State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3059

03/13/2014 Authored by Norton
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
03/20/2014 Adoption of Report: Amended and re-referred to the Committee on Transportation Policy
03/26/2014 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Finance

A bill for an act

relating to human services; modifying nonemergency medical transportation services provisions; requiring a report; amending Minnesota Statutes 2012, section 256B.0625, subdivisions 17a, 18a, 18b, 18c, 18d, 18g, by adding a subdivision; Minnesota Statutes 2013 Supplement, section 256B.0625, subdivisions 17, 18e; repealing Minnesota Statutes 2013 Supplement, section 256B.0625, subdivision 18f.

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

Section 1. Minnesota Statutes 2013 Supplement, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) "Nonemergency medical transportation service" means motor vehicle transportation provided by a public or private person that serves Minnesota health care program beneficiaries who do not require emergency ambulance service, as defined in section 144E.001, subdivision 3, to obtain covered medical services. Nonemergency medical transportation service includes, but is not limited to, special transportation service, as defined in section 174.29, subdivision 1.

~~(a)~~ (b) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. Medical transportation must be provided by:

(1) ~~an ambulance~~ nonemergency medical transportation providers who meet the requirements of this subdivision;

(2) ambulances, as defined in section 144E.001, subdivision 2;

~~(2) special transportation; or~~

(3) ~~common carrier including, but not limited to, bus, taxicab, other commercial carrier, or private automobile~~ taxicabs and public transit, as defined in section 174.22, subdivision 7; or

(4) not-for-hire vehicles, including volunteer drivers.

~~(b)~~ (c) Medical assistance covers ~~special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, if the recipient has a physical or mental impairment that would prohibit the recipient from safely accessing and using a bus, taxi, other commercial transportation, or private automobile~~. nonemergency medical transportation provided by nonemergency medical transportation providers enrolled in the Minnesota health care programs. All nonemergency medical transportation providers must comply with the operating standards for special transportation service as defined in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840, and in consultation with the Minnesota Department of Transportation. All nonemergency medical transportation providers shall bill for nonemergency medical transportation services in accordance with Minnesota health care programs criteria. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements outlined in this paragraph.

(d) The administrative agency of nonemergency medical transportation must:

(1) adhere to the policies defined by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee;

(2) pay nonemergency medical transportation providers for services provided to Minnesota health care programs beneficiaries to obtain covered medical services;

(3) provide data monthly to the commissioner on appeals, complaints, no-shows, canceled trips, and number of trips by mode; and

(4) by July 1, 2016, in accordance with subdivision 18e, utilize a Web-based single administrative structure assessment tool that meets the technical requirements established by the commissioner, reconciles trip information with claims being submitted by providers, and ensures prompt payment for nonemergency medical transportation services.

(e) Until the commissioner implements the single administrative structure and delivery system under subdivision 18e, clients shall obtain their level-of-service certificate from the commissioner or an entity approved by the commissioner that does not dispatch rides for clients using modes under paragraph (h), clauses (4), (5), (6), and (7).

(f) The commissioner may use an order by the recipient's attending physician or a medical or mental health professional to certify that the recipient requires ~~special transportation services~~ nonemergency medical transportation services. ~~Special~~ Nonemergency medical transportation providers shall perform driver-assisted services for eligible individuals, when appropriate. Driver-assisted service includes passenger pickup

at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle. ~~Special~~ Nonemergency medical transportation providers must ~~obtain written documentation from the health care service provider who is serving the recipient being transported, identifying the time that the recipient arrived. Special~~ have trip logs, which include pickup and drop-off times, signed by the medical provider or client attesting mileage traveled to obtain covered medical services, whichever is deemed most appropriate. Nonemergency medical transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. ~~Special~~ Nonemergency medical transportation providers must take ~~recipients~~ clients to the health care provider, using the most direct route, and must not exceed 30 miles for a trip to a primary care provider or 60 miles for a trip to a specialty care provider, unless the ~~recipient~~ client receives authorization from the local agency. ~~The minimum medical assistance reimbursement rates for special transportation services are:~~

~~(1)(i) $17 for the base rate and $1.35 per mile for special transportation services to eligible persons who need a wheelchair-accessible van;~~

~~(ii) $11.50 for the base rate and $1.30 per mile for special transportation services to eligible persons who do not need a wheelchair-accessible van; and~~

~~(iii) $60 for the base rate and $2.40 per mile, and an attendant rate of $9 per trip, for special transportation services to eligible persons who need a stretcher-accessible vehicle;~~

~~(2)~~ Clients requesting client mileage reimbursement must sign the trip log attesting mileage traveled to obtain covered medical services.

