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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3738

02/24/2022 Authored by Hanson, J., and Morrison
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying children's therapeutic services and supports;
1.3 directing the commissioner of human services to develop a new Medicaid-eligible
1.4 mental health benefit for children and families; requiring a report; amending
1.5 Minnesota Statutes 2020, section 256B.0943, subdivision 8; Minnesota Statutes
1.6 2021 Supplement, section 256B.0943, subdivisions 1, 2, 3, 4, 6, 7, 9; repealing
1.7 Minnesota Statutes 2020, section 256B.0943, subdivision 8a.

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

1.9 Section 1. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 1, is
1.10 amended to read:

1.11 Subdivision 1. **Definitions.** For purposes of this section, the following terms have the
1.12 meanings given them.

1.13 (a) "Care consultation" means consultative activities and communications between
1.14 mental health care providers and primary care clinical care providers, families, school
1.15 support staff, and clients. Care consultation may include psychiatric consultation with
1.16 primary care practitioners and mental health clinical care consultation.

1.17 (b) "Care coordination" means the activities required to coordinate care across settings
1.18 and providers for the people served to ensure seamless transitions across the full spectrum
1.19 of health services. Care coordination includes documenting a plan of care for medical care,
1.20 behavioral health, and social services and supports in the integrated treatment plan, assisting
1.21 with obtaining appointments, confirming that clients attend appointments, developing a
1.22 crisis plan, tracking medication, and implementing care coordination agreements with
1.23 external providers. Care coordination may include psychiatric consultation with primary
1.24 care practitioners and mental health clinical care consultation.

2.1 ~~(a)~~ (c) "Children's therapeutic services and supports" means the flexible package of
2.2 mental health services for children who require varying therapeutic and rehabilitative levels
2.3 of intervention to treat a diagnosed emotional disturbance, as defined in section 245.4871,
2.4 subdivision 15, or a diagnosed mental illness, as defined in section 245.462, subdivision
2.5 20. The services are time-limited interventions that are delivered using various treatment
2.6 modalities and combinations of services designed to reach treatment outcomes identified
2.7 in the individual treatment plan.

2.8 ~~(b)~~ (d) "Clinical trainee" means a staff person who is qualified according to section
2.9 245I.04, subdivision 6.

2.10 ~~(c)~~ (e) "Crisis planning" has the meaning given in section 245.4871, subdivision 9a.

2.11 ~~(d)~~ (f) "Culturally competent provider" means a provider who understands and can utilize
2.12 to a client's benefit the client's culture when providing services to the client. A provider
2.13 may be culturally competent because the provider is of the same cultural or ethnic group
2.14 as the client or the provider has developed the knowledge and skills through training and
2.15 experience to provide services to culturally diverse clients.

2.16 ~~(e)~~ (g) "Day treatment program" for children means a site-based structured mental health
2.17 program consisting of psychotherapy for three or more individuals and individual or group
2.18 skills training provided by a team, under the treatment supervision of a mental health
2.19 professional.

2.20 ~~(f)~~ (h) "Standard diagnostic assessment" means the assessment described in 245I.10,
2.21 subdivision 6.

2.22 ~~(g)~~ (i) "Direct service time" means the time that a mental health professional, clinical
2.23 trainee, mental health practitioner, or mental health behavioral aide spends face-to-face with
2.24 a client and the client's family or providing covered services through telehealth as defined
2.25 under section 256B.0625, subdivision 3b. Direct service time includes time in which the
2.26 provider obtains a client's history, develops a client's treatment plan, records individual
2.27 treatment outcomes, or provides service components of children's therapeutic services and
2.28 supports. Direct service time does not include time doing work before and after providing
2.29 direct services, including scheduling or maintaining clinical records.

2.30 ~~(h) "Direction of mental health behavioral aide" means the activities of a mental health~~
2.31 ~~professional, clinical trainee, or mental health practitioner in guiding the mental health~~
2.32 ~~behavioral aide in providing services to a client. The direction of a mental health behavioral~~
2.33 ~~aide must be based on the client's individual treatment plan and meet the requirements in~~
2.34 ~~subdivision 6, paragraph (b), clause (7).~~

3.1 ~~(i)~~ (j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision
3.2 15.

