

SENATE  
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S.F. No. 1092

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DATE	D-PG	OFFICIAL STATUS
02/17/2021	429	Introduction and first reading Referred to Human Services Reform Finance and Policy
03/11/2021	845	Author added Duckworth See First Special Session 2021, HF33, Art. 13, Sec. 32-34, 36, 38-41, 79

1.1 A bill for an act

1.2 relating to human services; modifying disability services policy statements;

1.3 amending Minnesota Statutes 2020, section 256B.4905, by adding subdivisions;

1.4 Laws 2019, First Special Session chapter 9, article 5, section 86, subdivision 1, as

1.5 amended; repealing Minnesota Statutes 2020, section 256B.4905, subdivisions 1,

1.6 2, 3, 4, 5, 6.

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

1.8 Section 1. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision

1.9 to read:

1.10 Subd. 1a. **Definition.** For purposes of this section, "informed choice" means a choice

1.11 that adults who have disabilities and children who have disabilities, with support from their

1.12 families, make regarding services and supports that best meets the adult's or child's needs

1.13 and preferences. Before making an informed choice, adults who have disabilities and children

1.14 who have disabilities must be provided, in an individualized and accessible format and

1.15 manner, all the tools, information, and opportunities the adult or child requests or requires

1.16 to understand all of their options.

1.17 Sec. 2. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision

1.18 to read:

1.19 Subd. 2a. **Informed choice policy.** It is the policy of this state that all adults who have

1.20 disabilities and children who have disabilities, with support from their families:

1.21 (1) can make informed choices to select and utilize disability services and supports; and

1.22 (2) will be offered an informed decision-making process sufficient to make informed

1.23 choices.

2.1 Sec. 3. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
2.2 to read:

2.3 Subd. 3a. **Informed decision making.** (a) The commissioner of human services shall  
2.4 ensure that:

2.5 (1) disability services support the presumption that adults who have disabilities and  
2.6 families of children who have disabilities can make informed choices;

2.7 (2) all adults who have disabilities and families of children who have disabilities are  
2.8 provided an informed decision-making process satisfying the requirements of paragraph  
2.9 (b);

2.10 (3) all adults who have disabilities and families of children who have disabilities are  
2.11 provided the opportunity to revisit or change any decision or choice at any time of the adult's  
2.12 or family's choosing; and

2.13 (4) any services or supports necessary to accomplish any step of an informed  
2.14 decision-making process or to make an informed choice to utilize disability services are  
2.15 timely authorized and implemented.

2.16 (b) The commissioner of human services must develop and ensure the implementation  
2.17 of an informed decision-making process that provides accessible, correct, and complete  
2.18 information to help an individual make an informed choice. This information must be  
2.19 accessible and understandable to the person so that the person can demonstrate understanding  
2.20 of the options. The process must provide accessible written information and be experiential  
2.21 whenever possible. The process must also consider and offer to the person, in a  
2.22 person-centered manner, the following:

2.23 (1) reasonable accommodations as needed or requested by the person to fully participate  
2.24 in the informed decision-making process and acquire the information necessary to make an  
2.25 informed choice;

2.26 (2) discussion of the person's own preferences, abilities, goals, and objectives;

2.27 (3) identification of the person's cultural needs and access to culturally responsive services  
2.28 and providers;

2.29 (4) information about the benefits of inclusive and individualized services and supports;

2.30 (5) presentation and discussion of all options with the person;

2.31 (6) documentation, in a manner prescribed by the commissioner, of each option discussed;

2.32 (7) exploration and development of new or other options;

3.1 (8) facilitation of opportunities to visit alternative locations or to engage in experiences  
 3.2 to understand how any service option might work for the person;

3.3 (9) opportunities to meet with other individuals with disabilities who live, work, and  
 3.4 receive services different from the person's own services;

3.5 (10) development of a transition plan, when needed or requested by the person, to  
 3.6 facilitate the choice to move from one service type or setting to another, and authorization  
 3.7 of the services and supports necessary to effectuate the plan;

3.8 (11) identification of any barriers to assisting or implementing the person's informed  
 3.9 choice and authorization of the services and supports necessary to overcome those barriers;  
 3.10 and

3.11 (12) ample time and timely opportunity to consider available options before the individual  
 3.12 makes a final choice or changes a choice.

3.13 Sec. 4. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
 3.14 to read:

3.15 Subd. 4a. **Informed choice in employment policy.** It is the policy of this state that  
 3.16 working-age individuals who have disabilities:

3.17 (1) can work and achieve competitive integrated employment with appropriate services  
 3.18 and supports, as needed;

3.19 (2) make informed choices about their work and career goals; and

3.20 (3) will be offered the opportunity to make an informed choice, at least annually, to  
 3.21 pursue postsecondary education or to work and earn a competitive wage.

