SENATE
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S.F. No. 3362

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02/21/2022	5085	Introduction and first reading Referred to Human Services Reform Finance and Policy
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A bill for an act

relating to human services; modifying intensive treatment in foster care; providing various directions to the commissioner of human services; requiring a report; appropriating money; amending Minnesota Statutes 2020, section 256B.0946, as amended.

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

Section 1. Minnesota Statutes 2020, section 256B.0946, as amended by Laws 2021, chapter 30, article 17, sections 91 to 96 and 113, and Laws 2021, First Special Session chapter 7, article 11, sections 27 and 28, is amended to read:

256B.0946 INTENSIVE TREATMENT ~~IN FOSTER CARE~~ FOR FAMILIES IN THE COMMUNITY.

Subdivision 1. **Required covered service components.** (a) Subject to federal approval, medical assistance covers medically necessary intensive treatment services when the services are provided by a provider entity certified under and meeting the standards in this section. The provider entity must make reasonable and good faith efforts to report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner.

(b) Intensive treatment services to children with mental illness ~~residing in foster family settings that comprise specific required service components provided in clauses (1) to (6)~~ are reimbursed by medical assistance when they meet the following standards:

(1) psychotherapy provided by a mental health professional or a clinical trainee;

(2) crisis planning;

(3) individual, family, and group psychoeducation services provided by a mental health professional or a clinical trainee;

(4) clinical care consultation provided by a mental health professional or a clinical trainee;

(5) individual treatment plan development as defined in Minnesota Rules, part 9505.0371, subpart 7; and

(6) service delivery payment requirements as provided under subdivision 4.

Subd. 1a. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Clinical care consultation" means communication from a treating clinician to other providers working with the same client to inform, inquire, and instruct regarding the client's symptoms, strategies for effective engagement, care and intervention needs, and treatment expectations across service settings, including but not limited to the client's school, social services, day care, probation, home, primary care, medication prescribers, disabilities services, and other mental health providers and to direct and coordinate clinical service components provided to the client and family.

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

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

(d) "Culturally appropriate" means providing mental health services in a manner that incorporates the child's cultural influences into interventions as a way to maximize resiliency factors and utilize cultural strengths and resources to promote overall wellness.

(e) "Culture" means the distinct ways of living and understanding the world that are used by a group of people and are transmitted from one generation to another or adopted by an individual.

(f) "Standard diagnostic assessment" means the assessment described in section 245I.10, subdivision 6.

(g) "Family" means a person who is identified by the client or the client's parent or guardian as being important to the client's mental health treatment. Family may include, but is not limited to, parents, foster parents, children, spouse, committed partners, former spouses, persons related by blood or adoption, persons who are a part of the client's permanency plan, or persons who are presently residing together as a family unit.

~~(h) "Foster care" has the meaning given in section 260C.007, subdivision 18.~~

~~(i) "Foster family setting" means the foster home in which the license holder resides.~~

~~(j)~~ (h) "Individual treatment plan" means the plan described in section 245I.10, subdivisions 7 and 8.

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

~~(l)~~ (j) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

~~(m)~~ (k) "Mental illness" has the meaning given in section 245I.02, subdivision 29.

~~(n)~~ (l) "Parent" has the meaning given in section 260C.007, subdivision 25.

~~(o)~~ (m) "Psychoeducation services" means information or demonstration provided to an individual, family, or group to explain, educate, and support the individual, family, or group in understanding a child's symptoms of mental illness, the impact on the child's development, and needed components of treatment and skill development so that the individual, family, or group can help the child to prevent relapse, prevent the acquisition of comorbid disorders, and achieve optimal mental health and long-term resilience.

~~(p)~~ (n) "Psychotherapy" means the treatment described in section 256B.0671, subdivision 11.

~~(q)~~ (o) "Team consultation and treatment planning" means the coordination of treatment plans and consultation among providers in a group concerning the treatment needs of the child, including disseminating the child's treatment service schedule to all members of the service team. Team members must include all mental health professionals working with the child, a parent, the child unless the team lead or parent deem it clinically inappropriate, and at least two of the following: an individualized education program case manager; probation agent; children's mental health case manager; child welfare worker, including adoption or guardianship worker; primary care provider; foster parent; and any other member of the child's service team.

~~(r)~~ (p) "Trauma" has the meaning given in section 245I.02, subdivision 38.

~~(s)~~ (q) "Treatment supervision" means the supervision described under section 245I.06.