3.3 ~~(j) "Individual behavioral plan" means a plan of intervention, treatment, and services~~
3.4 ~~for a child written by a mental health professional or a clinical trainee or mental health~~
3.5 ~~practitioner under the treatment supervision of a mental health professional, to guide the~~
3.6 ~~work of the mental health behavioral aide. The individual behavioral plan may be~~
3.7 ~~incorporated into the child's individual treatment plan so long as the behavioral plan is~~
3.8 ~~separately communicable to the mental health behavioral aide.~~

3.9 (k) "Individual treatment plan" means the plan described in section 245I.10, subdivisions
3.10 7 and 8.

3.11 (l) "Mental health behavioral aide services" means medically necessary one-on-one
3.12 activities performed by a mental health behavioral aide qualified according to section
3.13 245I.04, subdivision 16, to assist a child retain or generalize psychosocial skills as previously
3.14 trained by a mental health professional, clinical trainee, or mental health practitioner and
3.15 as described in the child's individual treatment plan and individual behavior plan. Activities
3.16 involve working directly with the child or child's family as provided in subdivision 9,
3.17 paragraph (b), clause (4).

3.18 (m) "Mental health certified family peer specialist" means a staff person who is qualified
3.19 according to section 245I.04, subdivision 12.

3.20 (n) "Mental health practitioner" means a staff person who is qualified according to section
3.21 245I.04, subdivision 4.

3.22 (o) "Mental health professional" means a staff person who is qualified according to
3.23 section 245I.04, subdivision 2.

3.24 ~~(p) "Mental health service plan development" includes:~~

3.25 ~~(1) the development, review, and revision of a child's individual treatment plan, including~~
3.26 ~~involvement of the client or client's parents, primary caregiver, or other person authorized~~
3.27 ~~to consent to mental health services for the client, and including arrangement of treatment~~
3.28 ~~and support activities specified in the individual treatment plan; and~~

3.29 ~~(2) administering and reporting the standardized outcome measurements in section~~
3.30 ~~245I.10, subdivision 6, paragraph (d), clauses (3) and (4), and other standardized outcome~~
3.31 ~~measurements approved by the commissioner, as periodically needed to evaluate the~~
3.32 ~~effectiveness of treatment.~~

4.1 ~~(q)~~ (p) "Mental illness," for persons at least age 18 but under age 21, has the meaning
 4.2 given in section 245.462, subdivision 20, paragraph (a).

4.3 ~~(r)~~ (q) "Psychotherapy" means the treatment described in section 256B.0671, subdivision
 4.4 11.

4.5 ~~(s)~~ (r) "Rehabilitative services" or "psychiatric rehabilitation services" means interventions
 4.6 to: (1) restore a child or adolescent to an age-appropriate developmental trajectory that had
 4.7 been disrupted by a psychiatric illness; or (2) enable the child to self-monitor, compensate
 4.8 for, cope with, counteract, or replace psychosocial skills deficits or maladaptive skills
 4.9 acquired over the course of a psychiatric illness. Psychiatric rehabilitation services for
 4.10 children combine coordinated psychotherapy to address internal psychological, emotional,
 4.11 and intellectual processing deficits, and skills training to restore personal and social
 4.12 functioning. Psychiatric rehabilitation services establish a progressive series of goals with
 4.13 each achievement building upon a prior achievement.

4.14 ~~(t)~~ (s) "Skills training" means individual, family, or group training, delivered by or under
 4.15 the supervision of a mental health professional, designed to facilitate the acquisition of
 4.16 psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate
 4.17 developmental trajectory heretofore disrupted by a psychiatric illness or to enable the child
 4.18 to self-monitor, compensate for, cope with, counteract, or replace skills deficits or
 4.19 maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject
 4.20 to the service delivery requirements under subdivision 9, paragraph (b), clause (2).

4.21 ~~(u)~~ (t) "Treatment supervision" means the supervision described in section 245I.06.

4.22 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 4.23 whichever is later. The commissioner of human services shall notify the revisor of statutes
 4.24 when federal approval is obtained.

