

A bill for an act

relating to human services; requiring a conference in case management and personal care assistance appeals; amending Minnesota Statutes 2010, section 256.045, subdivision 4a.

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

Section 1. Minnesota Statutes 2010, section 256.045, subdivision 4a, is amended to read:

Subd. 4a. **Case management appeals.** (a) Any recipient of case management services pursuant to section 256B.0625 or 256B.092, who contests the county agency's action, reduction, suspension, denial, or termination of services, or failure to act in the provision of those services, other than a failure to act with reasonable promptness or a suspension, reduction, denial, or termination of services, must submit a written request for a conciliation conference with the recipient's case worker and the county lead agency director or designee to the county agency prior to filing an appeal under this section.

(b) For purposes of this subdivision, a county agency's actions include actions by the department with respect to these services. The request must be filed no later than ten days from the date of a notice of agency action on case management. The county agency or the state may implement the action, reduction, suspension, denial, or termination of services described in the notice of action unless the recipient includes a request for continuation of services. The recipient may request a ten-day continuation for case management or other services. The county agency may hold the conference by telephone or by electronic media unless the recipient requests the conference take place in person in the recipient's written request for conference. The county agency shall have discretion to continue the conference.

(c) The county agency shall inform the commissioner of the receipt of a request when it is submitted and shall schedule a ~~conciliation~~ conference to be held in person, by telephone, or by electronic media within ten days of the receipt of the recipient's written request. The county agency shall notify the recipient, the commissioner, and all interested persons of the time, date, and location of the ~~conciliation~~ conference. ~~The commissioner may assist the county by providing mediation services or by identifying other resources that may assist in the mediation between the parties.~~ Within ~~30~~ 15 days after the conference has been held, the county agency shall ~~conduct the conciliation conference and~~ inform the recipient in writing of the action the county agency is going to take and when that action will be taken and notify the recipient of the right to a hearing under this subdivision.

~~The conciliation conference shall be conducted in a manner consistent with the commissioner's instructions.~~ (c) If the county fails to conduct the ~~conciliation~~ conference and issue its report ~~within 30 days, or, at any time up to 90 days after the conciliation conference is held~~ as provided in paragraph (b) and the recipient disputes the county agency's notice of its intended action, or if a recipient is otherwise entitled to a fair hearing under subdivision 3a, a recipient may submit to the commissioner a written request for a fair hearing ~~before a state human services referee to determine whether case management services have been provided in accordance with applicable laws and rules or whether the county agency has assured that the services identified in the recipient's individual service plan have been delivered in accordance with the laws and rules governing the provision of those services~~ under this section.

(d) Hearings involving claims that the county agency failed to comply with the requirement to schedule and hold a conference or to notify the recipient of its intended action according to this subdivision shall be limited in scope to those issues only, and the human services judge may recommend an order to the commissioner remanding the case to the county agency with directions to schedule and hold the conference and to notify the recipient of its intended action. The state human services referee shall recommend an order to the commissioner, who shall, in accordance with the procedure in subdivision 5, issue a final order within 60 days of the receipt of the request for a hearing involving case management services only, unless the commissioner refuses to accept the recommended order, in which event a final order shall issue within 90 days of the receipt of that request. The order may direct the county agency to take those actions necessary to comply with applicable laws or rules. The commissioner may issue a temporary order prohibiting the demission of a recipient of case management services under section 256B.092, from a residential or day habilitation program licensed under chapter 245A, while a county agency review process or an appeal brought by a recipient under this subdivision is

pending, or for the period of time necessary for the county agency to implement the commissioner's order. The commissioner shall not issue a final order staying the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A.

(e) Any recipient of case management services under section 256B.0625 or 256B.092, must be informed in writing at the time of application and at the time of any change in services that they must submit a written request to the county agency for a conference with the case manager and the county social service director before they can file an appeal under this section, of their right to continue receiving services pending the outcome of the conference and notice from the county agency, and that time for requesting a hearing under subdivision 3a and requesting continuation of services begins to run when they receive the postconference notice of the county's intended actions. For purposes of this paragraph, recipients are presumed to have received notice of the agency's intended actions three business days after the date of the notice. Recipients have the burden of overcoming this presumption by a preponderance of the evidence.

EFFECTIVE DATE. This section is effective for all notices of action dated on or after January 1, 2012.