

SENATE  
STATE OF MINNESOTA  
EIGHTY-EIGHTH SESSION

S.F. No. 2505

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DATE	D-PG	OFFICIAL STATUS
03/10/2014	6076	Introduction and first reading Referred to Health, Human Services and Housing

1.1

A bill for an act

1.2

relating to human services; modifying provisions governing community first

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services and supports; amending Minnesota Statutes 2013 Supplement, section

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256B.85, subdivisions 1, 2, 7.

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

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Section 1. Minnesota Statutes 2013 Supplement, section 256B.85, subdivision 1, is

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amended to read:

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Subdivision 1. **Basis and scope.** (a) Upon federal approval, the commissioner

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shall establish a medical assistance state plan option for the provision of home and

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community-based personal assistance service and supports called "community first

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services and supports (CFSS)."

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(b) CFSS is a participant-controlled method of selecting and providing services

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and supports that allows the participant maximum control of the services and supports.

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Participants may choose the degree to which they direct and manage their supports by

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choosing to have a significant and meaningful role in the management of services and

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supports including by directly employing support workers with the necessary supports

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to perform that function.

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(c) CFSS is available statewide to eligible individuals to assist with accomplishing

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activities of daily living (ADLs), instrumental activities of daily living (IADLs), and

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health-related procedures and tasks through hands-on assistance to accomplish the task

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or ~~constant~~ supervision and cueing to accomplish the task; and to assist with acquiring,

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maintaining, and enhancing the skills necessary to accomplish ADLs, IADLs, and

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health-related procedures and tasks. CFSS allows payment for certain supports and goods

such as environmental modifications and technology that are intended to replace or decrease the need for human assistance.

(d) Upon federal approval, CFSS will replace the personal care assistance program under sections 256.476, 256B.0625, subdivisions 19a and 19c, and 256B.0659.

Sec. 2. Minnesota Statutes 2013 Supplement, section 256B.85, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Activities of daily living" or "ADLs" means eating, toileting, grooming, dressing, bathing, mobility, positioning, and transferring.

(c) "Agency-provider model" means a method of CFSS under which a qualified agency provides services and supports through the agency's own employees and policies. The agency must allow the participant to have a significant role in the selection and dismissal of support workers of their choice for the delivery of their specific services and supports.

(d) "Behavior" means a description of a need for services and supports used to determine the home care rating and additional service units. The presence of Level I behavior is used to determine the home care rating. "Level I behavior" means physical aggression towards self or others or destruction of property that requires the immediate response of another person. If qualified for a home care rating as described in subdivision 8, additional service units can be added as described in subdivision 8, paragraph (f), for the following behaviors:

(1) Level I behavior;

(2) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or

(3) increased need for assistance for recipients who are verbally aggressive or resistive to care so that time needed to perform activities of daily living is increased.

(e) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that has been ordered by a physician, and is specified in a community support plan, including:

(1) tube feedings requiring:

(i) a gastrojejunostomy tube; or

(ii) continuous tube feeding lasting longer than 12 hours per day;

(2) wounds described as:

(i) stage III or stage IV;

(ii) multiple wounds;

(iii) requiring sterile or clean dressing changes or a wound vac; or

(iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized care;

(3) parenteral therapy described as:

(i) IV therapy more than two times per week lasting longer than four hours for each treatment; or

(ii) total parenteral nutrition (TPN) daily;

(4) respiratory interventions, including:

(i) oxygen required more than eight hours per day;

(ii) respiratory vest more than one time per day;

(iii) bronchial drainage treatments more than two times per day;

(iv) sterile or clean suctioning more than six times per day;

(v) dependence on another to apply respiratory ventilation augmentation devices such as BiPAP and CPAP; and

(vi) ventilator dependence under section 256B.0652;

(5) insertion and maintenance of catheter, including:

(i) sterile catheter changes more than one time per month;

(ii) clean intermittent catheterization, and including self-catheterization more than six times per day; or

(iii) bladder irrigations;

(6) bowel program more than two times per week requiring more than 30 minutes to perform each time;

(7) neurological intervention, including:

(i) seizures more than two times per week and requiring significant physical assistance to maintain safety; or

(ii) swallowing disorders diagnosed by a physician and requiring specialized assistance from another on a daily basis; and

(8) other congenital or acquired diseases creating a need for significantly increased direct hands-on assistance and interventions in six to eight activities of daily living.

