A bill for an act

relating to human services; regulating Centers for Independent Living and establishing provider standards for medical assistance waivers; providing guidelines for medical assistance reimbursement; amending Minnesota Statutes 2006, sections 256B.0621, subdivision 11; 256B.0911, subdivision 3b; 256B.49, subdivision 11, by adding a subdivision.

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

Section 1. Minnesota Statutes 2006, section 256B.0621, subdivision 11, is amended to read:

Subd. 11. **Data use agreement; notice of relocation assistance.** The commissioner shall ~~execute a data use agreement with the Centers for Medicare and Medicaid Services to obtain the long-term care minimum data set data to assist residents of nursing facilities who have~~ establish a process with the Centers for Independent Living that allows a person residing in a Minnesota nursing facility to receive needed information, consultation, and assistance from one of the centers about the available community support options that may enable the person to relocate to the community, if the person: (1) is under the age of 65, (2) has indicated a desire to live in the community~~. The commissioner shall in turn enter into agreements with the Centers for Independent Living to provide information about assistance for persons who want to move to the community. The commissioner shall work with the Centers for Independent Living on both the content of the information to be provided and privacy protections for the individual residents~~, and (3) has signed a release of information authorized by the person or the person's appointed legal representative. The process established under this subdivision shall be coordinated with the long-term care consultation service activities established in section 256B.0911.

Sec. 2. Minnesota Statutes 2006, section 256B.0911, subdivision 3b, is amended to read:

Subd. 3b. **Transition assistance.** (a) A long-term care consultation team shall provide assistance to persons residing in a nursing facility, hospital, regional treatment center, or intermediate care facility for persons with developmental disabilities who request or are referred for assistance. Transition assistance must include assessment, community support plan development, referrals to Minnesota health care programs, and referrals to programs that provide assistance with housing. Transition assistance must also include information about the Centers for Independent Living and about other organizations that can provide assistance with relocation efforts, and information about contacting these organizations to obtain their assistance and support.

(b) The county shall develop transition processes with institutional social workers and discharge planners to ensure that:

(1) persons admitted to facilities receive information about transition assistance that is available;

(2) the assessment is completed for persons within ten working days of the date of request or recommendation for assessment; and

(3) there is a plan for transition and follow-up for the individual's return to the community. The plan must require notification of other local agencies when a person who may require assistance is screened by one county for admission to a facility located in another county.

(c) If a person who is eligible for a Minnesota health care program is admitted to a nursing facility, the nursing facility must include a consultation team member or the case manager in the discharge planning process.

Sec. 3. Minnesota Statutes 2006, section 256B.49, subdivision 11, is amended to read:

Subd. 11. **Authority.** (a) The commissioner is authorized to apply for home and community-based service waivers, as authorized under section 1915(c) of the Social Security Act to serve persons under the age of 65 who are determined to require the level of care provided in a nursing home and persons who require the level of care provided in a hospital. The commissioner shall apply for the home and community-based waivers in order to:

(i) promote the support of persons with disabilities in the most integrated settings;

(ii) expand the availability of services for persons who are eligible for medical assistance;

(iii) promote cost-effective options to institutional care; and

(iv) obtain federal financial participation.

(b) The provision of waivered services to medical assistance recipients with disabilities shall comply with the requirements outlined in the federally approved applications for home and community-based services and subsequent amendments, including provision of services according to a service plan designed to meet the needs of the individual. For purposes of this section, the approved home and community-based application is considered the necessary federal requirement.

(c) The commissioner shall provide interested persons serving on agency advisory committees ~~and~~, task forces, the Centers for Independent Living, and others ~~upon~~ who request~~, with~~ to be on a list to receive, notice of, and an opportunity to comment on, at least 30 days before any effective dates, (1) any substantive changes to the state's disability services provider manual, or (2) changes or amendments to the federally approved applications for home and community-based waivers, prior to their submission to the federal Centers for Medicare and Medicaid Services.

(d) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Security Act, to allow medical assistance eligibility under this section for children under age 21 without deeming of parental income or assets.

(e) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Act, to allow medical assistance eligibility under this section for individuals under age 65 without deeming the spouse's income or assets.

Sec. 4. Minnesota Statutes 2006, section 256B.49, is amended by adding a subdivision to read:

Subd. 16a. **Medical assistance reimbursement.** (a) The commissioner shall seek federal approval for medical assistance reimbursement of independent living skills services, foster care waiver service, supported employment, prevocational service, structured day service, and adult day care under the home and community-based waiver for persons with a traumatic brain injury, the community alternatives for disabled individuals waivers, and the community alternative care waivers.

(b) Medical reimbursement shall be made only when the provider demonstrates evidence of its capacity to meet basic health, safety, and protection standards through one of the methods in paragraphs (c) to (e).

(c) The provider is licensed to provide services under chapter 245B and agrees to apply these standards to services funded through the traumatic brain injury, community alternatives for disabled, or community alternative care home and community-based waivers.

(d) The local agency contracting for the services certifies on a form provided by the commissioner that the provider has the capacity to meet the individual needs as identified in each person's individual service plan. When certifying that the service provider meets the necessary provider qualifications, the local agency shall verify that the provider has policies and procedures governing the following:

(1) protection of the consumer's rights and privacy;

(2) risk assessment and planning;

(3) record keeping and reporting of incidents and emergencies with documentation of corrective action if needed;

(4) service outcomes, regular reviews of progress, and periodic reports;

(5) complaint and grievance procedures;

(6) service termination or suspension;

(7) necessary training and supervision of direct care staff that includes:

(i) documentation in personnel files of 20 hours of orientation training in providing training related to service provision;

(ii) training in recognizing the symptoms and effects of certain disabilities, health conditions, and positive behavioral supports and interventions; and

(iii) a minimum of five hours of related training annually; and

(8) when applicable, the local agency shall verify that the provider has policies and procedures in place governing the following:

(i) safe medication administration;

(ii) proper handling of consumer funds; and

(iii) behavioral interventions that are in compliance with prohibitions and standards developed by the commissioner to meet federal requirements regarding the use of restraints and restrictive interventions.

(e) For foster care waiver services or independent living skills services, the local agency contracting for the services certifies on a form provided by the commissioner that the provider meets the following:

(1) the provider of foster care waiver services is licensed to provide adult foster care under Minnesota Rules, parts 9555.5105 to 9555.6265, or child foster care under Minnesota Rules, parts 2960.3000 to 2960.3230;

(2) the provider of independent living skills services also provides licensed foster care services and agrees to apply the following foster care standards: Minnesota Rules, parts 9555.5105; 9555.5705, subpart 2; 9555.6167; 9555.6185; 9555.6195; 9555.6225, subpart 8; 9555.6245; 9555.6255; and 9555.6265, or parts 2960.3010; 2960.3080, subparts

10 and 11; 2960.3210; 2960.3220, subparts 5 to 7; and 2960.3230, for the provision of those services; and

(3) the provider has policies and procedures applying to the provision of foster care waiver services or independent living skills services that govern (i) behavioral interventions that are in compliance with prohibitions and standards developed by the commissioner to meet federal requirements regarding the use of restraints and restrictive interventions and (ii) documentation of service needs and outcomes, regular reviews of progress, and periodic reports.

(f) The local agency shall review each provider's continued compliance with the basic health, safety, and protection standards on a regular basis. For the review of paragraph (e), the local agency shall coordinate the review with the county review of foster care licensure.

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