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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4106

02/22/2024 Authored by Noor, Backer, Fischer, Bahner, Neu Brindley and others
The bill was read for the first time and referred to the Committee on Human Services Policy

1.1 A bill for an act
1.2 relating to human services; modifying timelines for medical assistance eligibility
1.3 determinations for certain hospital patients; providing supplemental payments for
1.4 certain disability waiver services; providing additional permissible circumstances
1.5 for the appointment of an emergency guardian; amending Minnesota Statutes 2022,
1.6 sections 256.01, subdivision 29; 256B.05, by adding a subdivision; 256B.0911,
1.7 by adding subdivisions; 256B.49, by adding a subdivision; 524.5-311.

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

1.9 Section 1. Minnesota Statutes 2022, section 256.01, subdivision 29, is amended to read:

1.10 Subd. 29. State medical review team. (a) To ensure the timely processing of
1.11 determinations of disability by the commissioner's state medical review team under sections
1.12 256B.055, subdivisions 7, paragraph (b), and 12, and 256B.057, subdivision 9, the
1.13 commissioner shall review all medical evidence and seek information from providers,
1.14 applicants, and enrollees to support the determination of disability where necessary. Disability
1.15 shall be determined according to the rules of title XVI and title XIX of the Social Security
1.16 Act and pertinent rules and policies of the Social Security Administration.

1.17 (b) Prior to a denial or withdrawal of a requested determination of disability due to
1.18 insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary
1.19 and appropriate to a determination of disability, and (2) assist applicants and enrollees to
1.20 obtain the evidence, including, but not limited to, medical examinations and electronic
1.21 medical records.

1.22 (c) Any appeal made under section 256.045, subdivision 3, of a disability determination
1.23 made by the state medical review team must be decided according to the timelines under
1.24 section 256.0451, subdivision 22, paragraph (a). If a written decision is not issued within

2.1 the timelines under section 256.0451, subdivision 22, paragraph (a), the appeal must be
2.2 immediately reviewed by the chief human services judge.

2.3 (d) The commissioner shall prioritize determinations of disability for patients who are
2.4 awaiting discharge from an acute care hospital at the time they are referred to the state
2.5 medical review team and who have requested an expedited MnCHOICES assessment visit
2.6 under section 256B.0911, subdivision 17a.

2.7 Sec. 2. Minnesota Statutes 2022, section 256B.05, is amended by adding a subdivision to
2.8 read:

2.9 Subd. 6. **Expedited medical assistance applications.** (a) Notwithstanding subdivision
2.10 5 and Minnesota Rules, part 9505.0090, subparts 2 and 3, the local agency must act on an
2.11 application for medical assistance within five calendar days of receipt of a request for
2.12 medical assistance for a patient eligible for discharge, as determined by the hospital, but
2.13 who requires post-acute care covered by medical assistance to be safely discharged.

2.14 (b) If all information needed to act on the application is not obtained within the time
2.15 limit, the local agency must immediately inform the applicant about the deficiencies of the
2.16 application and the reason for the delay in determining the applicant's eligibility. If the
2.17 reason for the delay is the applicant's inability to obtain or provide the required information,
2.18 the local agency must assist the applicant in obtaining the required information within three
2.19 calendar days and act on the application immediately upon receipt of the required information.

2.20 (c) If the reason for the continued delay in determining the applicant's eligibility is that
2.21 the required information cannot be obtained even with the assistance of the local agency,
2.22 the local agency must immediately appeal the delay to the commissioner on the applicant's
2.23 behalf.

2.24 Sec. 3. Minnesota Statutes 2022, section 256B.0911, is amended by adding a subdivision
2.25 to read:

2.26 Subd. 17a. **Expedited MnCHOICES assessment visits.** Notwithstanding subdivision
2.27 17, paragraph (a), a patient awaiting discharge from an acute care hospital requesting
2.28 long-term care consultation services must be visited by a long-term care consultation team
2.29 within three calendar days after the date on which an assessment was requested or
2.30 recommended.

3.1 Sec. 4. Minnesota Statutes 2022, section 256B.0911, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 29a. **Expedited support planning.** Notwithstanding subdivision 29, paragraph
3.4 (a), the certified assessor and the individual responsible for developing the support plan
3.5 must complete the assessment summary and the support plan no more than five calendar
3.6 days after an expedited assessment visit conducted according to subdivision 17a.