4.25 Sec. 2. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 2, is amended
 4.26 to read:

4.27 **Subd. 2. Covered service components of children's therapeutic services and**
 4.28 **supports.** (a) Subject to federal approval, medical assistance covers medically necessary
 4.29 children's therapeutic services and supports when the services are provided by an eligible
 4.30 provider entity certified under and meeting the standards in this section. The provider entity
 4.31 must make reasonable and good faith efforts to report individual client outcomes to the
 4.32 commissioner, using instruments and protocols approved by the commissioner.

4.33 (b) The service components of children's therapeutic services and supports are:

- 5.1 (1) patient and/or family psychotherapy, family psychotherapy, psychotherapy for crisis,
 5.2 and group psychotherapy;
- 5.3 (2) individual, family, or group skills training provided by a mental health professional,
 5.4 clinical trainee, or mental health practitioner;
- 5.5 (3) crisis planning;
- 5.6 (4) mental health behavioral aide services;
- 5.7 (5) direction of a mental health behavioral aide;
- 5.8 (6) mental health service plan development; ~~and~~
- 5.9 (7) children's day treatment;
- 5.10 (8) care coordination;
- 5.11 (9) care consultation;
- 5.12 (10) travel to and from a client's location; and
- 5.13 (11) individual treatment plan development.

5.14 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 5.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
 5.16 when federal approval is obtained.

5.17 Sec. 3. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 3, is amended
 5.18 to read:

5.19 Subd. 3. **Determination of client eligibility.** (a) A client's eligibility to receive children's
 5.20 therapeutic services and supports under this section shall be determined based on a standard
 5.21 diagnostic assessment by a mental health professional or a clinical trainee that is performed
 5.22 within one year before the initial start of service. The standard diagnostic assessment must:

5.23 (1) determine whether a child under age 18 has a diagnosis of emotional disturbance or,
 5.24 if the person is between the ages of 18 and 21, whether the person has a mental illness;

5.25 (2) document children's therapeutic services and supports as medically necessary to
 5.26 address an identified disability, functional impairment, and the individual client's needs and
 5.27 goals; and

5.28 (3) be used in the development of the individual treatment plan.

6.1 (b) Notwithstanding paragraph (a), a client may be determined to be eligible for ~~up to~~
 6.2 ~~five days of~~ day treatment under this section based on a hospital's medical history and
 6.3 presentation examination of the client.

6.4 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 6.5 whichever is later. The commissioner of human services shall notify the revisor of statutes
 6.6 when federal approval is obtained.

6.7 Sec. 4. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 4, is amended
 6.8 to read:

6.9 Subd. 4. **Provider entity certification.** (a) The commissioner shall establish an initial
 6.10 provider entity application and certification process and recertification process to determine
 6.11 whether a provider entity has an administrative and clinical infrastructure that meets the
 6.12 requirements in subdivisions 5 and 6. ~~A provider entity must be certified for the three core~~
 6.13 ~~rehabilitation services of psychotherapy, skills training, and crisis planning.~~ The
 6.14 commissioner shall recertify a provider entity ~~at least~~ every three years. The commissioner
 6.15 shall establish a process for decertification of a provider entity and shall require corrective
 6.16 action, medical assistance repayment, or decertification of a provider entity that no longer
 6.17 meets the requirements in this section or that fails to meet the clinical quality standards or
 6.18 administrative standards provided by the commissioner in the application and certification
 6.19 process.

6.20 (b) For purposes of this section, a provider entity must meet the standards in this section
 6.21 and chapter 245I, as required under section 245I.011, subdivision 5, and be:

6.22 (1) an Indian health services facility or a facility owned and operated by a tribe or tribal
 6.23 organization operating as a 638 facility under Public Law 93-638 certified by the state;

6.24 (2) a county-operated entity certified by the state; or

6.25 (3) a noncounty entity certified by the state.

6.26 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 6.27 whichever is later. The commissioner of human services shall notify the revisor of statutes
 6.28 when federal approval is obtained.

