

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1288

(SENATE AUTHORS: UTKE)

DATE	D-PG	OFFICIAL STATUS
02/22/2017	702	Introduction and first reading
		Referred to Human Services Reform Finance and Policy
03/02/2017		Comm report: To pass as amended and re-refer to State Government Finance and Policy and Elections

A bill for an act

relating to human services; modifying certain provisions governing judicial appeal panel decisions for civil commitment, assertive community treatment and intensive residential treatment services, Minnesota family investment program innovation funds, and appeals and fair hearings for Northstar Care for Children; amending Minnesota Statutes 2016, sections 253D.28, subdivision 3; 256B.0622, subdivisions 3a, 4; 256J.626, subdivision 5; 256N.28, subdivision 6.

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

Section 1. Minnesota Statutes 2016, section 253D.28, subdivision 3, is amended to read:

Subd. 3. **Decision.** A majority of the judicial appeal panel shall rule upon the petition.

The panel shall consider the petition de novo. No order of the judicial appeal panel granting a transfer, or provisional discharge, ~~or provisional discharge~~ shall be made effective sooner than 15 days after it is issued. No order of the judicial appeal panel granting discharge shall be made effective sooner than 30 days after it is issued. The panel may not consider petitions for relief other than those considered by the special review board from which the appeal is taken. The judicial appeal panel may not grant a transfer or provisional discharge on terms or conditions that were not presented to the special review board.

Sec. 2. Minnesota Statutes 2016, section 256B.0622, subdivision 3a, is amended to read:

Subd. 3a. **Provider certification and contract requirements for assertive community treatment.** (a) The assertive community treatment provider entity must:

~~(1) have a contract with the host county to provide assertive community treatment services; and~~

2.1 ~~(2)~~ have each ACT team be certified by the state following the certification process and
2.2 procedures developed by the commissioner. The certification process determines whether
2.3 the ACT team meets the standards for assertive community treatment under this section as
2.4 well as minimum program fidelity standards as measured by a nationally recognized fidelity
2.5 tool approved by the commissioner. Recertification must occur at least every three years.

2.6 (b) An ACT team certified under this subdivision must meet the following standards:

2.7 (1) have capacity to recruit, hire, manage, and train required ACT team members;

2.8 (2) have adequate administrative ability to ensure availability of services;

2.9 (3) ensure adequate preservice and ongoing training for staff;

2.10 (4) ensure that staff is capable of implementing culturally specific services that are
2.11 culturally responsive and appropriate as determined by the client's culture, beliefs, values,
2.12 and language as identified in the individual treatment plan;

2.13 (5) ensure flexibility in service delivery to respond to the changing and intermittent care
2.14 needs of a client as identified by the client and the individual treatment plan;

2.15 (6) develop and maintain client files, individual treatment plans, and contact charting;

2.16 (7) develop and maintain staff training and personnel files;

2.17 (8) submit information as required by the state;

2.18 (9) keep all necessary records required by law;

2.19 (10) comply with all applicable laws;

2.20 (11) be an enrolled Medicaid provider;

2.21 (12) establish and maintain a quality assurance plan to determine specific service
2.22 outcomes and the client's satisfaction with services; and

2.23 (13) develop and maintain written policies and procedures regarding service provision
2.24 and administration of the provider entity.

2.25 (c) The commissioner may intervene at any time and decertify an ACT team with cause.
2.26 The commissioner shall establish a process for decertification of an ACT team and shall
2.27 require corrective action, medical assistance repayment, or decertification of an ACT team
2.28 that no longer meets the requirements in this section or that fails to meet the clinical quality
2.29 standards or administrative standards provided by the commissioner in the application and
2.30 certification process. The decertification is subject to appeal to the state.

(d) A provider entity must specify in the provider entity's application what geographic area and populations will be served by the proposed program. A provider entity must document that the capacity or program specialties of existing programs are not sufficient to meet the service needs of the target population. A provider entity must submit evidence of ongoing relationships with other providers and levels of care to facilitate referrals to and from the proposed program.

(e) A provider entity must submit documentation that the provider entity requested a statement of need from each county board and tribal authority that serves as a local mental health authority in the proposed service area. The statement of need must specify if the local mental health authority supports or does not support the need for the proposed program and the basis for this determination. If a local mental health authority does not respond within 60 days of the receipt of the request, the commissioner shall determine the need for the program based on the documentation submitted by the provider entity.

