

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 654

(SENATE AUTHORS: WIKLUND)

DATE	D-PG	OFFICIAL STATUS
02/21/2013	353	Introduction and first reading Referred to Health, Human Services and Housing
02/28/2013	405a	Comm report: To pass as amended and re-refer to Finance
04/24/2013		Comm report: To pass as amended Second reading

A bill for an act

1.1
 1.2 relating to human services; modifying provisions related to health care and
 1.3 medical assistance; amending Minnesota Statutes 2012, sections 62J.495,
 1.4 subdivision 15; 256.01, subdivision 34; 256.962, subdivision 8; 256B.0625,
 1.5 subdivisions 8, 8a, 8b, 17, 18e, 18f, 25; repealing Minnesota Rules, part
 1.6 9505.0315, subpart 7, item D.

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

1.8 Section 1. Minnesota Statutes 2012, section 62J.495, subdivision 15, is amended to read:

1.9 Subd. 15. **Appeals review process.** (a) Upon receipt of an appeal notice
 1.10 satisfying subdivision 14, the commissioner shall review the appeal and issue a written
 1.11 appeal determination on each appealed item with 90 days. Upon mutual agreement, the
 1.12 commissioner and the provider may extend the time for issuing a determination for a
 1.13 specified period. The commissioner shall notify the provider ~~by first class mail~~ of the
 1.14 appeal determination. The appeal determination takes effect upon the date of issuance
 1.15 specified in the determination.

1.16 (b) In reviewing the appeal, the commissioner may request additional written or oral
 1.17 information from the provider.

1.18 (c) The provider has the right to present information by telephone, in writing, or
 1.19 in person concerning the appeal to the commissioner prior to the issuance of the appeal
 1.20 determination within 30 days of the date the appeal was received by the commissioner.
 1.21 The provider must request an in-person conference in writing, separate from the appeal
 1.22 letter. Statements made during the review process are not admissible in a contested case
 1.23 hearing absent an express stipulation by the parties to the contested case.

1.24 (d) For an appeal item on which the provider disagrees with the appeal determination,
 1.25 the provider may file with the commissioner a written demand for a contested case

2.1 hearing to determine the proper resolution of specified appeal items. The demand must
2.2 be postmarked or received by the commissioner within 30 days of the date of issuance
2.3 specified in the determination. A contested case demand for an appeal item nullifies
2.4 the written appeal determination issued by the commissioner for that appeal item. The
2.5 commissioner shall refer any contested case demand to the Office of the Attorney General.

2.6 (e) A contested case hearing must be heard by an administrative law judge according
2.7 to sections 14.48 to 14.56. In any proceeding under this section, the appealing party must
2.8 demonstrate by a preponderance of the evidence that the Minnesota electronic health
2.9 record incentives program eligibility determination is incorrect.

2.10 (f) Regardless of any appeal, the Minnesota electronic health record incentives
2.11 program eligibility determination must remain in effect until final resolution of the appeal.

2.12 (g) The commissioner has discretion to issue to the provider a proposed resolution
2.13 for specified appeal items upon a request from the provider filed separately from the
2.14 notice of appeal. The proposed resolution is final upon written acceptance by the provider
2.15 within 30 days of the date the proposed resolution was mailed to or personally received by
2.16 the provider, whichever is earlier.

2.17 Sec. 2. Minnesota Statutes 2012, section 256.01, subdivision 34, is amended to read:

2.18 Subd. 34. **Federal administrative reimbursement dedicated.** Federal
2.19 administrative reimbursement resulting from the following activities is appropriated to the
2.20 commissioner for the designated purposes:

2.21 (1) reimbursement for the Minnesota senior health options project; and

2.22 (2) reimbursement related to prior authorization, review of medical necessity, and
2.23 inpatient admission certification by a professional review organization. A portion of
2.24 these funds must be used for activities to decrease unnecessary pharmaceutical costs in
2.25 medical assistance.