6.29 Sec. 5. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 6, is amended
 6.30 to read:

6.31 Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be an eligible
 6.32 provider entity under this section, a provider entity must have a clinical infrastructure that

7.1 utilizes diagnostic assessment, individual treatment plans, service delivery, and individual
 7.2 treatment plan review that are culturally competent, child-centered, and family-driven to
 7.3 achieve maximum benefit for the client. The provider entity must review, and update as
 7.4 necessary, the clinical policies and procedures every three years, must distribute the policies
 7.5 and procedures to staff initially and upon each subsequent update, and must train staff
 7.6 accordingly.

7.7 (b) The clinical infrastructure written policies and procedures must include policies and
 7.8 procedures for meeting the requirements in this subdivision:

7.9 (1) providing or obtaining a client's standard diagnostic assessment, including a standard
 7.10 diagnostic assessment. When required components of the standard diagnostic assessment
 7.11 are not provided in an outside or independent assessment or cannot be attained immediately,
 7.12 the provider entity must determine the missing information within 30 days and amend the
 7.13 child's standard diagnostic assessment or incorporate the information into the child's
 7.14 individual treatment plan;

7.15 (2) developing an individual treatment plan;

7.16 ~~(3) developing an individual behavior plan that documents and describes interventions~~
 7.17 ~~to be provided by the mental health behavioral aide. The individual behavior plan must~~
 7.18 ~~include:~~

7.19 ~~(i) detailed instructions on the psychosocial skills to be practiced;~~

7.20 ~~(ii) time allocated to each intervention;~~

7.21 ~~(iii) methods of documenting the child's behavior;~~

7.22 ~~(iv) methods of monitoring the child's progress in reaching objectives; and~~

7.23 ~~(v) goals to increase or decrease targeted behavior as identified in the individual treatment~~
 7.24 ~~plan;~~

7.25 ~~(4)~~ (3) providing treatment supervision plans for staff according to section 245I.06.

7.26 Treatment supervision does not include the authority to make or terminate court-ordered
 7.27 placements of the child. A treatment supervisor must be available for urgent consultation
 7.28 as required by the individual client's needs or the situation;

7.29 ~~(5) meeting day treatment program conditions in items (i) and (ii):~~

7.30 ~~(i) the treatment supervisor must be present and available on the premises more than 50~~
 7.31 ~~percent of the time in a provider's standard working week during which the supervisee is~~
 7.32 ~~providing a mental health service; and~~

8.1 ~~(ii) every 30 days, the treatment supervisor must review and sign the record indicating~~
8.2 ~~the supervisor has reviewed the client's care for all activities in the preceding 30-day period;~~

8.3 ~~(6) meeting the treatment supervision standards in items (i) and (ii) for all other services~~
8.4 ~~provided under CTSS:~~

8.5 ~~(i) the mental health professional is required to be present at the site of service delivery~~
8.6 ~~for observation as clinically appropriate when the clinical trainee, mental health practitioner,~~
8.7 ~~or mental health behavioral aide is providing CTSS services; and~~

8.8 ~~(ii) when conducted, the on-site presence of the mental health professional must be~~
8.9 ~~documented in the child's record and signed by the mental health professional who accepts~~
8.10 ~~full professional responsibility;~~

8.11 ~~(7) providing direction to a mental health behavioral aide. For entities that employ mental~~
8.12 ~~health behavioral aides, the treatment supervisor must be employed by the provider entity~~
8.13 ~~or other provider certified to provide mental health behavioral aide services to ensure~~
8.14 ~~necessary and appropriate oversight for the client's treatment and continuity of care. The~~
8.15 ~~staff giving direction must begin with the goals on the individual treatment plan, and instruct~~
8.16 ~~the mental health behavioral aide on how to implement therapeutic activities and interventions~~
8.17 ~~that will lead to goal attainment. The staff giving direction must also instruct the mental~~
8.18 ~~health behavioral aide about the client's diagnosis, functional status, and other characteristics~~
8.19 ~~that are likely to affect service delivery. Direction must also include determining that the~~
8.20 ~~mental health behavioral aide has the skills to interact with the client and the client's family~~
8.21 ~~in ways that convey personal and cultural respect and that the aide actively solicits~~
8.22 ~~information relevant to treatment from the family. The aide must be able to clearly explain~~
8.23 ~~or demonstrate the activities the aide is doing with the client and the activities' relationship~~
8.24 ~~to treatment goals. Direction is more didactic than is supervision and requires the staff~~
8.25 ~~providing it to continuously evaluate the mental health behavioral aide's ability to carry out~~
8.26 ~~the activities of the individual treatment plan and the individual behavior plan. When~~
8.27 ~~providing direction, the staff must:~~