(g) The covered modes of nonemergency medical transportation include transportation provided directly by clients or family members of clients with their own transportation, volunteers using their own vehicles, taxicabs, and public transit, or provided to a client who needs a stretcher-accessible vehicle, a lift/ramp equipped vehicle, a vehicle that is not stretcher-accessible or lift/ramp equipped designed to transport seven or fewer persons, and a protected vehicle that is not an ambulance or police car and has safety locks, a video recorder, and a transparent thermoplastic partition between the passenger and the vehicle driver.

(h) The administrative agency shall use the level of service process established by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee to determine the client's most appropriate mode of transportation. If public transit or a certified transportation provider is not available to provide the appropriate service mode for the client, the client may receive a onetime service upgrade. Clients can be found eligible for the most appropriate of the following modes:

(1) client reimbursement, which includes client mileage reimbursement provided to clients who have their own transportation or family who provides transportation to the client;

(2) volunteer transport, which includes transportation by volunteers using their own vehicle;

(3) unassisted transport, which includes transportation provided to a client by a taxicab or public transit. If a taxicab or publicly operated transit system is not available, the client can receive transportation from another nonemergency medical transportation provider;

(4) assisted transport, which includes transport provided to clients who require assistance by a nonemergency medical transportation provider;

(5) lift-equipped/ramp transport, which includes transport provided to a client who is dependent on a device and requires a nonemergency medical transportation provider with a vehicle containing a lift or ramp;

(6) protected transport, which includes transport to a client who has received a prescreening that has deemed other forms of transportation inappropriate and who requires a provider certified as a protected transport provider; and

(7) stretcher transport, which includes transport for a client in a prone or supine position and requires a nonemergency medical transportation provider with a vehicle that can transport a client in a prone or supine position.

(i) Local agencies shall administer and reimburse for modes defined in paragraph (h), clauses (1) to (3). The commissioner shall administer and reimburse for modes defined in paragraph (h), clauses (4) to (7). In accordance with subdivision 18e, by July 1, 2016, the local agency shall be the single administrative agency and shall administer and reimburse for modes defined in paragraph (h), clauses (1), (2), (3), (4), (5), (6), and (7).

(j) The commissioner shall:

(1) in consultation with the Nonemergency Medical Transportation Advisory Committee, verify that the mode and use of nonemergency medical transportation is appropriate;

(2) verify that the client is going to an approved medical appointment; and

(3) investigate all complaints and appeals.

(k) The administrative agency shall pay for the services provided in this subdivision and seek reimbursement from the commissioner if appropriate. As vendors of medical care, local agencies are subject to the sanctions and monetary recovery actions in sections 256B.041 and 256B.064, and all applicable Minnesota Rules.

(l) Payments for nonemergency medical transportation shall be paid based on the client's assessed mode, not the type of vehicle used to provide the service. The medical assistance reimbursement rates for nonemergency medical transportation services payable by or on behalf of the commissioner for nonemergency medical transportation services are:

(1) up to 80 percent of the Internal Revenue Service standard mileage rate for client reimbursement;

(2) up to 200 percent of the Internal Revenue Service standard mileage rate for volunteer transport;

(3) equivalent to the standard fare when provided by public transit and $11 for the base rate and $1.30 per mile for unassisted transport when provided by a nonemergency medical transportation provider;

(4) $13 for the base rate and $1.30 per mile for assisted transport;

(5) $17 for the base rate and $1.35 per mile for lift-equipped/ramp transport;

(6) $75 for the base rate and $3.30 per mile for protected transport; and

(7) $60 for the base rate, $2.40 per mile, and $9 per trip for an additional attendant for stretcher transport if deemed medically necessary.

(m) The mileage reimbursement rates for nonemergency medical transportation in paragraph (l), clauses (3) to (7), are subject to a quarterly fuel adjustment. Reimbursement rates shall be adjusted quarterly by the commissioner within existing, identified, and available appropriations when the statewide average price of regular grade gasoline is over $3.50 per gallon, as calculated by the Oil Price Information Service. The average price of regular grade gasoline is determined on the first Monday of the last month of the quarter, with the corresponding rate adjustment effective on the first day of the following month. Rate adjustments shall be one percent for each ten-cent increment change in the statewide average price of regular grade gasoline.