2.26 Sec. 3. Minnesota Statutes 2012, section 256.962, subdivision 8, is amended to read:

2.27 Subd. 8. **Eligibility ~~and~~ review dates.** The commissioner shall develop and
2.28 implement a process by January 1, 2013, to provide eligibility ~~and~~ review dates upon
2.29 request from the managed care and county-based purchasing plans for medical assistance
2.30 and MinnesotaCare enrollees.

2.31 Sec. 4. Minnesota Statutes 2012, section 256B.0625, subdivision 8, is amended to read:

3.1 Subd. 8. **Physical therapy.** (a) Medical assistance covers physical therapy and
3.2 related services. Specialized maintenance therapy is covered for recipients age 20 and
3.3 under.

3.4 ~~(b) Authorization by the commissioner is required to provide medically necessary~~
3.5 ~~services to a recipient.~~ Services provided by a physical therapy assistant shall be
3.6 reimbursed at the same rate as services performed by a physical therapist when the
3.7 services of the physical therapy assistant are provided under the direction of a physical
3.8 therapist who is on the premises. Services provided by a physical therapy assistant that
3.9 are provided under the direction of a physical therapist who is not on the premises shall
3.10 be reimbursed at 65 percent of the physical therapist rate.

3.11 Sec. 5. Minnesota Statutes 2012, section 256B.0625, subdivision 8a, is amended to read:

3.12 Subd. 8a. **Occupational therapy.** (a) Medical assistance covers occupational
3.13 therapy and related services. Specialized maintenance therapy is covered for recipients
3.14 age 20 and under.

3.15 ~~(b) Authorization by the commissioner is required to provide medically necessary~~
3.16 ~~services to a recipient.~~ Services provided by an occupational therapy assistant shall be
3.17 reimbursed at the same rate as services performed by an occupational therapist when the
3.18 services of the occupational therapy assistant are provided under the direction of the
3.19 occupational therapist who is on the premises. Services provided by an occupational
3.20 therapy assistant that are provided under the direction of an occupational therapist who is
3.21 not on the premises shall be reimbursed at 65 percent of the occupational therapist rate.

3.22 Sec. 6. Minnesota Statutes 2012, section 256B.0625, subdivision 8b, is amended to read:

3.23 Subd. 8b. **Speech-language pathology and audiology services.** (a) Medical
3.24 assistance covers speech-language pathology and related services. Specialized
3.25 maintenance therapy is covered for recipients age 20 and under.

3.26 ~~(b) Authorization by the commissioner is required to provide medically necessary~~
3.27 ~~speech-language pathology services to a recipient.~~

3.28 ~~(c)~~ Medical assistance covers audiology services and related services. Services
3.29 provided by a person who has been issued a temporary registration under section 148.5161
3.30 shall be reimbursed at the same rate as services performed by a speech-language pathologist
3.31 or audiologist as long as the requirements of section 148.5161, subdivision 3, are met.

3.32 Sec. 7. Minnesota Statutes 2012, section 256B.0625, subdivision 17, is amended to read:

4.1 Subd. 17. **Transportation costs.** (a) Medical assistance covers medical
4.2 transportation costs incurred solely for obtaining emergency medical care or transportation
4.3 costs incurred by eligible persons in obtaining emergency or nonemergency medical
4.4 care when paid directly to an ambulance company, common carrier, or other recognized
4.5 providers of transportation services. Medical transportation must be provided by:

4.6 (1) an ambulance, as defined in section 144E.001, subdivision 2;

4.7 (2) special transportation; or

4.8 (3) common carrier including, but not limited to, bus, taxicab, other commercial
4.9 carrier, or private automobile.

4.10 (b) Medical assistance covers special transportation, as defined in Minnesota Rules,
4.11 part 9505.0315, subpart 1, item F, if the recipient has a physical or mental impairment that
4.12 would prohibit the recipient from safely accessing and using a bus, taxi, other commercial
4.13 transportation, or private automobile.

4.14 Special transportation must be provided to recipients using a wheelchair, traveling with a
4.15 personal care assistant or family member, and to children with developmental cognitive
4.16 disabilities, including, but not limited to, autism spectrum disorder.