8.28 ~~(i) review progress notes prepared by the mental health behavioral aide for accuracy and~~
8.29 ~~consistency with diagnostic assessment, treatment plan, and behavior goals and the staff~~
8.30 ~~must approve and sign the progress notes;~~

8.31 ~~(ii) identify changes in treatment strategies, revise the individual behavior plan, and~~
8.32 ~~communicate treatment instructions and methodologies as appropriate to ensure that treatment~~
8.33 ~~is implemented correctly;~~

9.1 ~~(iii) demonstrate family-friendly behaviors that support healthy collaboration among~~
 9.2 ~~the child, the child's family, and providers as treatment is planned and implemented;~~

9.3 ~~(iv) ensure that the mental health behavioral aide is able to effectively communicate~~
 9.4 ~~with the child, the child's family, and the provider;~~

9.5 ~~(v) record the results of any evaluation and corrective actions taken to modify the work~~
 9.6 ~~of the mental health behavioral aide; and~~

9.7 ~~(vi) ensure~~ (4) ensuring the immediate accessibility of a mental health professional,
 9.8 clinical trainee, or mental health practitioner to the behavioral aide during service delivery;

9.9 ~~(8)~~ (5) providing service delivery that implements the individual treatment plan and
 9.10 meets the requirements under subdivision 9; and

9.11 ~~(9)~~ (6) individual treatment plan review. The review must determine the extent to which
 9.12 the services have met each of the goals and objectives in the treatment plan. The review
 9.13 must assess the client's progress and ensure that services and treatment goals continue to
 9.14 be necessary and appropriate to the client and the client's family or foster family.

9.15 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 9.16 whichever is later. The commissioner of human services shall notify the revisor of statutes
 9.17 when federal approval is obtained.

9.18 Sec. 6. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 7, is amended
 9.19 to read:

9.20 Subd. 7. **Qualifications of individual and team providers.** (a) An individual or team
 9.21 provider working within the scope of the provider's practice or qualifications may provide
 9.22 service components of children's therapeutic services and supports that are identified as
 9.23 medically necessary in a client's individual treatment plan.

9.24 (b) An individual provider must be qualified as a:

9.25 (1) mental health professional;

9.26 (2) clinical trainee;

9.27 (3) mental health practitioner;

9.28 (4) mental health certified family peer specialist; or

9.29 (5) mental health behavioral aide.

9.30 (c) A day treatment team must include ~~at least~~ one mental health professional or clinical
 9.31 trainee ~~and one mental health practitioner.~~

10.1 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
10.2 whichever is later. The commissioner of human services shall notify the revisor of statutes
10.3 when federal approval is obtained.

10.4 Sec. 7. Minnesota Statutes 2020, section 256B.0943, subdivision 8, is amended to read:

10.5 Subd. 8. **Required preservice and continuing education.** (a) A provider entity shall
10.6 establish a plan to provide preservice and continuing education for staff. The plan must
10.7 clearly describe the type of training necessary to maintain current skills and obtain new
10.8 skills and that relates to the provider entity's goals and objectives for services offered.

10.9 ~~(b) A provider that employs a mental health behavioral aide under this section must~~
10.10 ~~require the mental health behavioral aide to complete 30 hours of preservice training. The~~
10.11 ~~preservice training must include parent team training. The preservice training must include~~
10.12 ~~15 hours of in-person training of a mental health behavioral aide in mental health services~~
10.13 ~~delivery and eight hours of parent team training. Curricula for parent team training must be~~
10.14 ~~approved in advance by the commissioner. Components of parent team training include:~~