3.7 Sec. 5. Minnesota Statutes 2022, section 256B.49, is amended by adding a subdivision to
3.8 read:

3.9 Subd. 30. **Residential support services supplemental payments.** (a) For the purposes
3.10 of this subdivision, "residential support services" means the following residential support
3.11 services reimbursed under section 256B.4914: (1) 24-hour customized living services; (2)
3.12 community residential services; (3) customized living services; (4) family residential services;
3.13 and (5) integrated community supports.

3.14 (b) The commissioner shall make emergency supplemental payments to providers who
3.15 provide residential support services to a person who is discharged from an acute care hospital
3.16 and immediately enrolls in a home and community-based waiver for persons with disabilities
3.17 following an expedited assessment visit and expedited support planning conducted under
3.18 section 256B.0911. The amount of the supplemental payments must be equal to the amount
3.19 required to increase the total payments for the first 30 days of residential support services
3.20 to the 99th percentile of nonrate exception daily rates for individuals on the same waiver.

3.21 (c) The commissioner shall seek federal financial participation in emergency supplemental
3.22 payments under this subdivision. If federal financial participation is denied, the commissioner
3.23 must make emergency supplemental payments under this subdivision from state-only money.

3.24 Sec. 6. Minnesota Statutes 2022, section 524.5-311, is amended to read:

3.25 **524.5-311 EMERGENCY GUARDIAN.**

3.26 (a) If the court finds that compliance with the procedures of this article will likely result
3.27 in substantial harm to the respondent's health, safety, or welfare, and that no other person
3.28 appears to have authority and willingness to act in the circumstances, the court, on petition
3.29 by a person interested in the respondent's welfare, may appoint an emergency guardian
3.30 whose authority may not exceed 60 days and who may exercise only the powers specified
3.31 in the order. A county that is acting under section 626.557, subdivision 10, by petitioning
3.32 for appointment of an emergency guardian on behalf of a vulnerable adult may be granted

4.1 authority to act for a period not to exceed 90 days. An emergency guardian's appointment
4.2 under this section may only be extended once for a period not to exceed 60 days if the court
4.3 finds good cause for the continuation of the guardianship. Immediately upon receipt of the
4.4 petition for an emergency guardianship, the court shall appoint a lawyer to represent the
4.5 respondent in the proceeding. Except as otherwise provided in paragraph (b), reasonable
4.6 notice of the time and place of a hearing on the petition must be given to the respondent
4.7 and any other persons as the court directs.

4.8 (b) An emergency guardian may be appointed without notice to the respondent and the
4.9 respondent's lawyer only if the court finds from affidavit or other sworn testimony that the
4.10 respondent will be substantially harmed before a hearing on the appointment can be held.
4.11 If the court appoints an emergency guardian without notice to the respondent, the respondent
4.12 must be given notice of the appointment within 48 hours after the appointment. The court
4.13 shall hold a hearing on the appropriateness of the appointment within five days after the
4.14 appointment.

4.15 (c) Appointment of an emergency guardian, with or without notice, is not a determination
4.16 of the respondent's incapacity.

4.17 (d) The court may remove an emergency guardian at any time. An emergency guardian
4.18 shall make any report the court requires. In other respects, the provisions of this article
4.19 concerning guardians apply to an emergency guardian.

4.20 (e) Any documents or information disclosing or pertaining to health or financial
4.21 information shall be filed as confidential documents, consistent with the bill of particulars
4.22 under section 524.5-121.

4.23 (f) Upon petition by a person interested in the respondent's welfare, the court shall appoint
4.24 an emergency guardian within five days of receipt of the petition if the court finds that at
4.25 the time of the petition the respondent is awaiting release from a hospital emergency
4.26 department or discharge from an acute care hospital because the hospital cannot identify a
4.27 safe location to release or discharge the respondent without the respondent having coverage
4.28 under medical assistance. The authority of an emergency guardian appointed pursuant to
4.29 this paragraph must not exceed 60 days and may be extended for an additional period not
4.30 to exceed 60 days. The court shall appoint a lawyer to represent the respondent in proceedings
4.31 brought under this paragraph. Notice must be provided consistent with this section.
4.32 Paragraphs (b) to (e) apply to petitions filed pursuant to this paragraph.