4.17 The commissioner may use an order by the recipient's attending physician to certify that
4.18 the recipient requires special transportation services. Special transportation providers shall
4.19 perform driver-assisted services for eligible individuals. Driver-assisted service includes
4.20 passenger pickup at and return to the individual's residence or place of business, assistance
4.21 with admittance of the individual to the medical facility, and assistance in passenger
4.22 securement or in securing of wheelchairs or stretchers in the vehicle. Special transportation
4.23 providers must obtain written documentation from the health care service provider who
4.24 is serving the recipient being transported, identifying the time that the recipient arrived.
4.25 Special transportation providers may not bill for separate base rates for the continuation of
4.26 a trip beyond the original destination. Special transportation providers must take recipients
4.27 to the ~~nearest appropriate~~ health care provider, using the most direct route, and must not
4.28 exceed 30 miles for a trip to a primary care provider or 60 miles for a trip to a specialty
4.29 care provider, unless the recipient receives authorization from the local agency. The
4.30 minimum medical assistance reimbursement rates for special transportation services are:

4.31 (1)(i) \$17 for the base rate and \$1.35 per mile for special transportation services to
4.32 eligible persons who need a wheelchair-accessible van;

4.33 (ii) \$11.50 for the base rate and \$1.30 per mile for special transportation services to
4.34 eligible persons who do not need a wheelchair-accessible van; and

4.35 (iii) \$60 for the base rate and \$2.40 per mile, and an attendant rate of \$9 per trip, for
4.36 special transportation services to eligible persons who need a stretcher-accessible vehicle;

5.1 (2) the base rates for special transportation services in areas defined under RUCA
5.2 to be super rural shall be equal to the reimbursement rate established in clause (1) plus
5.3 11.3 percent; and

5.4 (3) for special transportation services in areas defined under RUCA to be rural
5.5 or super rural areas:

5.6 (i) for a trip equal to 17 miles or less, mileage reimbursement shall be equal to 125
5.7 percent of the respective mileage rate in clause (1); and

5.8 (ii) for a trip between 18 and 50 miles, mileage reimbursement shall be equal to
5.9 112.5 percent of the respective mileage rate in clause (1).

5.10 (c) For purposes of reimbursement rates for special transportation services under
5.11 paragraph (b), the zip code of the recipient's place of residence shall determine whether
5.12 the urban, rural, or super rural reimbursement rate applies.

5.13 (d) For purposes of this subdivision, "rural urban commuting area" or "RUCA"
5.14 means a census-tract based classification system under which a geographical area is
5.15 determined to be urban, rural, or super rural.

5.16 (e) Effective for services provided on or after September 1, 2011, nonemergency
5.17 transportation rates, including special transportation, taxi, and other commercial carriers,
5.18 are reduced 4.5 percent. Payments made to managed care plans and county-based
5.19 purchasing plans must be reduced for services provided on or after January 1, 2012,
5.20 to reflect this reduction.

5.21 Sec. 8. Minnesota Statutes 2012, section 256B.0625, subdivision 18e, is amended to
5.22 read:

5.23 Subd. 18e. **Single administrative structure and delivery system.** (a) The
5.24 commissioner shall implement a single administrative structure and delivery system
5.25 for nonemergency medical transportation, beginning July 1, ~~2013~~ 2014. The single
5.26 administrative structure and delivery system must:

5.27 (1) eliminate the distinction between access transportation services and special
5.28 transportation services;

5.29 (2) enable all medical assistance recipients to follow the same process to obtain
5.30 nonemergency medical transportation, regardless of their level of need;

5.31 (3) provide a single oversight framework for all providers of nonemergency medical
5.32 transportation; and

5.33 (4) provide flexibility in service delivery, recognizing that clients fall along a
5.34 continuum of needs and resources.

6.1 (b) The commissioner shall present to the legislature, by January 15, ~~2013~~ 2014, ~~any~~
6.2 ~~draft~~ legislation necessary to implement the single administrative structure and delivery
6.3 system for nonemergency medical transportation.

6.4 (c) In developing the single administrative structure and delivery system and
6.5 the draft legislation, the commissioner shall consult with the Nonemergency Medical
6.6 Transportation Advisory Committee.