3.22 Sec. 5. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
 3.23 to read:

3.24 Subd. 5a. **Informed choice in employment implementation.** The commissioner of  
 3.25 human services shall ensure that:

3.26 (1) disability services align with the employment first policy adopted by the Olmstead  
 3.27 subcabinet on September 29, 2014, or successor policies; and

3.28 (2) all working-age individuals who have disabilities are offered, after an informed  
 3.29 decision-making process and during a person-centered planning process, the opportunity  
 3.30 to pursue postsecondary education and earn meaningful credentials; and to work and earn,  
 3.31 with appropriate services and supports, a competitive wage in work or a career that the

4.1 individual chooses before being offered exclusively day services as defined in section  
4.2 245D.03, subdivision 1, paragraph (c), clause (4), or successor provisions.

4.3 Sec. 6. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
4.4 to read:

4.5 Subd. 7. **Informed choice in community living policy.** It is the policy of this state that  
4.6 all adults who have disabilities:

4.7 (1) can live in the communities of the individual's choosing with appropriate services  
4.8 and supports as needed; and

4.9 (2) will be offered the opportunity, at least annually, to make an informed choice to live  
4.10 outside of a provider-controlled setting.

4.11 Sec. 7. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
4.12 to read:

4.13 Subd. 8. **Informed choice in community living implementation.** The commissioner  
4.14 of human services shall ensure that:

4.15 (1) disability services support the presumption that all adults who have disabilities can  
4.16 and want to live in the communities of the individual's choosing with services and supports  
4.17 as needed; and

4.18 (2) all adults who have disabilities are offered, after an informed decision-making process  
4.19 and during a person-centered planning process, the services and supports the individual  
4.20 needs to live as the individual chooses, including in a non-provider-controlled setting.

4.21 Provider-controlled settings include customized living services provided in a single-family  
4.22 home or residential supports and services as defined in section 245D.03, subdivision 1,  
4.23 paragraph (c), clause (3), or successor provisions, unless the residential services and supports  
4.24 are provided in a family adult foster care residence under a shared living option as described  
4.25 in Laws 2013, chapter 108, article 7, section 62.

4.26 Sec. 8. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
4.27 to read:

4.28 Subd. 9. **Informed choice in self-direction policy.** It is the policy of this state that adults  
4.29 who have disabilities and families of children who have disabilities:

4.30 (1) can direct the adult's or child's needed services and supports; and

5.1 (2) will be offered the opportunity to make an informed choice to self-direct the adult's  
5.2 or child's services and supports before being offered options that do not allow the adult or  
5.3 family to self-direct the adult's or child's services and supports.

5.4 Sec. 9. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
5.5 to read:

5.6 Subd. 10. **Informed choice in self-direction implementation.** The commissioner of  
5.7 human services shall ensure that:

5.8 (1) disability services support the presumption that adults who have disabilities and  
5.9 families of children who have disabilities can direct all of the adult's or child's services and  
5.10 supports, including control over the funding of the adult's or child's services and supports;

5.11 (2) at intervals described in clause (3), adults who have disabilities and families of  
5.12 children who have disabilities are offered, after an informed decision-making process and  
5.13 during a person-centered planning process, the option to direct the adult's or child's services  
5.14 and supports, including the option to have control over the funding of the adult's or child's  
5.15 services and supports; and

5.16 (3) adults who have disabilities and families of children who have disabilities are offered  
5.17 the options described in clause (2) at least annually during regularly scheduled planning  
5.18 meetings or more frequently when:

5.19 (i) the adults who have disabilities or families of children who have disabilities requests  
5.20 or suggests the options described in clause (2) or when the adult or family expresses  
5.21 dissatisfaction with services and supports that do not allow for self-direction;

5.22 (ii) the family or a legal representative of the individual with disabilities requests or  
5.23 suggests the options described in clause (2);

5.24 (iii) any member of the individual's service planning team or expanded service planning  
5.25 team requests or suggests the options described in clause (2); or

5.26 (iv) self-directed services and supports could enhance the individual's independence or  
5.27 quality of life.

5.28 Sec. 10. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
5.29 to read:

5.30 Subd. 11. **Informed choice in technology policy.** It is the policy of this state that all  
5.31 adults who have disabilities and children who have disabilities:

6.1 (1) can use assistive technology, remote supports, or a combination of both to enhance  
6.2 the adult's or child's independence and quality of life; and

6.3 (2) will be offered an opportunity, at least annually, to make an informed choice about  
6.4 the adult's or child's use of assistive technology and remote supports.

