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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 3653

03/12/2018 Authored by Lucero
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; modifying requirements for recipient access to
1.3 documentation of personal care assistance services or support services provided;
1.4 amending Minnesota Statutes 2016, sections 256B.0659, subdivision 19, by adding
1.5 a subdivision; 256B.85, subdivision 15.

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

1.7 Section 1. Minnesota Statutes 2016, section 256B.0659, subdivision 19, is amended to
1.8 read:

1.9 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under
1.10 personal care assistance choice, the recipient or responsible party shall:

1.11 (1) recruit, hire, schedule, and terminate personal care assistants according to the terms
1.12 of the written agreement required under subdivision 20, paragraph (a);

1.13 (2) develop a personal care assistance care plan based on the assessed needs and
1.14 addressing the health and safety of the recipient with the assistance of a qualified professional
1.15 as needed;

1.16 (3) orient and train the personal care assistant with assistance as needed from the qualified
1.17 professional;

1.18 (4) effective January 1, 2010, supervise and evaluate the personal care assistant with the
1.19 qualified professional, who is required to visit the recipient at least every 180 days;

1.20 (5) monitor and verify in writing and report to the personal care assistance choice agency
1.21 the number of hours worked by the personal care assistant and the qualified professional;

2.1 (6) engage in an annual face-to-face reassessment to determine continuing eligibility
2.2 and service authorization; and

2.3 (7) use the same personal care assistance choice provider agency if shared personal
2.4 assistance care is being used.

2.5 (b) The personal care assistance choice provider agency shall:

2.6 (1) meet all personal care assistance provider agency standards;

2.7 (2) enter into a written agreement with the recipient, responsible party, and personal
2.8 care assistants;

2.9 (3) not be related as a parent, child, sibling, or spouse to the recipient or the personal
2.10 care assistant; and

2.11 (4) ensure arm's-length transactions without undue influence or coercion with the recipient
2.12 and personal care assistant.

2.13 (c) The duties of the personal care assistance choice provider agency are to:

2.14 (1) be the employer of the personal care assistant and the qualified professional for
2.15 employment law and related regulations including, but not limited to, purchasing and
2.16 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,
2.17 and liability insurance, and submit any or all necessary documentation including, but not
2.18 limited to, workers' compensation and unemployment insurance;

2.19 (2) bill the medical assistance program for personal care assistance services and qualified
2.20 professional services;

2.21 (3) request and complete background studies that comply with the requirements for
2.22 personal care assistants and qualified professionals;

2.23 (4) pay the personal care assistant and qualified professional based on actual hours of
2.24 services provided;

2.25 (5) withhold and pay all applicable federal and state taxes;

2.26 (6) verify and keep records of hours worked by the personal care assistant and qualified
2.27 professional;

2.28 (7) on a monthly basis, provide the recipient or responsible party with a copy of each
2.29 completed time sheet form submitted to the provider agency for personal care assistance
2.30 services provided to the recipient during the previous month. The recipient or responsible

3.1 party shall determine whether the recipient or responsible party receives the completed time
 3.2 sheet form in Web-based, paper, or electronic form;

3.3 (8) make the arrangements and pay taxes and other benefits, if any, and comply with
 3.4 any legal requirements for a Minnesota employer;

3.5 (8) (9) enroll in the medical assistance program as a personal care assistance choice
 3.6 agency; and

3.7 (9) (10) enter into a written agreement as specified in subdivision 20 before services are
 3.8 provided.

3.9 Sec. 2. Minnesota Statutes 2016, section 256B.0659, is amended by adding a subdivision
 3.10 to read:

3.11 Subd. 28a. **Personal care assistance provider agency; provision of submitted time**
 3.12 **sheets.** (a) On a monthly basis, the personal care assistance provider agency shall provide
 3.13 a recipient or responsible party with a copy of:

3.14 (1) each completed time sheet form submitted to the provider by a personal care assistant
 3.15 under subdivision 12 for personal care assistance services provided to the recipient during
 3.16 the previous month; and

3.17 (2) corresponding completed activity sheets retained by the provider under subdivision
 3.18 28, paragraph (a), clause (4).

3.19 (b) The recipient or responsible party shall determine whether the recipient or responsible
 3.20 party receives the completed time sheets and corresponding activity sheets in Web-based,
 3.21 paper, or electronic form.

3.22 Sec. 3. Minnesota Statutes 2016, section 256B.85, subdivision 15, is amended to read:

3.23 Subd. 15. **Documentation of support services provided; time sheets.** (a) CFSS services
 3.24 provided to a participant by a support worker employed by either an agency-provider or the
 3.25 participant employer must be documented daily by each support worker, on a time sheet.
 3.26 Time sheets may be created, submitted, and maintained electronically. Time sheets must
 3.27 be submitted by the support worker to the:

3.28 (1) agency-provider when the participant is using the agency-provider model. The
 3.29 agency-provider must maintain a record of the time sheet and provide to the participant or
 3.30 the participant's representative on a monthly basis a copy of the most recently submitted
 3.31 time sheet ~~to the participant~~. The participant or the participant's representative shall determine

4.1 whether the participant or the participant's representative receives the time sheets in
4.2 Web-based, paper, or electronic form; or

4.3 (2) participant and the participant's FMS provider when the participant is using the
4.4 budget model. The participant and the FMS provider must maintain a record of the time
4.5 sheet. Upon request by the participant or by the participant's representative, the participant's
4.6 FMS provider shall provide to the participant or the participant's representative a copy of
4.7 any time sheets submitted by the support worker to the participant's FMS provider for
4.8 services provided to the participant. The participant or the participant's representative shall
4.9 determine whether the participant or the participant's representative receives the time sheets
4.10 in Web-based, paper, or electronic form.

4.11 (b) The documentation on the time sheet must correspond to the participant's assessed
4.12 needs within the scope of CFSS covered services. The accuracy of the time sheets must be
4.13 verified by the:

4.14 (1) agency-provider when the participant is using the agency-provider model; or

4.15 (2) participant employer and the participant's FMS provider when the participant is using
4.16 the budget model.

4.17 (c) The time sheet must document the time the support worker provides services to the
4.18 participant. The following elements must be included in the time sheet:

4.19 (1) the support worker's full name and individual provider number;

4.20 (2) the agency-provider's name and telephone numbers, when responsible for the CFSS
4.21 service delivery plan;

4.22 (3) the participant's full name;

4.23 (4) the dates within the pay period established by the agency-provider or FMS provider,
4.24 including month, day, and year, and arrival and departure times with a.m. or p.m. notations
4.25 for days worked within the established pay period;

4.26 (5) the covered services provided to the participant on each date of service;

4.27 (6) a signature line for the participant or the participant's representative and a statement
4.28 that the participant's or participant's representative's signature is verification of the time
4.29 sheet's accuracy;

4.30 (7) the personal signature of the support worker;

4.31 (8) any shared care provided, if applicable;

5.1 (9) a statement that it is a federal crime to provide false information on CFSS billings
5.2 for medical assistance payments; and

5.3 (10) dates and location of participant stays in a hospital, care facility, or incarceration
5.4 occurring within the established pay period.

5.5 **EFFECTIVE DATE.** This section is effective 90 days after the Department of Human
5.6 Services receives federal approval. The commissioner of human services shall notify the
5.7 revisor of statutes when federal approval is obtained.