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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2628

03/06/2023 Authored by Frederick, Baker, Fischer, Hicks, Bierman and others
The bill was read for the first time and referred to the Committee on Human Services Policy
03/13/2023 Adoption of Report: Re-referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to behavioral health; providing and waiving fees for certified birth records,
1.3 identification cards, and driver's licenses for persons treated for substance use
1.4 disorder who are eligible for medical assistance; modifying substance use disorder
1.5 treatment plan review requirements; providing for transition follow-up counseling;
1.6 modifying substance use disorder treatment rate and staffing requirements; requiring
1.7 data to be provided to substance use disorder treatment providers; providing
1.8 temporary rate increases for substance use disorder treatment providers and direct
1.9 care staff; directing the commissioner of human services to develop
1.10 recommendations on transition support services; requiring a report; amending
1.11 Minnesota Statutes 2022, sections 144.226, by adding a subdivision; 171.06, by
1.12 adding a subdivision; 245G.06, subdivision 3; 245G.07, by adding a subdivision;
1.13 254B.05, subdivision 5; 254B.051; 254B.12, by adding subdivisions; proposing
1.14 coding for new law in Minnesota Statutes, chapter 144.

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

1.16 Section 1. [144.2256] CERTIFIED BIRTH RECORD FOR PERSONS ELIGIBLE
1.17 FOR MEDICAL ASSISTANCE.

1.18 Subdivision 1. Application; birth record. A subject of a birth record who is medical
1.19 assistance eligible according to chapter 256B and who has been treated for a substance use
1.20 disorder within the past 12 months may apply to the state registrar or a local issuance office
1.21 for a certified birth record according to this section. The state registrar or local issuance
1.22 office shall issue a certified birth record, or statement of no vital record found, to a subject
1.23 of a birth record who submits:

- 1.24 (1) a completed application signed by the subject of the birth record;
1.25 (2) a statement of eligibility from an employee of a human services agency or a treatment
1.26 provider licensed under chapter 245G that receives public funding to provide services to
1.27 people with substance use disorders. The statement must verify the subject of the birth

2.1 record is medical assistance eligible according to chapter 256B and has been treated for
2.2 substance use disorder in the last 12 months. The statement must comply with the
2.3 requirements in subdivision 2; and

2.4 (3) identification in the form of:

2.5 (i) a document of identity listed in Minnesota Rules, part 4601.2600, subpart 8, or, at
2.6 the discretion of the state registrar or local issuance office, Minnesota Rules, part 4601.2600,
2.7 subpart 9;

2.8 (ii) a statement that complies with Minnesota Rules, part 4601.2600, subparts 6 and 7;
2.9 or

2.10 (iii) a statement of identity provided by the employee of a human services agency or a
2.11 treatment provider licensed under chapter 245G that receives public funding to provide
2.12 services to people with substance use disorders who verified eligibility. The statement must
2.13 comply with Minnesota Rules, part 4601.2600, subpart 7.

2.14 Subd. 2. **Statement of eligibility.** A statement of eligibility must be from an employee
2.15 of a human services agency or a treatment provider licensed under chapter 245G that receives
2.16 public funding to provide services to people with substance use disorders and must verify
2.17 the subject of the birth record is medical assistance eligible according to chapter 256B and
2.18 has been treated for a substance use disorder within the last 12 months. The statement of
2.19 eligibility must include:

2.20 (1) the employee's first name, middle name, if any, and last name; home or business
2.21 address; telephone number, if any; and e-mail address, if any;

2.22 (2) the name of the human services agency or treatment provider licensed under chapter
2.23 245G that receives public funding to provide services to people with substance use disorders
2.24 that employs the person making the eligibility statement;

2.25 (3) the first name, middle name, if any, and last name of the subject of the birth record;

2.26 (4) a copy of the individual's employment identification, or verification of employment,
2.27 linking the employee to the human services agency or treatment provider licensed under
2.28 chapter 245G that provided treatment; and

2.29 (5) a statement specifying the relationship of the individual providing the eligibility
2.30 statement to the subject of the birth record.