Subd. 2. **Determination of client eligibility.** An eligible recipient is an individual, from birth through age 20, who ~~is currently placed in a foster home licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or placed in a foster home licensed under the~~

~~regulations established by a federally recognized Minnesota Tribe, and~~ has received: (1) a standard diagnostic assessment within 180 days before the start of service that documents that intensive treatment services are medically necessary ~~within a foster family setting~~ to ameliorate identified symptoms and functional impairments; and (2) a level of care assessment as defined in section 245I.02, subdivision 19, that demonstrates that the individual requires intensive intervention without 24-hour medical monitoring, and a functional assessment as defined in section 245I.02, subdivision 17. ~~The level of care assessment and the functional assessment must include information gathered from the placing county, Tribe, or case manager.~~

Subd. 3. **Eligible mental health services providers.** (a) Eligible providers for intensive ~~children's mental health services in a foster family setting~~ treatment for families in the community must be certified by the state and have a service provision contract with a county board or a reservation tribal council and must be able to demonstrate the ability to provide all of the services required in this section and meet the standards in chapter 245I, as required in section 245I.011, subdivision 5.

(b) For purposes of this section, a provider agency must be:

(1) a county-operated entity certified by the state;

(2) an Indian Health Services facility operated by a tribe or tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title 3 of the Indian Self-Determination Act, Public Law 93-638, section 638 (facilities or providers); or

(3) a noncounty entity.

(c) Certified providers that do not meet the service delivery standards required in this section shall be subject to a decertification process.

(d) For the purposes of this section, all services delivered to a client must be provided by a mental health professional or a clinical trainee.

Subd. 4. **Service delivery payment requirements.** (a) To be eligible for payment under this section, a provider must develop and practice written policies and procedures for intensive treatment ~~in foster care~~ for families in the community, consistent with subdivision 1, paragraph (b), and comply with the following requirements in paragraphs (b) to (n).

(b) Each previous and current mental health, school, and physical health treatment provider must be contacted to request documentation of treatment and assessments that the eligible client has received. This information must be reviewed and incorporated into the standard diagnostic assessment and team consultation and treatment planning review process.

(c) Each client receiving treatment must be assessed for a trauma history, and the client's treatment plan must document how the results of the assessment will be incorporated into treatment.

(d) The level of care assessment as defined in section 245I.02, subdivision 19, and functional assessment as defined in section 245I.02, subdivision 17, must be updated at least every 90 days or prior to discharge from the service, whichever comes first.

(e) Each client receiving treatment services must have an individual treatment plan that is reviewed, evaluated, and approved every 90 days using the team consultation and treatment planning process.

(f) Clinical care consultation must be provided in accordance with the client's individual treatment plan.

(g) Each client must have a crisis plan within ten days of initiating services and must have access to clinical phone support 24 hours per day, seven days per week, during the course of treatment. The crisis plan must demonstrate coordination with the local or regional mobile crisis intervention team.

(h) Services must be ~~delivered and~~ documented ~~at least three days per week~~, ~~equaling~~ must total at least six hours of treatment per week, and may be billed in increments other than two-hour increments of time. If the mental health professional, client, and family agree, service units may be temporarily reduced for a period of no more than 60 days in order to meet the needs of the client and family, or as part of transition or on a discharge plan to another service or level of care. The reasons for service reduction must be identified, documented, and included in the treatment plan. Billing and payment are prohibited for days on which no services are delivered and documented.

(i) Location of service delivery must be in the client's home, day care setting, school, or other community-based setting that is specified on the client's individualized treatment plan.

(j) Treatment must be developmentally and culturally appropriate for the client.

(k) Services must be delivered in continual collaboration and consultation with the client's medical providers and, in particular, with prescribers of psychotropic medications, including those prescribed on an off-label basis. Members of the service team must be aware of the medication regimen and potential side effects.

(l) Parents, siblings, foster parents, and members of the child's permanency plan must be involved in treatment and service delivery unless otherwise noted in the treatment plan.

(m) Transition planning for the child must be conducted starting with the first treatment plan and must be addressed throughout treatment to support the child's permanency plan and postdischarge mental health service needs.

(n) In order for a provider to receive the daily per-client encounter rate, at least one of the services listed in subdivision 1, paragraph (b), clauses (1) to (3), must be provided. The services listed in subdivision 1, paragraph (b), clauses (4) and (5), may be included as part of the daily per-client encounter rate.

Subd. 5. **Service authorization.** The commissioner will administer authorizations for services under this section in compliance with section 256B.0625, subdivision 25.