(f) "Community first services and supports" or "CFSS" means the assistance and supports program under this section needed for accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks through hands-on assistance to accomplish the task or ~~constant~~ supervision and cueing to accomplish the task, or the purchase of goods as defined in subdivision 7, paragraph (a), clause (3), that replace the need for human assistance.

(g) "Community first services and supports service delivery plan" or "service delivery plan" means a written summary of the services and supports that is based on the community support plan identified in section 256B.0911 and coordinated services and support plan and budget identified in section 256B.0915, subdivision 6, if applicable, that is determined by the participant to meet the assessed needs, using a person-centered planning process.

(h) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

(i) "Dependency" in activities of daily living means a person requires hands-on assistance or constant supervision and cueing to accomplish one or more of the activities of daily living every day or on the days during the week that the activity is performed; however, a child may not be found to be dependent in an activity of daily living if, because of the child's age, an adult would either perform the activity for the child or assist the child with the activity and the assistance needed is the assistance appropriate for a typical child of the same age.

(j) "Extended CFSS" means CFSS services and supports under the agency-provider model included in a service plan through one of the home and community-based services waivers authorized under sections 256B.0915; 256B.092, subdivision 5; and 256B.49, which exceed the amount, duration, and frequency of the state plan CFSS services for participants.

(k) "Financial management services contractor or vendor" means a qualified organization having a written contract with the department to provide services necessary to use the budget model under subdivision 13 that include but are not limited to: participant education and technical assistance; CFSS service delivery planning and budgeting; billing, making payments, and monitoring of spending; and assisting the participant in fulfilling employer-related requirements in accordance with Section 3504 of the Internal Revenue Code and the Internal Revenue Service Revenue Procedure 70-6.

(l) "Budget model" means a service delivery method of CFSS that allows the use of an individualized CFSS service delivery plan and service budget and provides assistance from the financial management services contractor to facilitate participant employment of support workers and the acquisition of supports and goods.

(m) "Health-related procedures and tasks" means procedures and tasks related to the specific needs of an individual that can be delegated or assigned by a state-licensed healthcare or mental health professional and performed by a support worker.

(n) "Instrumental activities of daily living" means activities related to living independently in the community, including but not limited to: meal planning, preparation, and cooking; shopping for food, clothing, or other essential items; laundry; housecleaning;

5.1 assistance with medications; managing finances; communicating needs and preferences  
5.2 during activities; arranging supports; and assistance with traveling around and  
5.3 participating in the community.

5.4 (o) "Legal representative" means parent of a minor, a court-appointed guardian, or  
5.5 another representative with legal authority to make decisions about services and supports  
5.6 for the participant. Other representatives with legal authority to make decisions include  
5.7 but are not limited to a health care agent or an attorney-in-fact authorized through a health  
5.8 care directive or power of attorney.

5.9 (p) "Medication assistance" means providing verbal or visual reminders to take  
5.10 regularly scheduled medication, and includes any of the following supports listed in clauses  
5.11 (1) to (3) and other types of assistance, except that a support worker may not determine  
5.12 medication dose or time for medication or inject medications into veins, muscles, or skin:

5.13 (1) under the direction of the participant or the participant's representative, bringing  
5.14 medications to the participant including medications given through a nebulizer, opening a  
5.15 container of previously set-up medications, emptying the container into the participant's  
5.16 hand, opening and giving the medication in the original container to the participant, or  
5.17 bringing to the participant liquids or food to accompany the medication;

5.18 (2) organizing medications as directed by the participant or the participant's  
5.19 representative; and

5.20 (3) providing verbal or visual reminders to perform regularly scheduled medications.

5.21 (q) "Participant's representative" means a parent, family member, advocate, or  
5.22 other adult authorized by the participant to serve as a representative in connection with  
5.23 the provision of CFSS. This authorization must be in writing or by another method  
5.24 that clearly indicates the participant's free choice. The participant's representative must  
5.25 have no financial interest in the provision of any services included in the participant's  
5.26 service delivery plan and must be capable of providing the support necessary to assist  
5.27 the participant in the use of CFSS. If through the assessment process described in  
5.28 subdivision 5 a participant is determined to be in need of a participant's representative, one  
5.29 must be selected. If the participant is unable to assist in the selection of a participant's  
5.30 representative, the legal representative shall appoint one. Two persons may be designated  
5.31 as a participant's representative for reasons such as divided households and court-ordered  
5.32 custodies. Duties of a participant's representatives may include:

5.33 (1) being available while care is provided in a method agreed upon by the participant  
5.34 or the participant's legal representative and documented in the participant's CFSS service  
5.35 delivery plan;

(2) monitoring CFSS services to ensure the participant's CFSS service delivery plan is being followed; and

(3) reviewing and signing CFSS time sheets after services are provided to provide verification of the CFSS services.