10.15 ~~(1) partnering with parents;~~

10.16 ~~(2) fundamentals of family support;~~

10.17 ~~(3) fundamentals of policy and decision making;~~

10.18 ~~(4) defining equal partnership;~~

10.19 ~~(5) complexities of the parent and service provider partnership in multiple service delivery~~
10.20 ~~systems due to system strengths and weaknesses;~~

10.21 ~~(6) sibling impacts;~~

10.22 ~~(7) support networks; and~~

10.23 ~~(8) community resources.~~

10.24 ~~(c) A provider entity that employs a mental health practitioner and a mental health~~
10.25 ~~behavioral aide to provide children's therapeutic services and supports under this section~~
10.26 ~~must require the mental health practitioner and mental health behavioral aide to complete~~
10.27 ~~20 hours of continuing education every two calendar years. The continuing education must~~
10.28 ~~be related to serving the needs of a child with emotional disturbance in the child's home~~
10.29 ~~environment and the child's family.~~

10.30 ~~(d) The provider entity must document the mental health practitioner's or mental health~~
10.31 ~~behavioral aide's annual completion of the required continuing education. The documentation~~

11.1 ~~must include the date, subject, and number of hours of the continuing education, and~~
 11.2 ~~attendance records, as verified by the staff member's signature, job title, and the instructor's~~
 11.3 ~~name. The provider entity must keep documentation for each employee, including records~~
 11.4 ~~of attendance at professional workshops and conferences, at a central location and in the~~
 11.5 ~~employee's personnel file.~~

11.6 EFFECTIVE DATE. This section is effective July 1, 2022, or upon federal approval,
 11.7 whichever is later. The commissioner of human services shall notify the revisor of statutes
 11.8 when federal approval is obtained.

11.9 Sec. 8. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 9, is amended
 11.10 to read:

11.11 Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified
 11.12 provider entity must ensure that:

11.13 (1) the provider's caseload size should reasonably enable the provider to play an active
 11.14 role in service planning, monitoring, and delivering services to meet the client's and client's
 11.15 family's needs, as specified in each client's individual treatment plan;

11.16 (2) site-based programs, including day treatment programs, provide staffing and facilities
 11.17 to ensure the client's health, safety, and protection of rights, and that the programs are able
 11.18 to implement each client's individual treatment plan; and

11.19 (3) a day treatment program is provided to a group of clients by a team under the treatment
 11.20 supervision of a mental health professional. The day treatment program must be provided
 11.21 in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation
 11.22 of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community
 11.23 mental health center under section 245.62; or (iii) an entity that is certified under subdivision
 11.24 4 to operate a program that meets the requirements of section 245.4884, subdivision 2, and
 11.25 Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize
 11.26 the client's mental health status while developing and improving the client's independent
 11.27 living and socialization skills. The goal of the day treatment program must be to reduce or
 11.28 relieve the effects of mental illness and provide training to enable the client to live in the
 11.29 community. ~~The program must be available year-round at least three to five days per week,~~
 11.30 ~~two or three hours per day, unless the normal five-day school week is shortened by a holiday,~~
 11.31 ~~weather-related cancellation, or other districtwide reduction in a school week. A child~~
 11.32 ~~transitioning into or out of day treatment must receive a minimum treatment of one day a~~
 11.33 ~~week for a two-hour time block. The two-hour time block must include at least one hour of~~
 11.34 ~~patient and/or family or group psychotherapy.~~ The remainder of the structured treatment

12.1 program may include patient and/or family or group psychotherapy, and individual or group
12.2 skills training, if included in the client's individual treatment plan. Day treatment programs
12.3 are not part of inpatient or residential treatment services. When a day treatment group that
12.4 meets the minimum group size requirement temporarily falls below the minimum group
12.5 size because of a member's temporary absence, medical assistance covers a group session
12.6 conducted for the group members in attendance. A day treatment program may provide
12.7 fewer than the minimally required hours for a particular child during a billing period in
12.8 which the child is transitioning into, or out of, the program.