Subd. 6. **Excluded services.** (a) Services in clauses (1) to (7) are not covered under this section and are not eligible for medical assistance payment as components of intensive treatment ~~in foster care services~~ for families in the community, but may be billed separately:

(1) inpatient psychiatric hospital treatment;

(2) mental health targeted case management;

(3) partial hospitalization;

(4) medication management;

~~(5) children's mental health day treatment services;~~

~~(6)~~ (5) crisis response services under section 256B.0624;

~~(7)~~ (6) transportation; and

~~(8)~~ (7) mental health certified family peer specialist services under section 256B.0616.

(b) Children receiving intensive treatment ~~in foster care services~~ are not eligible for medical assistance reimbursement for the following services while receiving intensive treatment ~~in foster care~~:

(1) psychotherapy and skills training components of children's therapeutic services and supports under section 256B.0943;

(2) mental health behavioral aide services as defined in section 256B.0943, subdivision 1, paragraph (l);

(3) home and community-based waiver services;

(4) mental health residential treatment; and

(5) room and board costs as defined in section 256I.03, subdivision 6.

Subd. 7. **Medical assistance payment and rate setting.** (a) The commissioner shall establish a single daily per-client encounter rate for intensive treatment ~~in foster care services~~ for families in the community. The rate must be constructed to cover only eligible services delivered to an eligible recipient by an eligible provider, as prescribed in subdivision 1, paragraph (b).

(b) Beginning July 1, 2022, the commissioner shall increase the rate established under paragraph (a) by 25 percent. Providers must use the rate increase to provide increased wages to staff in order to recruit and retain quality staff.

Sec. 2. **DIRECTION TO COMMISSIONER; COLLABORATIVE INTENSIVE BRIDGING SERVICES.**

No later than June 30, 2025, the commissioner of human services shall request additional federal funds from the Centers for Medicare and Medicaid Services to support collaborative intensive bridging services. The commissioner shall use all available supporting data and consult with counties, service providers, and evaluators in making the request.

Sec. 3. **DIRECTION TO COMMISSIONER; HIGH-FIDELITY WRAPAROUND SERVICES.**

The commissioner of human services shall add an enhanced targeted case management Medicaid reimbursement request into the ongoing targeted case management redesign to fund recognized evidence-based, high-fidelity wraparound services models that are family-centered. The commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance by ....., 2023, on the anticipated timing of submission of a Medicaid state plan amendment, or other request for federal approval, to the Centers for Medicare and Medicaid Services.

Sec. 4. **DIRECTION TO COMMISSIONER; INTEGRATED THERAPEUTIC SERVICES MODEL.**

No later than February 1, 2023, the commissioner of human services shall report to the legislative committees and divisions with jurisdiction over human services policy and finance on a plan for the integrated therapeutic services model to be established as a service model that will be covered under Medicaid to serve children, youth, and families who demonstrate eligibility for this level of care. The commissioner shall consult with school districts and integrated therapeutic services model service providers in creating the plan. The report shall describe existing funding streams that can support the original demonstration model, describe

key service elements that require funding strategies for a final model, and include a timeline to develop the fiscal and service analysis to submit a state plan amendment to the Centers for Medicare and Medicaid Services to receive federal Medicaid matching money for the integrated therapeutic services model. The report shall include applicable evaluation data obtained from the ongoing demonstration of the integrated therapeutic services model.

Sec. 5. **APPROPRIATIONS; COLLABORATIVE INTENSIVE BRIDGING SERVICES.**

$..... in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for grants to sustain existing mental health infrastructure. The grant shall include money for:

(1) maintaining current levels of collaborative intensive bridging services and evaluation;

(2) limited expansions of collaborative intensive bridging services and evaluation;

(3) training and technical assistance by an expert contractor with experience in collaborative intensive bridging services to counties and service providers on maintaining fidelity to the collaborative intensive bridging service model.

The base appropriation is $..... in fiscal year 2024, $..... in fiscal year 2025, and $0 in fiscal year 2026.

Sec. 6. **APPROPRIATIONS; HIGH-FIDELITY WRAPAROUND SERVICES.**

$..... in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for grants to sustain existing mental health infrastructure. The grant shall be used to maintain current service levels and evaluation practices of system of care contracted, nationally certified high-fidelity wraparound services sites. The grant shall also fund limited expansion of high-fidelity wraparound services. The base appropriation is $..... in fiscal year 2024 and $0 in fiscal year 2025.