 as required by subdivision 11b or of the participant employer under the budget model as
6.24 required by subdivision 14 who has direct contact with the participant and provides services
6.25 as specified within the participant's CFSS service delivery plan.

6.26 (z) "Unit" means the increment of service based on hours or minutes identified in the
6.27 service agreement.

6.28 (aa) "Vendor fiscal employer agent" means an agency that provides financial management
6.29 services.

6.30 (bb) "Wages and benefits" means the hourly wages and salaries, the employer's share
6.31 of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation,
6.32 mileage reimbursement, health and dental insurance, life insurance, disability insurance,

7.1 long-term care insurance, uniform allowance, contributions to employee retirement accounts,
7.2 or other forms of employee compensation and benefits.

7.3 (cc) "Worker training and development" means services provided according to subdivision
7.4 18a for developing workers' skills as required by the participant's individual CFSS service
7.5 delivery plan that are arranged for or provided by the agency-provider or purchased by the
7.6 participant employer. These services include training, education, direct observation and
7.7 supervision, and evaluation and coaching of job skills and tasks, including supervision of
7.8 health-related tasks or behavioral supports.

7.9 **EFFECTIVE DATE.** This section is effective upon federal approval. The service will
7.10 begin 90 days after federal approval. The commissioner of human services shall notify the
7.11 revisor of statutes when federal approval is obtained.

7.12 Sec. 3. Minnesota Statutes 2016, section 256B.85, subdivision 7, is amended to read:

7.13 Subd. 7. **Community first services and supports; covered services.** Services and
7.14 supports covered under CFSS include:

7.15 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities of
7.16 daily living (IADLs), and health-related procedures and tasks through hands-on assistance
7.17 to accomplish the task or ~~constant~~ supervision and cueing to accomplish the task;

7.18 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to
7.19 accomplish activities of daily living, instrumental activities of daily living, or health-related
7.20 tasks;

7.21 (3) expenditures for items, services, supports, environmental modifications, or goods,
7.22 including assistive technology. These expenditures must:

7.23 (i) relate to a need identified in a participant's CFSS service delivery plan; and

7.24 (ii) increase independence or substitute for human assistance to the extent that
7.25 expenditures would otherwise be made for human assistance for the participant's assessed
7.26 needs;

7.27 (4) observation and redirection for behavior or symptoms where there is a need for
7.28 assistance;

7.29 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices,
7.30 to ensure continuity of the participant's services and supports;

8.1 (6) services provided by a consultation services provider as defined under subdivision
8.2 17, that is under contract with the department and enrolled as a Minnesota health care
8.3 program provider;

8.4 (7) services provided by an FMS provider as defined under subdivision 13a, that is an
8.5 enrolled provider with the department;

8.6 (8) CFSS services provided by a support worker who is a parent, stepparent, or legal
8.7 guardian of a participant under age 18, or who is the participant's spouse. These support
8.8 workers shall not provide any medical assistance home and community-based services in
8.9 excess of 40 hours per seven-day period regardless of the number of parents providing
8.10 services, combination of parents and spouses providing services, or number of children who
8.11 receive medical assistance services; and

8.12 (9) worker training and development services as described in subdivision 18a.

8.13 **EFFECTIVE DATE.** This section is effective upon federal approval. The service will
8.14 begin 90 days after federal approval. The commissioner of human services shall notify the
8.15 revisor of statutes when federal approval is obtained.