12.9 (b) To be eligible for medical assistance payment, a provider entity must deliver the
12.10 service components of children's therapeutic services and supports in compliance with the
12.11 following requirements:

12.12 (1) psychotherapy to address the child's underlying mental health disorder must be
12.13 documented as part of the child's ongoing treatment. A provider must deliver, or arrange
12.14 for, medically necessary psychotherapy, unless the child's parent or caregiver chooses not
12.15 to receive it. ~~When a provider delivering other services to a child under this section deems~~
12.16 ~~it not medically necessary to provide psychotherapy to the child for a period of 90 days or~~
12.17 ~~longer, the provider entity must document the medical reasons why psychotherapy is not~~
12.18 ~~necessary.~~ When a provider determines that a child needs psychotherapy but psychotherapy
12.19 cannot be delivered due to a shortage of licensed mental health professionals in the child's
12.20 community, the provider must document the lack of access in the child's medical record;

12.21 (2) individual, family, or group skills training is subject to the following requirements:

12.22 (i) a mental health professional, clinical trainee, or mental health practitioner shall provide
12.23 skills training;

12.24 (ii) skills training delivered to a child or the child's family must be targeted to the specific
12.25 deficits or maladaptations of the child's mental health disorder and must be prescribed in
12.26 the child's individual treatment plan;

12.27 ~~(iii) the mental health professional delivering or supervising the delivery of skills training~~
12.28 ~~must document any underlying psychiatric condition and must document how skills training~~
12.29 ~~is being used in conjunction with psychotherapy to address the underlying condition;~~

12.30 ~~(iv) skills training delivered to the child's family must teach skills needed by parents to~~
12.31 ~~enhance the child's skill development, to help the child utilize daily life skills taught by a~~
12.32 ~~mental health professional, clinical trainee, or mental health practitioner, and to develop or~~
12.33 ~~maintain a home environment that supports the child's progressive use of skills;~~

13.1 ~~(v)~~ (iii) group skills training may be provided to multiple recipients who, because of the
 13.2 nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from
 13.3 interaction in a group setting, which must be staffed as follows:

13.4 (A) one mental health professional, clinical trainee, or mental health practitioner must
 13.5 work with a group of three to eight clients; or

13.6 (B) any combination of two mental health professionals, clinical trainees, or mental
 13.7 health practitioners must work with a group of nine to 12 clients;

13.8 ~~(vi)~~ (iv) a mental health professional, clinical trainee, or mental health practitioner must
 13.9 have taught the psychosocial skill before a mental health behavioral aide may practice that
 13.10 skill with the client; and

13.11 ~~(vii)~~ (v) for group skills training, when a skills group that meets the minimum group
 13.12 size requirement temporarily falls below the minimum group size because of a group
 13.13 member's temporary absence, the provider may conduct the session for the group members
 13.14 in attendance;

13.15 (3) crisis planning to a child and family must include development of a written plan that
 13.16 anticipates the particular factors specific to the child that may precipitate a psychiatric crisis
 13.17 for the child in the near future. The written plan must document actions that the family
 13.18 should be prepared to take to resolve or stabilize a crisis, such as advance arrangements for
 13.19 direct intervention and support services to the child and the child's family. Crisis planning
 13.20 must include preparing resources designed to address abrupt or substantial changes in the
 13.21 functioning of the child or the child's family when sudden change in behavior or a loss of
 13.22 usual coping mechanisms is observed, or the child begins to present a danger to self or
 13.23 others;

13.24 (4) mental health behavioral aide services must be medically necessary treatment services,
 13.25 identified in the child's individual treatment plan and individual behavior plan, ~~and which~~
 13.26 ~~are designed to improve the functioning of the child in the progressive use of developmentally~~
 13.27 ~~appropriate psychosocial skills. Activities involve working directly with the child, child-peer~~
 13.28 ~~groupings, or child-family groupings to practice, repeat, reintroduce, and master the skills~~
 13.29 ~~defined in subdivision 1, paragraph (t), as previously taught by a mental health professional,~~
 13.30 ~~clinical trainee, or mental health practitioner including:~~

13.31 ~~(i) providing cues or prompts in skill-building peer-to-peer or parent-child interactions~~
 13.32 ~~so that the child progressively recognizes and responds to the cues independently;~~