(n) The base rates for ~~special~~ nonemergency medical transportation services in areas defined under RUCA to be super rural shall be equal to the reimbursement rate established in ~~clause (1)~~ paragraph (l), clauses (1) to (7), plus 11.3 percent~~;~~, and

~~(3)~~ for ~~special~~ nonemergency medical transportation services in areas defined under RUCA to be rural or super rural areas:

(i) for a trip equal to 17 miles or less, mileage reimbursement shall be equal to 125 percent of the respective mileage rate in ~~clause (1)~~ paragraph (l), clauses (1) to (7); and

(ii) for a trip between 18 and 50 miles, mileage reimbursement shall be equal to 112.5 percent of the respective mileage rate in ~~clause (1)~~ paragraph (l), clauses (1) to (7).

~~(c)~~ (o) For purposes of reimbursement rates for ~~special~~ nonemergency medical transportation services under paragraph (b), the zip code of the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

~~(d)~~ (p) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means a census-tract based classification system under which a geographical area is determined to be urban, rural, or super rural.

~~(e)~~ (q) Effective for services provided ~~on or after~~ between September 1, 2011, and June 30, 2014, nonemergency transportation rates, including special transportation, taxi, and other commercial carriers, are reduced 4.5 percent. Payments made to managed care plans and county-based purchasing plans must be reduced for services provided on or after January 1, 2012, to reflect this reduction.

Sec. 2. Minnesota Statutes 2012, section 256B.0625, subdivision 17a, is amended to read:

Subd. 17a. **Payment for ambulance services.** (a) Medical assistance covers ambulance services. Providers shall bill ambulance services according to Medicare criteria. Nonemergency ambulance services shall not be paid as emergencies. Effective for services rendered on or after July 1, 2001, medical assistance payments for ambulance services shall be paid at the Medicare reimbursement rate or at the medical assistance payment rate in effect on July 1, 2000, whichever is greater.

(b) Effective for services provided ~~on or after~~ between September 1, 2011, and June 30, 2014, ambulance services payment rates are reduced 4.5 percent. Payments made to managed care plans and county-based purchasing plans must be reduced for services provided on or after January 1, 2012, to reflect this reduction.

Sec. 3. Minnesota Statutes 2012, section 256B.0625, subdivision 18a, is amended to read:

Subd. 18a. **Access to medical services.** (a) Medical assistance reimbursement for meals for persons traveling to receive medical care may not exceed $5.50 for breakfast, $6.50 for lunch, or $8 for dinner.

(b) Medical assistance reimbursement for lodging for persons traveling to receive medical care may not exceed $50 per day unless prior authorized by the local agency.

(c) Medical assistance direct mileage reimbursement to the eligible person or the eligible person's driver may not exceed ~~20 cents~~ 80 percent of the Internal Revenue Service standard mileage rate per mile.

(d) Regardless of the number of employees that an enrolled health care provider may have, medical assistance covers sign and oral language interpreter services when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient with limited English proficiency or who has a hearing loss and uses interpreting services. Coverage for face-to-face oral language interpreter services shall be provided only if the oral language interpreter used by the enrolled health care provider is listed in the registry or roster established under section 144.058.

Sec. 4. Minnesota Statutes 2012, section 256B.0625, subdivision 18b, is amended to read:

Subd. 18b. **Broker dispatching prohibition.** The commissioner shall not use a broker or coordinator for any purpose related to nonemergency medical transportation services under subdivision 18.

Sec. 5. Minnesota Statutes 2012, section 256B.0625, subdivision 18c, is amended to read:

Subd. 18c. **Nonemergency Medical Transportation Advisory Committee.** (a) The Nonemergency Medical Transportation Advisory Committee shall advise the commissioner on the administration of nonemergency medical transportation covered under medical assistance. The advisory committee shall meet at least quarterly the first year following January 1, 2015, and at least biannually thereafter and may meet more frequently as required by the commissioner. The advisory committee shall annually elect a chair from among its members, who shall work with the commissioner or the commissioner's designee to establish the agenda for each meeting. The commissioner, or the commissioner's designee, shall attend all advisory committee meetings.

