

CHAPTER 195—S.F.No. 473

An act relating to human services; clarifying the exemptions for persons required to obtain a home care provider license; eliminating the Medicare certification requirement for home care providers; requiring the commissioner of health to develop licensure for providers of personal care assistant services; amending Minnesota Statutes 1996, sections 144A.46, subdivision 2; and 256B.071, subdivisions 1, 3, and 4.

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

Section 1. Minnesota Statutes 1996, section 144A.46, subdivision 2, is amended to read:

Subd. 2. **EXEMPTIONS.** The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) a person who is licensed as a registered nurse under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care provider or other organization;

(2) a personal care assistant who provides services to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19, and 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19, and 256B.04, subdivision 16;

(4) a person who is registered under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a provider that is licensed by the commissioner of human services to provide semi-independent living services under Minnesota Rules, parts 9525.0500 to 9525.0660 when providing home care services to a person with a developmental disability;

(6) a provider that is licensed by the commissioner of human services to provide home and community-based services under Minnesota Rules, parts 9525.2000 to 9525.2140 when providing home care services to a person with a developmental disability;

(7) a person or organization that provides only home management services, if the person or organization is registered under section 144A.43, subdivision 3 144A.461; or

(8) a person who is licensed as a social worker under sections 148B.18 to 148B.28 and who provides social work services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

An exemption under this subdivision does not excuse the individual from complying with applicable provisions of the home care bill of rights.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1996, section 256B.071, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** (a) "Dual entitlees" means recipients eligible for either the medical assistance program or the alternative care program who are also eligible for the federal Medicare program.

(b) For purposes of this section, "home care services" means home health agency services, private duty nursing services, personal care assistant services, waived services, alternative care program services, hospice services, rehabilitation therapy services, and suppliers of medical supplies and equipment.

Sec. 3. Minnesota Statutes 1996, section 256B.071, subdivision 3, is amended to read:

Subd. 3. **REFERRALS TO MEDICARE CERTIFIED PROVIDERS REQUIRED.** ~~Non-Medicare certified home care providers and nonparticipating Medicare certified home care service providers~~ medical suppliers that do not participate or accept Medicare assignment must refer and document the referral of dual eligible recipients to Medicare certified providers when Medicare is determined to be the appropriate payer for services and supplies and equipment or services. ~~Non-Medicare certified and nonparticipating Medicare certified home care service Providers will be terminated from participation in the medical assistance program for failure to make such referrals.~~

Sec. 4. Minnesota Statutes 1996, section 256B.071, subdivision 4, is amended to read:

Subd. 4. **MEDICARE CERTIFICATION REQUIREMENT.** Medicare certification is required of all medical assistance enrolled home care service providers as defined in subdivision 1 within one year of the date the Minnesota department of health gives notice to the department that initial Medicare surveys will resume required under Title XIX of the Social Security Act.

Sec. 5. **PERSONAL CARE ASSISTANT PROVIDERS.**

The commissioner of health shall create a unique category of licensure as appropriate for providers offering, providing, or arranging personal care assistant services to more than one individual. The commissioner shall work with the department of human services, providers, consumers, and advocates in developing the licensure standards. Prior to promulgating the rule, the commissioner shall submit the proposed rule to the legislature by January 15, 1999.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective the day following final enactment.

Presented to the governor May 19, 1997

Signed by the governor May 20, 1997, 10:56 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.