6.7 Sec. 9. Minnesota Statutes 2012, section 256B.0625, subdivision 18f, is amended to
6.8 read:

6.9 Subd. 18f. **Enrollee assessment process.** (a) The commissioner shall require that
6.10 the administrator of nonemergency medical transportation adhere to the assessment
6.11 process recommended by the Nonemergency Medical Transportation Advisory
6.12 Committee. ~~The commissioner, in consultation with the Nonemergency Medical~~
6.13 ~~Transportation Advisory Committee,~~ shall develop and implement, by July 1, ~~2013~~ 2014,
6.14 a the comprehensive, statewide, standard assessment process for medical assistance
6.15 enrollees seeking nonemergency medical transportation services recommended by the
6.16 Nonemergency Medical Transportation Advisory Committee. The assessment process
6.17 must identify a client's level of needs, abilities, and resources, and match the client with
6.18 the mode of transportation in the client's service area that best meets those needs.

6.19 (b) The assessment process must:

6.20 (1) address mental health diagnoses when determining the most appropriate mode of
6.21 transportation;

6.22 (2) base decisions on clearly defined criteria that are available to clients, providers,
6.23 and counties;

6.24 (3) be standardized across the state and be aligned with other similar existing
6.25 processes;

6.26 (4) allow for extended periods of eligibility for certain types of nonemergency
6.27 transportation when a client's condition is unlikely to change; and

6.28 (5) increase the use of public transportation when appropriate and cost-effective,
6.29 including offering monthly bus passes to clients.

6.30 Sec. 10. Minnesota Statutes 2012, section 256B.0625, subdivision 25, is amended to
6.31 read:

6.32 Subd. 25. **Prior authorization required.** (a) The commissioner shall publish in
6.33 the Minnesota health care programs provider manual and on the department's Web site a
6.34 list of health services that require prior authorization, ~~as well as~~ the criteria and standards

7.1 used to select health services on the list, and the criteria and standards used to determine
7.2 whether certain providers must obtain prior authorization for their services. The list of
7.3 services requiring prior authorization and the criteria and standards used to formulate it
7.4 the list of services or the selection of providers for whom prior authorization is required
7.5 are not subject to the requirements of sections 14.001 to 14.69. The commissioner's
7.6 decision whether prior authorization is required for a health service or is required for a
7.7 provider is not subject to administrative appeal.

7.8 (b) The commissioner shall implement a modernized electronic system for providers
7.9 to request prior authorization. The modernized electronic system must include at least the
7.10 following functionalities:

7.11 (1) authorizations are recipient-centric, not provider-centric;

7.12 (2) adequate flexibility to support authorizations for an episode of care, continuous
7.13 drug therapy, or for individual onetime services and allows an ordering and a rendering
7.14 provider to both submit information into one request;

7.15 (3) allows providers to review previous authorization requests and determine where
7.16 a submitted request is within the authorization process;

7.17 (4) supports automated workflows that allow providers to securely submit medical
7.18 information that can be accessed by medical and pharmacy review vendors as well as
7.19 department staff; and

7.20 (5) supports development of automated clinical algorithms that can verify
7.21 information and provide responses in real time.

7.22 (c) The system described in paragraph (b) shall be completed by March 1, 2012. All
7.23 authorization requests submitted on and after March 1, 2012, or upon completion of the
7.24 modernized authorization system, whichever is later, must be submitted electronically by
7.25 providers, except requests for drugs dispensed by an outpatient pharmacy, services that
7.26 are provided outside of the state and surrounding local trade area, and services included
7.27 on a service agreement.

7.28 Sec. 11. **REPEALER.**

7.29 Minnesota Rules, part 9505.0315, subpart 7, item D, is repealed.

APPENDIX
Repealed Minnesota Rule: S0654-1

9505.0315 MEDICAL TRANSPORTATION. Subp. 7. Payment limitation; special transportation.

D. One way mileage for special transportation within the recipient's local trade area must not exceed 20 miles for a trip originating in the seven-county metropolitan area or 40 miles for a trip originating outside of the seven-county metropolitan area if a similar health service is available within the mileage limitation. The seven-county metropolitan area consists of the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.