6.5 Sec. 11. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision  
6.6 to read:

6.7 Subd. 12. **Informed choice in technology implementation.** (a) The commissioner of  
6.8 human services shall ensure that:

6.9 (1) disability services support the presumption that adults who have disabilities and  
6.10 children who have disabilities can use or benefit from assistive technology, remote supports,  
6.11 or both;

6.12 (2) at intervals described in clause (3), adults who have disabilities and families of  
6.13 children who have disabilities are offered, after an informed decision-making process and  
6.14 during a person-centered planning process, the opportunity to choose assistive technology,  
6.15 remote support, or both, to ensure equitable access; and

6.16 (3) adults who have disabilities and families of children who have disabilities are offered  
6.17 the options described in clause (2) at least annually during a regularly scheduled planning  
6.18 meeting or more frequently when:

6.19 (i) the adult who has disabilities or the family of a child who has a disability requests  
6.20 or suggests the options described in clause (2) or when the adult or family expresses  
6.21 dissatisfaction with in-person services and supports;

6.22 (ii) the family or a legal representative of the individual with disabilities requests or  
6.23 suggests the options described in clause (2);

6.24 (iii) any member of the individual's service planning team or expanded service planning  
6.25 team requests or suggests the options described in clause (2); or

6.26 (iv) assistive technology, remote supports, or both could enhance the individual's  
6.27 independence or quality of life.

6.28 (b) The availability of assistive technology, remote supports, or both, shall not preclude  
6.29 an individual with disabilities from accessing in-person supports and services, nor shall it  
6.30 result in a denial of in-person supports and services.

7.1 Sec. 12. Laws 2019, First Special Session chapter 9, article 5, section 86, subdivision 1,  
7.2 as amended by Laws 2020, First Special Session chapter 2, article 3, section 2, subdivision  
7.3 1, is amended to read:

7.4 Subdivision 1. **Intent.** It is the intent of the legislature to reform the medical assistance  
7.5 waiver programs for people with disabilities to simplify administration of the programs.  
7.6 Disability waiver reconfiguration must incentivize inclusive, person-centered, individualized  
7.7 supports and services; enhance each person's self-determination and personal authority over  
7.8 the person's service choice; align benefits across waivers; ensure equity across programs  
7.9 and populations; access and address rural disparities and institutional bias in services and  
7.10 programs; promote long-term sustainability of waiver services; and maintain service stability  
7.11 and continuity of care while prioritizing, promoting, and creating incentives for independent,  
7.12 integrated, and individualized supports and services chosen by each person through an  
7.13 informed decision-making process and person-centered planning.

7.14 Sec. 13. **REPEALER.**

7.15 Minnesota Statutes 2020, section 256B.4905, subdivisions 1, 2, 3, 4, 5, and 6, are  
7.16 repealed.

**256B.4905 HOME AND COMMUNITY-BASED SERVICES POLICY STATEMENT.**

Subdivision 1. **Employment first policy.** It is the policy of this state that all working-age Minnesotans with disabilities can work, want to work, and can achieve competitive integrated employment, and that each working-age Minnesotan with a disability be offered the opportunity to work and earn a competitive wage before being offered other supports and services.

Subd. 2. **Employment first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all working-age Minnesotans with disabilities can work, want to work, and can achieve competitive integrated employment; and

(2) each waiver recipient of working age be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to work and earn a competitive wage before being offered exclusively day services as defined in section 245D.03, subdivision 1, paragraph (c), clause (4), or successor provisions.

Subd. 3. **Independent living first policy.** It is the policy of this state that all adult Minnesotans with disabilities can and want to live independently with proper supports and services and that each adult Minnesotan with a disability be offered the opportunity to live as independently as possible before being offered supports and services in provider-controlled settings.

Subd. 4. **Independent living first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all adult Minnesotans with disabilities can and want to live independently with proper services and supports as needed; and

(2) each adult waiver recipient be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to live as independently as possible before being offered customized living services provided in a single family home or residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), or successor provisions, unless the residential supports and services are provided in a family adult foster care residence under a shared living option as described in Laws 2013, chapter 108, article 7, section 62.

Subd. 5. **Self-direction first policy.** It is the policy of this state that adult Minnesotans with disabilities and families of children with disabilities can and want to use self-directed services and supports and that each adult Minnesotan with a disability and each family of the child with a disability be offered the opportunity to choose self-directed services and supports before being offered services and supports that are not self-directed.

Subd. 6. **Self-directed first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that adult Minnesotans with disabilities and families of children with disabilities can and want to use self-directed services and supports, including self-directed funding options; and

(2) each waiver recipient be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose self-directed services and supports, including self-directed funding options, before being offered services and supports that are not self-directed.