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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 4690

03/25/2026 Authored by Schomacker and Repinski
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

A bill for an act

relating to human services; modifying the nursing facility level of care for purposes of certain home and community-based waiver services; amending Minnesota Statutes 2024, sections 144.0724, by adding a subdivision; 256B.0911, subdivision 26; Minnesota Statutes 2025 Supplement, section 144.0724, subdivisions 2, 11.

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

Section 1. Minnesota Statutes 2025 Supplement, section 144.0724, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Assessment reference date" or "ARD" means the specific end point for look-back periods in the MDS assessment process. This look-back period is also called the observation or assessment period.

(b) "Case mix index" means the weighting factors assigned to the case mix reimbursement classifications determined by an assessment.

(c) "Index maximization" means classifying a resident who could be assigned to more than one category, to the category with the highest case mix index.

(d) "Minimum Data Set" or "MDS" means a core set of screening, clinical assessment, and functional status elements, that include common definitions and coding categories specified by the Centers for Medicare and Medicaid Services and designated by the Department of Health.

(e) "Representative" means a person who is the resident's guardian or conservator, the person authorized to pay the nursing home expenses of the resident, a representative of the Office of Ombudsman for Long-Term Care whose assistance has been requested, or any other individual designated by the resident.

(f) "Activities of daily living" or "ADL" includes personal hygiene, dressing, bathing, transferring, bed mobility, locomotion, eating, and toileting.

(g) "Nursing facility level of care determination" means the assessment process that results in a determination of ~~a resident's or prospective resident's~~ an individual's need for nursing facility level of care as established in subdivision 11 or 11a for purposes of medical assistance payment of long-term care services for:

(1) nursing facility services under chapter 256R;

(2) elderly waiver services under chapter 256S;

(3) CADI and BI waiver services under section 256B.49; and

(4) state payment of alternative care services under section 256B.0913.

(h) "Patient Driven Payment Model" or "PDPM" means the case mix reimbursement classification system for residents in nursing facilities based on the resident's condition, diagnosis, and the care the resident received at the time of the MDS assessment with an ARD on or after October 1, 2025.

(i) "Resource utilization group" or "RUG" means the case mix reimbursement classification system for residents in nursing facilities according to the resident's clinical and functional status as reflected in data supplied by the facility's MDS with an ARD on or before September 30, 2025.

EFFECTIVE DATE. This section is effective January 1, 2027, or upon federal approval, whichever is later.

Sec. 2. Minnesota Statutes 2025 Supplement, section 144.0724, subdivision 11, is amended to read:

Subd. 11. **Nursing facility level of care.** (a) For purposes of medical assistance payment of long-term care services specified in subdivision 2, paragraph (g), clauses (1), (2), and (4), a recipient must be determined, using assessments defined in subdivision 4, to meet one of the following nursing facility level of care criteria:

(1) the person requires formal clinical monitoring at least once per day;

(2) the person needs the assistance of another person or constant supervision to begin and complete at least four of the following activities of living: bathing, bed mobility, dressing, eating, grooming, toileting, transferring, and walking;

(3) the person needs the assistance of another person or constant supervision to begin and complete toileting, transferring, or positioning and the assistance cannot be scheduled;

(4) the person has significant difficulty with memory, using information, daily ~~decision making~~ decision-making, or behavioral needs that require intervention;

(5) the person has had a qualifying nursing facility stay of at least 90 days;

(6) the person meets the nursing facility level of care criteria determined 90 days after admission or on the first quarterly assessment after admission, whichever is later; or

(7) the person is determined to be at risk for nursing facility admission or readmission through a face-to-face long-term care consultation assessment as specified in section 256B.0911, subdivision 17 to 21, 23, 24, 27, or 28, by a county, Tribe, or managed care organization under contract with the Department of Human Services. The person is considered at risk under this clause if the person currently lives alone or will live alone or be homeless without the person's current housing and also meets one of the following criteria:

(i) the person has experienced a fall resulting in a fracture;

(ii) the person has been determined to be at risk of maltreatment or neglect, including self-neglect; or

(iii) the person has a sensory impairment that substantially impacts functional ability and maintenance of a community residence.

(b) The assessment used to establish medical assistance payment for nursing facility services must be the most recent assessment performed under subdivision 4, paragraph (b), that occurred no more than 90 calendar days before the effective date of medical assistance eligibility for payment of long-term care services. In no case shall medical assistance payment for long-term care services occur prior to the date of the determination of nursing facility level of care.