2.31 Subd. 3. **Data practices.** Data listed under subdivision 1, clauses (2) and (3), are private
2.32 data on individuals.

3.1 Sec. 2. Minnesota Statutes 2022, section 144.226, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 9. Birth record fees waived for people treated for substance use disorder. A
3.4 person who applies for a certified birth certificate under section 144.2256 shall not be
3.5 charged any of the fees specified in this section for a certified birth record or statement of
3.6 no vital record found.

3.7 EFFECTIVE DATE. This section is effective January 1, 2024.

3.8 Sec. 3. Minnesota Statutes 2022, section 171.06, is amended by adding a subdivision to
3.9 read:

3.10 Subd. 8. Application; identification card or copy of driver's license. (a) A subject of
3.11 an identification card or driver's license who is eligible for medical assistance according to
3.12 chapter 256B and who has been treated for a substance use disorder within the last 12 months
3.13 of application may apply to the commissioner or driver's license agent for an identification
3.14 card or driver's license according to this section. The commissioner or driver's license agent
3.15 shall issue an identification card or driver's license and waive all fees to a person who
3.16 submits:

3.17 (1) a completed application signed by the subject of the identification card or driver's
3.18 license;

3.19 (2) a statement that the subject of the identification card or driver's license is eligible
3.20 for medical assistance according to chapter 256B and has been treated for substance use
3.21 disorder in the last 12 months, signed by the subject of the identification card or driver's
3.22 license; and

3.23 (3) a statement verifying that the subject of the identification card or driver's license is
3.24 eligible for medical assistance according to chapter 256B and has been treated for substance
3.25 use disorder in the last 12 months that complies with the requirements in paragraph (b) and
3.26 is from an employee of a human services agency that receives public funding to provide
3.27 services to people with substance use disorders.

3.28 (b) A statement verifying that a subject of an identification card or driver's license is
3.29 eligible for medical assistance according to chapter 256B and has been treated for a substance
3.30 use disorder within 12 months must include:

3.31 (1) the following information regarding the individual providing the statement: first
3.32 name, middle name, if any, and last name; home or business address; telephone number, if
3.33 any; and e-mail address, if any;

4.1 (2) the first name, middle name, if any, and last name of the subject of the birth record;
 4.2 and

4.3 (3) a statement specifying the relationship of the individual providing the statement to
 4.4 the subject of the identification card or driver's license and verifying that the subject of the
 4.5 identification card or driver's license is eligible for medical assistance according to chapter
 4.6 256B and has been treated for a substance use disorder within the last 12 months.

4.7 (c) For identification cards and driver's licenses issued under this section:

4.8 (1) the commissioner must not impose a fee, surcharge, or filing fee under section 171.06,
 4.9 subdivision 2; and

4.10 (2) a driver's license agent must not impose a filing fee under section 171.061, subdivision
 4.11 4.

4.12 Sec. 4. Minnesota Statutes 2022, section 245G.06, subdivision 3, is amended to read:

4.13 Subd. 3. **Treatment plan review.** A treatment plan review must be entered in a client's
 4.14 file ~~weekly or after each treatment service, whichever is less frequent,~~ by the alcohol and
 4.15 drug counselor ~~responsible for the client's treatment plan~~ at least every 28 calendar days,
 4.16 or when there is a significant change in the client's situation, functioning, or service methods,
 4.17 or at the request of the client. The review must indicate the span of time covered by the
 4.18 review and each of the six dimensions listed in section 245G.05, subdivision 2, paragraph
 4.19 (c). The review must:

4.20 (1) address each goal in the treatment plan and whether the methods to address the goals
 4.21 are effective;

4.22 (2) include monitoring of any physical and mental health problems;

4.23 (3) document the participation of others;

4.24 (4) document staff recommendations for changes in the methods identified in the treatment
 4.25 plan and whether the client agrees with the change; and

4.26 (5) include a review and evaluation of the individual abuse prevention plan according
 4.27 to section 245A.65.