13.33 ~~(ii) performing as a practice partner or role-play partner;~~

- 14.1 ~~(iii) reinforcing the child's accomplishments;~~
 14.2 ~~(iv) generalizing skill-building activities in the child's multiple natural settings;~~
 14.3 ~~(v) assigning further practice activities; and~~
 14.4 ~~(vi) intervening as necessary to redirect the child's target behavior and to de-escalate~~
 14.5 ~~behavior that puts the child or other person at risk of injury.~~

14.6 To be eligible for medical assistance payment, mental health behavioral aide services must
 14.7 be delivered to a child who has been diagnosed with an emotional disturbance or a mental
 14.8 illness, as provided in subdivision 1, paragraph ~~(a)~~ (c). ~~The mental health behavioral aide~~
 14.9 ~~must implement treatment strategies in the individual treatment plan and the individual~~
 14.10 ~~behavior plan as developed by the mental health professional, clinical trainee, or mental~~
 14.11 ~~health practitioner providing direction for the mental health behavioral aide.~~ The mental
 14.12 health behavioral aide must document the delivery of services in written progress notes.
 14.13 Progress notes must reflect implementation of the treatment strategies, as performed by the
 14.14 mental health behavioral aide and the child's responses to the treatment strategies; and

14.15 (5) mental health service plan development must be performed in consultation with the
 14.16 child's family and, when appropriate, with other key participants in the child's life by the
 14.17 child's treating mental health professional or clinical trainee or by a mental health practitioner
 14.18 and approved by the treating mental health professional. Treatment plan drafting consists
 14.19 of development, review, and revision by face-to-face or electronic communication. The
 14.20 provider must document events, including the time spent with the family and other key
 14.21 participants in the child's life to approve the individual treatment plan. Medical assistance
 14.22 covers service plan development before completion of the child's individual treatment plan.
 14.23 Service plan development is covered only if a treatment plan is completed for the child. If
 14.24 upon review it is determined that a treatment plan was not completed for the child, the
 14.25 commissioner shall recover the payment for the service plan development.

14.26 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
 14.27 whichever is later. The commissioner of human services shall notify the revisor of statutes
 14.28 when federal approval is obtained.

15.1 **Sec. 9. DIRECTION TO COMMISSIONER; DEVELOPMENT OF NEW**
15.2 **MEDICAID-ELIGIBLE MENTAL HEALTH BENEFIT FOR CHILDREN AND**
15.3 **FAMILIES.**

15.4 (a) The commissioner of human services, in consultation with providers, families,
15.5 educators, and advocates, shall develop a new benefit reimbursable under medical assistance
15.6 to provide mental health care for children. The benefit must:

15.7 (1) consist of services that contribute to effective treatment within an individual client's
15.8 service plan;

15.9 (2) provide for simplicity of service design and administration;

15.10 (3) support participation by all payors; and

15.11 (4) include services that support children and families with:

15.12 (i) psychotherapy;

15.13 (ii) skill building;

15.14 (iii) related services individualized to meet child and family needs; and

15.15 (iv) care coordination between community providers and schools.

15.16 (b) The benefit must use a single assessment to access care from all eligible mental
15.17 health, school-based, and related service providers. The benefit must be family-driven in
15.18 treatment planning and service provision.

15.19 (c) Eligible services must not be denied based on service location or service entity.

15.20 (d) No later than February 1, 2023, the commissioner, in consultation with stakeholders,
15.21 schools, and providers, shall report to the legislative committees and divisions with
15.22 jurisdiction over human services policy and finance with a timeline for developing the fiscal
15.23 and service analysis in order to submit a state plan amendment to the Centers for Medicare
15.24 and Medicaid Services to receive a federal Medicaid match for the new mental health benefit
15.25 under this section.

15.26 **Sec. 10. REPEALER.**

15.27 Minnesota Statutes 2020, section 256B.0943, subdivision 8a, is repealed.

15.28 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
15.29 whichever is later. The commissioner of human services shall notify the revisor of statutes
15.30 when federal approval is obtained.

256B.0943 CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.

Subd. 8a. **Level II mental health behavioral aide.** The commissioner of human services, in collaboration with children's mental health providers and the Board of Trustees of the Minnesota State Colleges and Universities, shall develop a certificate program for level II mental health behavioral aides.