(b) The Nonemergency Medical Transportation Advisory Committee shall advise and make recommendations to the commissioner on:

(1) ~~the development of, and periodic~~ updates to~~, a~~ the nonemergency medical transportation policy manual ~~for nonemergency medical transportation services~~;

~~(2) policies and a funding source for reimbursing no-load miles;~~

~~(3) policies to prevent waste, fraud, and abuse, and to improve the efficiency of the nonemergency medical transportation system;~~

~~(4) other issues identified in the 2011 evaluation report by the Office of the Legislative Auditor on medical nonemergency transportation; and~~

~~(5)~~ (2) other aspects of the nonemergency medical transportation system, as requested by the commissioner~~.~~; and

(3) other aspects of the nonemergency medical transportation system, as requested by:

(i) a committee member, who may request an item to be placed on the agenda for a future meeting. The request may be considered by the committee and voted upon. If the motion carries, the meeting agenda item may be developed for presentation to the committee; and

(ii) a member of the public, who may approach the committee by letter or e-mail requesting that an item be placed on a future meeting agenda. The request may be considered by the committee and voted upon. If the motion carries, the agenda item may be developed for presentation to the committee.

(c) The Nonemergency Medical Transportation Advisory Committee shall coordinate its activities with the Minnesota Council on Transportation Access established under section 174.285. The chair of the advisory committee, or the chair's designee, shall attend all meetings of the Minnesota Council on Transportation Access.

(d) The Nonemergency Medical Transportation Advisory Committee shall expire December 1, ~~2014~~ 2019.

Sec. 6. Minnesota Statutes 2012, section 256B.0625, subdivision 18d, is amended to read:

Subd. 18d. **Advisory committee members.** (a) The Nonemergency Medical Transportation Advisory Committee consists of:

(1) ~~two voting members who represent counties, at least one of whom must represent a county or counties other than Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright~~ four voting members who represent counties, utilizing the rural urban commuting area classification system. As defined in subdivision 17, these members shall be designated as follows:

(i) two counties within the 11-county metropolitan area;

(ii) one county representing the rural area of the state; and

(iii) one county representing the super rural area of the state.

The Association of Minnesota Counties shall appoint one county within the 11-county metropolitan area and one county representing the super rural area of the state. The Minnesota Inter-County Association shall appoint one county within the 11-county metropolitan area and one county representing the rural area of the state;

(2) ~~four~~ three voting members who represent medical assistance recipients, including persons with physical and developmental disabilities, persons with mental illness, seniors, children, and low-income individuals;

(3) four voting members who represent providers that deliver nonemergency medical transportation services to medical assistance enrollees;

(4) two voting members of the house of representatives, one from the majority party and one from the minority party, appointed by the speaker of the house, and two voting members from the senate, one from the majority party and one from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration;

(5) one voting member who represents demonstration providers as defined in section 256B.69, subdivision 2;

(6) one voting member who represents an organization that contracts with state or local governments to coordinate transportation services for medical assistance enrollees; ~~and~~

(7) one voting member who represents the Minnesota State Council on Disability;

(8) the commissioner of transportation or the commissioner's designee, who shall serve as a voting member;

(9) one voting member appointed by the Minnesota Ambulance Association; and

(10) one voting member appointed by the Minnesota Hospital Association.

(b) Members of the advisory committee shall not be employed by the Department of Human Services. Members of the advisory committee shall receive no compensation.

Sec. 7. Minnesota Statutes 2013 Supplement, section 256B.0625, subdivision 18e, is amended to read:

Subd. 18e. **Single administrative structure and delivery system.** ~~(a)~~ The commissioner shall implement a single administrative structure and delivery system for nonemergency medical transportation, beginning the latter of the date the single administrative assessment tool required in this paragraph is available for use, as determined by the commissioner or by July 1, ~~2014~~ 2016. ~~The single administrative structure and delivery system must:~~

~~(1) eliminate the distinction between access transportation services and special transportation services;~~

~~(2) enable all medical assistance recipients to follow the same process to obtain nonemergency medical transportation, regardless of their level of need;~~

~~(3) provide a single oversight framework for all providers of nonemergency medical transportation; and~~

~~(4) provide flexibility in service delivery, recognizing that clients fall along a continuum of needs and resources.~~

~~(b) The commissioner shall present to the legislature, by January 15, 2014, legislation necessary to implement the single administrative structure and delivery system for nonemergency medical transportation.~~

~~(c) In developing the single administrative structure and delivery system and the draft legislation, the commissioner shall consult with the Nonemergency Medical Transportation Advisory Committee.~~ In coordination with the Department of Transportation, the commissioner shall develop and authorize a Web-based single administrative structure and assessment tool, which must operate 24 hours a day, seven days a week, to facilitate the enrollee assessment process for nonemergency medical transportation services. The Web-based tool shall facilitate the transportation eligibility determination process initiated by clients and client advocates; shall include an accessible automated intake and assessment process and real-time identification of level of service eligibility; and shall authorize an appropriate and auditable mode of transportation authorization. The tool shall provide a single framework for reconciling trip information with claiming and collecting complaints regarding inappropriate level of need determinations, inappropriate transportation modes utilized, and interference with accessing nonemergency medical transportation. The Web-based single administrative structure shall operate on a trial basis for one year from implementation and, if approved by the commissioner, shall be permanent thereafter. The commissioner shall seek input from the Nonemergency Medical Transportation Advisory Committee to ensure the software is effective and user-friendly and make recommendations regarding funding of the single administrative system.