4.28 **EFFECTIVE DATE.** This section is effective August 1, 2023.

5.1 Sec. 5. Minnesota Statutes 2022, section 245G.07, is amended by adding a subdivision to
5.2 read:

5.3 Subd. 1a. **Transition follow-up counseling.** (a) A client that was discharged from a
5.4 treatment center may, pursuant to the client's request, receive individual transition follow-up
5.5 counseling from the treatment center from which the client was discharged for up to one
5.6 year following the client's discharge. The transition follow-up counseling must be designed
5.7 to address the client's needs related to substance use, develop strategies to avoid harmful
5.8 substance use after discharge, and help the client obtain the services necessary to establish
5.9 or maintain a lifestyle free from the harmful effects of substance use disorder.

5.10 (b) A provider that provides transition follow-up counseling services under paragraph
5.11 (a) may bill for the services described in subdivision 1, paragraph (a), at the same rate as
5.12 for individual counseling sessions.

5.13 (c) In any given month, a client must not exceed four sessions of treatment services
5.14 under subdivision 1, paragraph (a), for follow-up counseling under this subdivision.

5.15 (d) A provider must document in the client's file the services provided under this section.
5.16 The treatment provider is not required to conduct a new comprehensive assessment and is
5.17 not required to open or reopen a treatment plan or document a review of all treatment services
5.18 in a treatment plan review as required by section 245G.06, subdivision 3.

5.19 (e) Prepaid medical assistance plans under section 256B.69 must allow members to
5.20 access follow-up counseling under this subdivision at their discretion.

5.21 **EFFECTIVE DATE.** This section is effective January 1, 2024.

5.22 Sec. 6. Minnesota Statutes 2022, section 254B.05, subdivision 5, is amended to read:

5.23 **Subd. 5. Rate requirements.** (a) The commissioner shall establish rates for substance
5.24 use disorder services and service enhancements funded under this chapter.

5.25 (b) Eligible substance use disorder treatment services include:

5.26 (1) outpatient treatment services that are licensed according to sections 245G.01 to
5.27 245G.17, or applicable Tribal license;

5.28 (2) comprehensive assessments provided according to sections 245.4863, paragraph (a),
5.29 and 245G.05;

5.30 (3) ~~care~~ treatment coordination services provided according to section 245G.07,
5.31 subdivision 1, paragraph (a), clause (5);

6.1 (4) peer recovery support services provided according to section 245G.07, subdivision
6.2 2, clause (8);

6.3 (5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management
6.4 services provided according to chapter 245F;

6.5 (6) substance use disorder treatment services with medications for opioid use disorder
6.6 that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable
6.7 Tribal license;

6.8 (7) substance use disorder treatment with medications for opioid use disorder plus
6.9 enhanced treatment services that meet the requirements of clause (6) and provide nine hours
6.10 of clinical services each week;

6.11 (8) high, medium, and low intensity residential treatment services that are licensed
6.12 according to sections 245G.01 to 245G.17 and 245G.21 or applicable Tribal license ~~which~~
6.13 that provide, respectively, 30, 15, and five hours of clinical services each treatment week.
6.14 A license holder that is unable to provide all residential treatment services because a client
6.15 missed services remains eligible to bill for the client's intensity level of services under this
6.16 clause if the license holder can document the reason the client missed services and the
6.17 interventions done to address the client's absence. Hours in a treatment week may be reduced
6.18 in observance of federally recognized holidays;

6.19 (9) hospital-based treatment services that are licensed according to sections 245G.01 to
6.20 245G.17 or applicable Tribal license and licensed as a hospital under sections 144.50 to
6.21 144.56;

6.22 (10) adolescent treatment programs that are licensed as outpatient treatment programs
6.23 according to sections 245G.01 to 245G.18 or as residential treatment programs according
6.24 to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or
6.25 applicable Tribal license;

6.26 (11) high-intensity residential treatment services that are licensed according to sections
6.27 245G.01 to 245G.17 and 245G.21 or applicable Tribal license, ~~which~~ that provide 30 hours
6.28 of clinical services each week provided by a state-operated vendor or to clients who have
6.29 been civilly committed to the commissioner, present the most complex and difficult care
6.30 needs, and are a potential threat to the community; and

6.31 (12) room and board facilities that meet the requirements of subdivision 1a.