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

Sec. 3. Minnesota Statutes 2016, section 256B.0622, subdivision 4, is amended to read:

Subd. 4. **Provider entity licensure and contract requirements for intensive residential treatment services.** (a) The intensive residential treatment services provider entity must:

(1) be licensed under Minnesota Rules, parts 9520.0500 to 9520.0670;

(2) not exceed 16 beds per site; and

(3) comply with the additional standards in this section; ~~and.~~

~~(4) have a contract with the host county to provide these services.~~

(b) The commissioner shall develop procedures for counties and providers to submit ~~contracts and other~~ documentation as needed to allow the commissioner to determine whether the standards in this section are met.

(c) A provider entity must specify in the provider entity's application what geographic area and populations will be served by the proposed program. A provider entity must document that the capacity or program specialties of existing programs are not sufficient to meet the service needs of the target population. A provider entity must submit evidence of ongoing relationships with other providers and levels of care to facilitate referrals to and from the proposed program.

(d) A provider entity must submit documentation that the provider entity requested a statement of need from each county board and tribal authority that serves as a local mental

health authority in the proposed service area. The statement of need must specify if the local mental health authority supports or does not support the need for the proposed program and the basis for this determination. If a local mental health authority does not respond within 60 days of the receipt of the request, the commissioner shall determine the need for the program based on the documentation submitted by the provider entity.

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

Sec. 4. Minnesota Statutes 2016, section 256J.626, subdivision 5, is amended to read:

Subd. 5. **Innovation projects.** Beginning January 1, 2005, no more than \$3,000,000 of the funds annually appropriated to the commissioner for use in the consolidated fund shall be available to the commissioner to reward high-performing counties and tribes, support promising practices, ~~and test innovative approaches to improving outcomes, and to provide~~ for evaluation of projects, promising practices, and innovative approaches for MFIP participants, family stabilization services participants, and persons at risk of receiving MFIP as detailed in subdivision 3. Project funds may be targeted to geographic areas with poor outcomes as specified in section 256J.751, subdivision 5, or to subgroups within the MFIP case load who are experiencing poor outcomes.

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

Sec. 5. Minnesota Statutes 2016, section 256N.28, subdivision 6, is amended to read:

Subd. 6. **Appeals and fair hearings.** (a) A caregiver has the right to appeal to the commissioner under section 256.045 when eligibility for Northstar Care for Children is denied, and when payment or the agreement for an eligible child is modified or terminated.

~~(b) A relative custodian or adoptive parent has additional rights to appeal to the commissioner pursuant to section 256.045. These rights include when the commissioner terminates or modifies the Northstar kinship assistance or adoption assistance agreement or when the commissioner denies an application for Northstar kinship assistance or adoption assistance. A prospective relative custodian or adoptive parent who disagrees with a decision by the commissioner before transfer of permanent legal and physical custody or finalization of the adoption may request review of the decision by the commissioner or may appeal the decision under section 256.045. A Northstar kinship assistance or adoption assistance agreement must be signed and in effect before the court order that transfers permanent legal and physical custody or the adoption finalization; however, in some cases, there may be extenuating circumstances as to why an agreement was not entered into before finalization of permanency for the child. Caregivers who believe that extenuating circumstances exist~~

5.1 as to why an agreement was not entered into before finalization of permanency in the case
5.2 of their child may request a fair hearing. Caregivers have the responsibility of proving that
5.3 extenuating circumstances exist. Caregivers must be required to provide written
5.4 documentation of each eligibility criterion at the fair hearing. ~~Examples of extenuating~~
5.5 ~~circumstances include: relevant facts regarding the child were known by the placing agency~~
5.6 ~~and not presented to the caregivers before transfer of permanent legal and physical custody~~
5.7 ~~or finalization of the adoption, or failure by the commissioner or a designee to advise~~
5.8 ~~potential caregivers about the availability of Northstar kinship assistance or adoption~~
5.9 ~~assistance for children in the state foster care system.~~ If a human services judge finds through
5.10 the fair hearing process that extenuating circumstances existed and that the child met all
5.11 other eligibility criteria at the time the transfer of permanent legal and physical custody was
5.12 ordered or the adoption was finalized, the effective date ~~and any associated federal financial~~
5.13 ~~participation~~ shall be retroactive from the date of the request for a fair hearing.

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