(r) "Person-centered planning process" means a process that is directed by the participant to plan for services and supports. The person-centered planning process must:

(1) include people chosen by the participant;

(2) provide necessary information and support to ensure that the participant directs the process to the maximum extent possible, and is enabled to make informed choices and decisions;

(3) be timely and occur at time and locations of convenience to the participant;

(4) reflect cultural considerations of the participant;

(5) include strategies for solving conflict or disagreement within the process, including clear conflict-of-interest guidelines for all planning;

(6) provide the participant choices of the services and supports they receive and the staff providing those services and supports;

(7) include a method for the participant to request updates to the plan; and

(8) record the alternative home and community-based settings that were considered by the participant.

(s) "Shared services" means the provision of CFSS services by the same CFSS support worker to two or three participants who voluntarily enter into an agreement to receive services at the same time and in the same setting by the same provider.

(t) "Support specialist" means a professional with the skills and ability to assist the participant using either the agency-provider model under subdivision 11 or the flexible spending model under subdivision 13, in services including but not limited to assistance regarding:

(1) the development, implementation, and evaluation of the CFSS service delivery plan under subdivision 6;

(2) recruitment, training, or supervision, including supervision of health-related tasks or behavioral supports appropriately delegated or assigned by a health care professional, and evaluation of support workers; and

(3) facilitating the use of informal and community supports, goods, or resources.

(u) "Support worker" means an employee of the agency provider or of the participant who has direct contact with the participant and provides services as specified within the participant's service delivery plan.

(v) "Wages and benefits" means the hourly wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, contributions to employee retirement accounts, or other forms of employee compensation and benefits.

Sec. 3. Minnesota Statutes 2013 Supplement, section 256B.85, subdivision 7, is amended to read:

Subd. 7. **Community first services and supports; covered services.** Within the service unit authorization or budget allocation, services and supports covered under CFSS include:

(1) assistance to accomplish activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related procedures and tasks through hands-on assistance to accomplish the task or ~~constant~~ supervision and cueing to accomplish the task;

(2) assistance to acquire, maintain, or enhance the skills necessary for the participant to accomplish activities of daily living, instrumental activities of daily living, or health-related tasks;

(3) expenditures for items, services, supports, environmental modifications, or goods, including assistive technology. These expenditures must:

(i) relate to a need identified in a participant's CFSS service delivery plan;

(ii) increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance for the participant's assessed needs;

(4) observation and redirection for behavior or symptoms where there is a need for assistance. An assessment of behaviors must meet the criteria in this clause. A recipient qualifies as having a need for assistance due to behaviors if the recipient's behavior requires assistance at least four times per week and shows one or more of the following behaviors:

(i) physical aggression towards self or others, or destruction of property that requires the immediate response of another person;

(ii) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or

(iii) increased need for assistance for recipients who are verbally aggressive or resistive to care so that time needed to perform activities of daily living is increased;

(5) back-up systems or mechanisms, such as the use of pagers or other electronic devices, to ensure continuity of the participant's services and supports;

(6) transition costs, including:

- 8.1 (i) deposits for rent and utilities;
- 8.2 (ii) first month's rent and utilities;
- 8.3 (iii) bedding;
- 8.4 (iv) basic kitchen supplies;
- 8.5 (v) other necessities, to the extent that these necessities are not otherwise covered
- 8.6 under any other funding that the participant is eligible to receive; and
- 8.7 (vi) other required necessities for an individual to make the transition from a nursing
- 8.8 facility, institution for mental diseases, or intermediate care facility for persons with
- 8.9 developmental disabilities to a community-based home setting where the participant
- 8.10 resides; and
- 8.11 (7) services by a support specialist defined under subdivision 2 that are chosen
- 8.12 by the participant.