6.32 (c) The commissioner shall establish higher rates for programs that meet the requirements
6.33 of paragraph (b) and one of the following additional requirements:

- 7.1 (1) programs that serve parents with their children if the program:
- 7.2 (i) provides on-site child care during the hours of treatment activity that:
- 7.3 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter
- 7.4 9503; or
- 7.5 (B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph
- 7.6 (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or
- 7.7 (ii) arranges for off-site child care during hours of treatment activity at a facility that is
- 7.8 licensed under chapter 245A as:
- 7.9 (A) a child care center under Minnesota Rules, chapter 9503; or
- 7.10 (B) a family child care home under Minnesota Rules, chapter 9502;
- 7.11 (2) culturally specific or culturally responsive programs as defined in section 254B.01,
- 7.12 subdivision 4a;
- 7.13 (3) disability responsive programs as defined in section 254B.01, subdivision 4b;
- 7.14 (4) programs that offer medical services delivered by appropriately credentialed health
- 7.15 care staff in an amount equal to two hours per client per week if the medical needs of the
- 7.16 client and the nature and provision of any medical services provided are documented in the
- 7.17 client file; or
- 7.18 (5) programs that offer services to individuals with co-occurring mental health and
- 7.19 substance use disorder problems if:
- 7.20 (i) the program meets the co-occurring requirements in section 245G.20;
- 7.21 (ii) one full-time equivalent or 25 percent, whichever is less, of the counseling staff are
- 7.22 licensed mental health professionals under section 245I.04, subdivision 2, or are students
- 7.23 or licensing candidates under the supervision of a licensed alcohol and drug counselor
- 7.24 supervisor and mental health professional under section 245I.04, subdivision 2, ~~except that~~
- 7.25 ~~no more than 50 percent of the mental health staff may be students or licensing candidates~~
- 7.26 ~~with time documented to be directly related to provisions of co-occurring services;~~
- 7.27 (iii) clients scoring positive on a standardized mental health screen receive a mental
- 7.28 health diagnostic assessment within ten days of admission;
- 7.29 (iv) the program has standards for multidisciplinary case review that include a monthly
- 7.30 review for each client that, at a minimum, includes a licensed mental health professional
- 7.31 and licensed alcohol and drug counselor, and their involvement in the review is documented;

8.1 (v) family education is offered that addresses mental health and substance use disorder
8.2 and the interaction between the two; and

8.3 (vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder
8.4 training annually.

8.5 (d) ~~In order~~ To be eligible for a higher rate under paragraph (c), clause (1), a program
8.6 that provides arrangements for off-site child care must maintain current documentation at
8.7 the substance use disorder facility of the child care provider's current licensure to provide
8.8 child care services. Programs that provide child care according to paragraph (c), clause (1),
8.9 must be deemed in compliance with the licensing requirements in section 245G.19.

8.10 (e) Adolescent residential programs that meet the requirements of Minnesota Rules,
8.11 parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements
8.12 in paragraph (c), clause (4), items (i) to (iv).

8.13 (f) Subject to federal approval, substance use disorder services that are otherwise covered
8.14 as direct face-to-face services may be provided via telehealth as defined in section 256B.0625,
8.15 subdivision 3b. The use of telehealth to deliver services must be medically appropriate to
8.16 the condition and needs of the person being served. Reimbursement shall be at the same
8.17 rates and under the same conditions that would otherwise apply to direct face-to-face services.