Sec. 8. Minnesota Statutes 2012, section 256B.0625, subdivision 18g, is amended to read:

Subd. 18g. **Use of standardized measures.** ~~The commissioner, in consultation with the Nonemergency Medical Transportation Advisory Committee, shall establish performance measures to assess the cost-effectiveness and quality of nonemergency medical transportation. At a minimum, performance measures should include the number of unique participants served by type of transportation provider, number of trips provided by type of transportation provider, and cost per trip by type of transportation provider. The commissioner must also consider the measures identified in the January 2012 Department of Human Services report to the legislature on nonemergency medical transportation.~~

Beginning in calendar year ~~2013~~ 2015, the commissioner shall collect, audit, and analyze performance data on nonemergency medical transportation annually and report this information on the agency's Web site. The commissioner shall periodically supplement this information with the results of consumer surveys of the quality of services, and shall make these survey findings available to the public on the agency Web site.

Sec. 9. Minnesota Statutes 2012, section 256B.0625, is amended by adding a subdivision to read:

Subd. 18h. **Managed care.** The following subdivisions do not apply to managed care plans and county-based purchasing plans:

(1) subdivision 17, paragraphs (d) to (m);

(2) subdivision 18e; and

(3) subdivision 18g.

Sec. 10. **WAIVER APPLICATIONS FOR NONEMERGENCY MEDICAL TRANSPORTATION SERVICE PROVIDERS.**

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

(b) "Commissioner" means the commissioner of human services.

(c) "New provider" means a nonemergency medical transportation service provider that was not required to comply with special transportation service operating standards before the effective date of this act.

Subd. 2. **Application for and terms of variance.** A new provider may apply to the commissioner, on a form supplied by the commissioner for this purpose, for a variance from special transportation service operating standards. The commissioner may grant or deny the variance application. Variances expire on the earlier of, February 1, 2016, or the date that the commissioner of transportation begins certifying new providers under the terms of this act and successor legislation.

Subd. 3. **Information concerning variances.** The commissioner shall periodically transmit to the Department of Transportation the number of variance applications received and the number granted.

Subd. 4. **Report by commissioner of transportation.** On or before February 1, 2015, the commissioner of transportation shall report to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over transportation and human services concerning the implementation of this act. The report must contain recommendations of the commissioner of transportation

concerning statutes, session laws, and rules that must be amended, repealed, enacted, or adopted to implement the terms of this act. The recommendations must include, without limitation, the amount of the fee that would be required to cover the costs of Department of Transportation supervision of inspection and certification, as well as any needed statutory rulemaking or other authority to be granted to the commissioner of transportation.

Sec. 11. **REPEALER.**

Minnesota Statutes 2013 Supplement, section 256B.0625, subdivision 18f, is repealed.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 10 are effective August 1, 2014.

256B.0625 COVERED SERVICES.

Subd. 18f. **Enrollee assessment process.** (a) The commissioner shall require that the administrator of nonemergency medical transportation adhere to the assessment process recommended by the Nonemergency Medical Transportation Advisory Committee. The commissioner shall implement, by July 1, 2014, the comprehensive, statewide, standard assessment process for medical assistance enrollees seeking nonemergency medical transportation services recommended by the Nonemergency Medical Transportation Advisory Committee. The assessment process must identify a client's level of needs, abilities, and resources, and match the client with the mode of transportation in the client's service area that best meets those needs.

(b) The assessment process must:

(1) address mental health diagnoses when determining the most appropriate mode of transportation;

(2) base decisions on clearly defined criteria that are available to clients, providers, and counties;

(3) be standardized across the state and be aligned with other similar existing processes;

(4) allow for extended periods of eligibility for certain types of nonemergency transportation when a client's condition is unlikely to change; and

(5) increase the use of public transportation when appropriate and cost-effective, including offering monthly bus passes to clients.