

A bill for an act

relating to human services; permitting non-Medicare home care agencies to provide alternative care services; eliminating the customized living rate cap; amending Minnesota Statutes 2008, sections 256B.0913, subdivision 5a; 256B.0915, subdivision 3e.

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

Section 1. Minnesota Statutes 2008, section 256B.0913, subdivision 5a, is amended to read:

Subd. 5a. **Services; service definitions; service standards.** (a) Except as provided in paragraph (b) and unless otherwise specified in statute, the services, service definitions, and standards for alternative care services shall be the same as the services, service definitions, and standards specified in the federally approved elderly waiver plan, except alternative care does not cover transitional support services, assisted living services, adult foster care services, and residential care and benefits defined under section 256B.0625 that meet primary and acute health care needs.

(b) Alternative care services may be provided by a class A, class F, or class B home care provider licensed by the commissioner. Medicare certification is not required.

(c) The lead agency must ensure that the funds are not used to supplant or supplement services available through other public assistance or services programs, including supplementation of client co-pays, deductibles, premiums, or other cost-sharing arrangements for health-related benefits and services or entitlement programs and services that are available to the person, but in which they have elected not to enroll. For a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than \$250, persons or agencies must be employed by or under a contract with the lead agency or the public health nursing agency of the local board of health in order to receive

funding under the alternative care program. Supplies and equipment may be purchased from a vendor not certified to participate in the Medicaid program if the cost for the item is less than that of a Medicaid vendor.

~~(e)~~ (d) Personal care services must meet the service standards defined in the federally approved elderly waiver plan, except that a lead agency may contract with a client's relative who meets the relative hardship waiver requirements or a relative who meets the criteria and is also the responsible party under an individual service plan that ensures the client's health and safety and supervision of the personal care services by a qualified professional as defined in section 256B.0625, subdivision 19c. Relative hardship is established by the lead agency when the client's care causes a relative caregiver to do any of the following: resign from a paying job, reduce work hours resulting in lost wages, obtain a leave of absence resulting in lost wages, incur substantial client-related expenses, provide services to address authorized, unstaffed direct care time, or meet special needs of the client unmet in the formal service plan.

Sec. 2. Minnesota Statutes 2008, section 256B.0915, subdivision 3e, is amended to read:

Subd. 3e. **Customized living service rate.** (a) Payment for customized living services shall be a monthly rate negotiated and authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the services that have been customized for each recipient and specify the amount of each service to be provided. The lead agency shall ensure that there is a documented need for all services authorized. Customized living services must not include rent or raw food costs. The negotiated payment rate must be based on services to be provided. Negotiated rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale.

(b) The individualized monthly negotiated payment for customized living services shall not exceed ~~the nonfederal share, in effect on July 1 of the state fiscal year for which the rate limit is being calculated, of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing~~

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~~home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on June 30 of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities. the elderly waiver cost limits described in subdivision 3a. The individualized monthly negotiated payment for customized services must be determined by the lead agency based on the needs of the client as determined by the long-term care consultation assessment and the resulting authorized services. The individually negotiated customized living payments, in combination with the payment for other elderly waiver services, including case management, must not exceed the elderly waiver cost limits described in subdivision 3a.~~

(c) Subject to the requirements of this section, customized living services and 24-hour customized living services include incidental nursing services that are provided directly by a licensed nurse under a class A or class F home care license issued under Minnesota Rules, chapter 4668, and that are not eligible to be covered by Medicare. For purposes of this paragraph, "incidental nursing services" means medication set-ups, the drawing up of insulin, injections, diabetic foot care, catheter insertion, monitoring of blood tests for therapeutic treatments, and any other service identified by the commissioner of human services. If the commissioner determines that incidental nursing services, as defined, are not permitted under the terms of the federally approved elderly home and community-based services waiver, the commissioner shall apply to amend the waiver to permit coverage of the services within customized living and 24-hour customized living.

(d) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D.