(c) The assessment used to establish medical assistance payment for long-term care services provided under chapter 256S ~~and section 256B.49~~ and alternative care payment for services provided under section 256B.0913 must be the most recent face-to-face assessment performed under section 256B.0911, subdivision 17 to 21, 23, 24, 27, or 28, that occurred no more than one calendar year before the effective date of medical assistance eligibility for payment of long-term care services.

EFFECTIVE DATE. This section is effective January 1, 2027, or upon federal approval, whichever is later.

Sec. 3. Minnesota Statutes 2024, section 144.0724, is amended by adding a subdivision to read:

Subd. 11a. **Determination of nursing facility level of care for the brain injury and community access for disability inclusion waivers.** (a) Effective January 1, 2027, or upon federal approval, whichever is later, a person must be determined to meet one of the following nursing facility level of care criteria to be eligible for the brain injury and community access for disability inclusion waivers under section 256B.49:

(1) the person needs the assistance of another person or constant supervision to begin and complete at least four of the following activities of daily living: bathing, bed mobility, dressing, eating, grooming, toileting, transferring, or walking;

(2) the person needs the assistance of another person or constant supervision to begin and complete toileting, transferring, or positioning and the assistance cannot be scheduled; or

(3) the person has significant difficulty with memory, using information, daily decision-making, or behavioral needs that require the person to be constantly supervised or require interventions that cannot be scheduled.

(b) Nursing facility level of care determinations for purposes of initial and ongoing access to the brain injury and community access for disability inclusion waiver programs must be conducted by a certified assessor under section 256B.0911.

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

Sec. 4. Minnesota Statutes 2024, section 256B.0911, subdivision 26, is amended to read:

Subd. 26. **Determination of institutional level of care.** (a) The determination of need for hospital and intermediate care facility levels of care must be made according to criteria developed by the commissioner, and in section 256B.092, using forms developed by the commissioner.

(b) The determination of need for nursing facility level of care must be made based on criteria in section 144.0724, subdivision 11. This paragraph expires upon the effective date of paragraph (c).

(c) Effective January 1, 2027, or upon federal approval, whichever is later, the determination of need for nursing facility level of care must be made based on criteria in section 144.0724, subdivision 11, except for determinations of need for nursing facility level of care for purposes of the brain injury and community access for disability inclusion waivers under section 256B.49. Determinations of need for nursing facility level of care for the purposes of the brain injury and community access for disability inclusion waivers must be made based on criteria in section 144.0724, subdivision 11a.

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

Sec. 5. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; NOTICE OF WAIVER ELIGIBILITY CHANGES.**

If a person who was previously eligible for either the brain injury waiver or the community access for disability inclusion waiver is found ineligible for waiver services under Minnesota Statutes, section 256B.0911, subdivision 26, paragraph (c), because of a determination that the person does not meet the criteria in Minnesota Statutes, section 144.0724, subdivision 11a, the commissioner must review the person's latest assessment under Minnesota Statutes, section 256B.0911, to determine if the person meets any of the nursing facility level of care criteria under Minnesota Statutes, section 144.0724, subdivision 11. If the commissioner determines after the review that the person does meet the nursing facility level of care criteria under Minnesota Statutes, section 144.0724, subdivision 11, the commissioner must provide a notice of action that includes:

(1) an explanation that the person's waiver services are being terminated because the person meets a nursing facility level of care under Minnesota Statutes, section 144.0724, subdivision 11, but not under Minnesota Statutes, section 144.0724, subdivision 11a;

(2) a statement specifying which criterion the person met under Minnesota Statutes, section 144.0724, subdivision 11, and that the cited criterion is no longer a basis of eligibility for the brain injury waiver or community access for disability inclusion waiver; and

(3) information about appeal rights and the alternative benefits options for which the person may be eligible.

Sec. 6. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; IMPLEMENTATION OF NEW NURSING FACILITY LEVEL OF CARE CRITERIA.**

For existing brain injury and community access for disability inclusion waiver participants, the effective date of the termination of waiver services based on Minnesota

Statutes, section 256B.0911, subdivision 26, paragraph (c), must be at least 90 days after the date of the reassessment that results in a determination that the individual no longer meets the level of care criteria.