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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 1907

01/24/2012 Authored by Liebling, Norton, Greiling, Murphy, M., Morrow and others

The bill was read for the first time and referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; modifying personal care assistance provisions;
1.3 appropriating money; amending Minnesota Statutes 2011 Supplement, section
1.4 256B.0659, subdivisions 11, 28.

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

1.6 Section 1. Minnesota Statutes 2011 Supplement, section 256B.0659, subdivision 11,
1.7 is amended to read:

1.8 Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant
1.9 must meet the following requirements:

1.10 (1) be at least 18 years of age with the exception of persons who are 16 or 17 years
1.11 of age with these additional requirements:

1.12 (i) supervision by a qualified professional every 60 days; and

1.13 (ii) employment by only one personal care assistance provider agency responsible
1.14 for compliance with current labor laws;

1.15 (2) be employed by a personal care assistance provider agency;

1.16 (3) enroll with the department as a personal care assistant after clearing a background
1.17 study. Except as provided in subdivision 11a, before a personal care assistant provides
1.18 services, the personal care assistance provider agency must initiate a background study on
1.19 the personal care assistant under chapter 245C, and the personal care assistance provider
1.20 agency must have received a notice from the commissioner that the personal care assistant
1.21 is:

1.22 (i) not disqualified under section 245C.14; or

1.23 (ii) is disqualified, but the personal care assistant has received a set aside of the
1.24 disqualification under section 245C.22;

(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. The training must be available in languages other than English and to those who need accommodations due to disabilities. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient within the first seven days after the services begin; and

(10) be limited to providing and being paid for up to 275 hours per month, except that this limit shall be 275 hours per month for the period July 1, 2009, through June 30, 2011, of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with. The number of hours worked per day shall not be disallowed by the department unless in violation of the law.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Persons who do not qualify as a personal care assistant include parents and stepparents of minors, spouses, paid legal guardians, family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a, or staff of a residential setting. ~~When the personal care assistant is a relative of the recipient, the commissioner shall pay 80 percent of the provider rate. For purposes of this section, relative means the parent or adoptive parent of an adult child, a sibling aged 16 years or older, an adult child, a grandparent, or a grandchild.~~

3.1 **EFFECTIVE DATE.** This section is effective July 1, 2012.

3.2 Sec. 2. Minnesota Statutes 2011 Supplement, section 256B.0659, subdivision 28,
3.3 is amended to read:

3.4 Subd. 28. **Personal care assistance provider agency; required documentation.**

3.5 (a) Required documentation must be completed and kept in the personal care assistance
3.6 provider agency file or the recipient's home residence. The required documentation
3.7 consists of:

3.8 (1) employee files, including:

3.9 (i) applications for employment;

3.10 (ii) background study requests and results;

3.11 (iii) orientation records about the agency policies;

3.12 (iv) trainings completed with demonstration of competence;

3.13 (v) supervisory visits;

3.14 (vi) evaluations of employment; and

3.15 (vii) signature on fraud statement;

3.16 (2) recipient files, including:

3.17 (i) demographics;

3.18 (ii) emergency contact information and emergency backup plan;

3.19 (iii) personal care assistance service plan;

3.20 (iv) personal care assistance care plan;

3.21 (v) month-to-month service use plan;

3.22 (vi) all communication records;

3.23 (vii) start of service information, including the written agreement with recipient; and

3.24 (viii) date the home care bill of rights was given to the recipient;

3.25 (3) agency policy manual, including:

3.26 (i) policies for employment and termination;

3.27 (ii) grievance policies with resolution of consumer grievances;

3.28 (iii) staff and consumer safety;

3.29 (iv) staff misconduct; and

3.30 (v) staff hiring, service delivery, staff and consumer safety, staff misconduct, and
3.31 resolution of consumer grievances;

3.32 (4) time sheets for each personal care assistant along with completed activity sheets
3.33 for each recipient served; and

3.34 (5) agency marketing and advertising materials and documentation of marketing
3.35 activities and costs; ~~and~~

~~(6) for each personal care assistant, whether or not the personal care assistant is providing care to a relative as defined in subdivision 11.~~

(b) The commissioner may assess a fine of up to \$500 on provider agencies that do not consistently comply with the requirements of this subdivision.

EFFECTIVE DATE. This section is effective July 1, 2012.

Sec. 3. **APPROPRIATION.**

(a) \$14,921,000 is appropriated in fiscal year 2013 from the general fund to the commissioner of human services for purposes of the personal care assistance program under Minnesota Statutes, section 256B.0659.

(b) \$14,921,000 is transferred in fiscal year 2013 from the budget reserve account in the general fund to the unrestricted general fund.