8.18 (g) For the purpose of reimbursement under this section, substance use disorder treatment
8.19 services provided in a group setting without a group participant maximum or maximum
8.20 client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one.
8.21 At least one of the attending staff must meet the qualifications as established under this
8.22 chapter for the type of treatment service provided. A recovery peer may not be included as
8.23 part of the staff ratio.

8.24 (h) Payment for outpatient substance use disorder services that are licensed according
8.25 to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless
8.26 prior authorization of a greater number of hours is obtained from the commissioner.

8.27 Sec. 7. Minnesota Statutes 2022, section 254B.051, is amended to read:

8.28 **254B.051 SUBSTANCE USE DISORDER TREATMENT EFFECTIVENESS.**

8.29 Subdivision 1. Commissioner to collect additional data. In addition to the substance
8.30 use disorder treatment program performance outcome measures that the commissioner of
8.31 human services collects annually from treatment providers, the commissioner shall request
8.32 additional data from programs that receive appropriations from the behavioral health fund.
8.33 This data ~~shall~~ must include number of client readmissions six months after release from

9.1 inpatient treatment, and the cost of treatment per person for each program receiving
 9.2 behavioral health funds. The commissioner may post this data on the department website.

9.3 Subd. 2. **Data to be provided.** All data collected by the commissioner from substance
 9.4 use disorder treatment providers, including but not limited to claims, the drug and alcohol
 9.5 abuse normative evaluation system, the utilization management system, the demonstration
 9.6 project, and cost reporting, must be made available to substance use disorder treatment
 9.7 providers. The commissioner must provide the data in a format that complies with chapter
 9.8 13 in an electronic format that permits providers to access all information provided by them
 9.9 to the commissioner at least annually. The commissioner must provide for a feature in
 9.10 reporting data to substance use disorder providers that allows them to compare their
 9.11 performance against other providers. The commissioner must work with substance use
 9.12 disorder providers to design the reporting system and format of data availability for the
 9.13 purposes of improving the efficiency and effectiveness of substance use disorder program
 9.14 services.

9.15 Sec. 8. Minnesota Statutes 2022, section 254B.12, is amended by adding a subdivision to
 9.16 read:

9.17 Subd. 5. **Temporary rate increase.** (a) Beginning on or before July 1, 2023, the
 9.18 commissioner must increase the rate for services under sections 254B.05 and 256B.0759,
 9.19 subdivision 6, by 24 percent. This rate increase remains in effect until the new comprehensive
 9.20 rate framework under Laws 2021, First Special Session chapter 7, article 17, section 18, for
 9.21 substance use disorder residential and outpatient services is implemented. By February 1,
 9.22 2024, the commissioner must report annually to the chairs and ranking minority members
 9.23 of the legislative committees and divisions with jurisdiction over health and human services
 9.24 policy and finance the status of the framework implementation.

9.25 (b) This subdivision expires the day following the implementation of the new
 9.26 comprehensive rate framework under Laws 2021, First Special Session chapter 7, article
 9.27 17, section 18. The commissioner of human services must notify the revisor of statutes when
 9.28 the new comprehensive rate framework is implemented.

9.29 Sec. 9. Minnesota Statutes 2022, section 254B.12, is amended by adding a subdivision to
 9.30 read:

9.31 Subd. 6. **Substance use disorder direct care staff increase.** (a) At least 33 percent of
 9.32 the 24 percent rate increase provided for substance use disorder services under subdivision
 9.33 5, for services provided between July 1, 2023, and the expiration date in subdivision 5,

10.1 paragraph (b), must be used to increase compensation-related costs for employees directly
10.2 employed by the program on or after July 1, 2023.

10.3 (b) For the purposes of this subdivision, "compensation-related costs" include:

10.4 (1) wages and salaries;

10.5 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
10.6 taxes, workers' compensation, and mileage reimbursement;

10.7 (3) the employer's paid share of health and dental insurance, life insurance, disability
10.8 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
10.9 employee retirement accounts; and

10.10 (4) benefits that address direct support professional workforce needs, above and beyond
10.11 benefits offered to employees prior to July 1, 2023, including retention and recruitment
10.12 bonuses and tuition reimbursement.

10.13 (c) Compensation-related costs for persons employed in the central office of a corporation
10.14 or entity that has an ownership interest in the provider or exercises control over the provider
10.15 or for persons paid by the provider under a management contract do not count toward the
10.16 33 percent requirement under this subdivision.

10.17 (d) A provider agency or individual provider that receives a rate subject to the
10.18 requirements of this subdivision shall prepare, and upon request submit to the commissioner,
10.19 a distribution plan that specifies the amount of money the provider expects to receive that
10.20 is subject to the requirements of this subdivision, including how that money was or will be
10.21 distributed to increase compensation-related costs for employees. Within 60 days of final
10.22 implementation of a rate adjustment subject to the requirements of this subdivision, the
10.23 provider must post the distribution plan. The distribution plan must remain posted for at
10.24 least six months in an area of the provider's operation to which all direct support professionals
10.25 have access.

10.26 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
10.27 whichever is later. The commissioner of human services shall inform the revisor of statutes
10.28 when federal approval is obtained.

10.29 Sec. 10. **DIRECTION TO THE COMMISSIONER; TRANSITION SUPPORT**
10.30 **SERVICES RECOMMENDATIONS.**

10.31 (a) The commissioner of human services, in consultation with stakeholders, must develop
10.32 recommendations related to transition support services for persons who have completed a

11.1 substance use disorder treatment program according to Minnesota Statutes, section 245G.14,
11.2 subdivision 3, that required 15 or more hours of treatment services per week and who receive
11.3 medical assistance or services through the behavioral health fund under Minnesota Statutes,
11.4 chapter 254.

11.5 (b) Stakeholders must equitably represent geographic areas of the state and must include
11.6 individuals in recovery from substance use disorder and providers from Black, Indigenous,
11.7 people of color, or immigrant communities. Stakeholders must include but are not limited
11.8 to:

11.9 (1) the Minnesota Association of Resources for Recovery and Chemical Health;

11.10 (2) the Minnesota Alliance of Rural Addiction Treatment Providers;

11.11 (3) the Minnesota Association of Community Mental Health Programs;

11.12 (4) recovery community organizations; and

11.13 (5) current and former clients of substance use disorder treatment programs based in
11.14 Minnesota.

11.15 (c) The commissioner must make recommendations on the following transition support
11.16 components:

11.17 (1) funding for recovery safe housing;

11.18 (2) food support funding for persons not otherwise eligible for food support programs;

11.19 (3) child care options;

11.20 (4) transportation services to facilitate attendance at group meetings or other recovery
11.21 activities and a person's ability to work and seek employment and to meet needs of daily
11.22 living. The commissioner's recommendations on transportation services must consider:

11.23 (i) for persons well-served by public transit, a monthly public transit pass; or

11.24 (ii) for persons who are not well-served by public transit or who have access to personal
11.25 transportation, recommendations for a stipend for a gas card each month;

11.26 (5) a duration period of eligibility for transition support services and service coordination,
11.27 regardless of public assistance eligibility, and pursuing a federal waiver to allow persons
11.28 receiving transition support services to remain eligible for medical assistance for the identified
11.29 eligibility period; and

11.30 (6) eligibility criteria for transition support services.

12.1 (d) The commissioner's recommendations for funding transition support services must
12.2 maximize existing federal and state funding sources for which recipients may be eligible
12.3 and may not count federal and state benefits as income for the purposes of qualifying for
12.4 public assistance programs.

12.5 (e) By December 1, 2023, the commissioner must complete and submit a report on the
12.6 recommendations required under this section to the chairs and ranking minority members
12.7 of the legislative committees with jurisdiction over health and human services policy and
12.8 finance.