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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2993

02/22/2018 Authored by O'Driscoll and Theis
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; permitting the provision of limited personal care
1.3 assistance services to individuals receiving acute care in a hospital or outpatient
1.4 surgical center; amending Minnesota Statutes 2016, sections 256B.0625,
1.5 subdivision 19a; 256B.0651, subdivision 3; 256B.0659, subdivision 7, by adding
1.6 a subdivision.

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

1.8 Section 1. Minnesota Statutes 2016, section 256B.0625, subdivision 19a, is amended to
1.9 read:

1.10 Subd. 19a. Personal care assistance services. Medical assistance covers personal care
1.11 assistance services in a recipient's home. Effective January 1, 2010, to qualify for personal
1.12 care assistance services, a recipient must require assistance and be determined dependent
1.13 in one activity of daily living as defined in section 256B.0659, subdivision 1, paragraph
1.14 (b), or in a Level I behavior as defined in section 256B.0659, subdivision 1, paragraph (c).
1.15 Recipients or responsible parties must be able to identify the recipient's needs, direct and
1.16 evaluate task accomplishment, and provide for health and safety. Approved hours may be
1.17 used outside the home when normal life activities take them outside the home. To use
1.18 personal care assistance services at school, the recipient or responsible party must provide
1.19 written authorization in the care plan identifying the chosen provider and the daily amount
1.20 of services to be used at school. Total hours for services, whether actually performed inside
1.21 or outside the recipient's home, cannot exceed that which is otherwise allowed for personal
1.22 care assistance services in an in-home setting according to sections 256B.0651 to 256B.0654.
1.23 Medical assistance does not cover personal care assistance services for residents of a hospital,
1.24 nursing facility, intermediate care facility, health care facility licensed by the commissioner
1.25 of health, except as authorized under section 256B.0659, subdivision 2a, or unless a resident

2.1 who is otherwise eligible is on leave from the facility and the facility either pays for the
2.2 personal care assistance services or forgoes the facility per diem for the leave days that
2.3 personal care assistance services are used. All personal care assistance services must be
2.4 provided according to sections 256B.0651 to 256B.0654. Personal care assistance services
2.5 may not be reimbursed if the personal care assistant is the spouse or paid guardian of the
2.6 recipient or the parent of a recipient under age 18, or the responsible party or the family
2.7 foster care provider of a recipient who cannot direct the recipient's own care unless, in the
2.8 case of a foster care provider, a county or state case manager visits the recipient as needed,
2.9 but not less than every six months, to monitor the health and safety of the recipient and to
2.10 ensure the goals of the care plan are met. Notwithstanding the provisions of section
2.11 256B.0659, the unpaid guardian or conservator of an adult, who is not the responsible party
2.12 and not the personal care provider organization, may be reimbursed to provide personal
2.13 care assistance services to the recipient if the guardian or conservator meets all criteria for
2.14 a personal care assistant according to section 256B.0659, and shall not be considered to
2.15 have a service provider interest for purposes of participation on the screening team under
2.16 section 256B.092, subdivision 7.

2.17 Sec. 2. Minnesota Statutes 2016, section 256B.0651, subdivision 3, is amended to read:

2.18 Subd. 3. **Noncovered home care services.** The following home care services are not
2.19 eligible for payment under medical assistance:

2.20 (1) services provided in a nursing facility, hospital, or intermediate care facility with
2.21 exceptions in ~~section~~ sections 256B.0653 and 256B.0659, subdivision 2a;

2.22 (2) services for the sole purpose of monitoring medication compliance with an established
2.23 medication program for a recipient;

2.24 (3) home care services for covered services under the Medicare program or any other
2.25 insurance held by the recipient;

2.26 (4) services to other members of the recipient's household;

2.27 (5) any home care service included in the daily rate of the community-based residential
2.28 facility where the recipient is residing;

2.29 (6) nursing and rehabilitation therapy services that are reasonably accessible to a recipient
2.30 outside the recipient's place of residence, excluding the assessment, counseling and education,
2.31 and personal assistance care; or

2.32 (7) Medicare evaluation or administrative nursing visits on dual-eligible recipients that
2.33 do not qualify for Medicare visit billing.

3.1 Sec. 3. Minnesota Statutes 2016, section 256B.0659, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 2a. **Personal care assistance services; services covered in hospitals.** (a)
3.4 Authorized personal care assistance hours may be used to provide the limited personal care
3.5 assistance services described in this subdivision to a person who is receiving acute care in
3.6 a hospital or outpatient surgical center and who qualified as having a need for assistance
3.7 due to behaviors under subdivision 4, paragraph (d). To use personal care assistance services
3.8 in a hospital or outpatient surgical center, the person's personal care assistance care plan
3.9 described under subdivision 7 must specify which permitted services the person shall receive
3.10 while receiving care in the hospital or outpatient surgical center. The total hours for personal
3.11 care assistance services provided, no matter where the services are provided, may not exceed
3.12 the number of hours that are otherwise allowed for personal care assistance services in an
3.13 in-home setting according to sections 256B.0651 to 256B.0654.

3.14 (b) Notwithstanding subdivision 2, a personal care assistant providing services to a
3.15 person receiving acute care in a hospital or outpatient surgical center may only assist in the
3.16 observation and redirection of behaviors and grooming. The personal care assistant may
3.17 offer nonbinding advice to the health care professionals in charge of the patient's care and
3.18 treatment on matters pertaining to the comfort and safety of the patient.

3.19 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
3.20 of human services shall inform the revisor of statutes when approval is granted or rejected.

3.21 Sec. 4. Minnesota Statutes 2016, section 256B.0659, subdivision 7, is amended to read:

3.22 **Subd. 7. Personal care assistance care plan.** (a) Each recipient must have a current
3.23 personal care assistance care plan based on the service plan in subdivision 6 that is developed
3.24 by the qualified professional with the recipient and responsible party. A copy of the most
3.25 current personal care assistance care plan is required to be in the recipient's home and in
3.26 the recipient's file at the provider agency. The month-to-month plan for the use of personal
3.27 care assistance services is part of the personal care assistance care plan. The personal care
3.28 assistance care plan must be completed within the first week after the start of services with
3.29 a personal care provider agency and must be updated as needed when there is a change in
3.30 the need for personal care assistance services. A new personal care assistance care plan is
3.31 required annually at the time of the reassessment.

3.32 (b) The personal care assistance care plan must have the following components:

3.33 (1) start and end date of the care plan;

- 4.1 (2) recipient demographic information, including name and telephone number;
- 4.2 (3) emergency numbers, procedures, and a description of measures to address identified
4.3 safety and vulnerability issues, including a backup staffing plan;
- 4.4 (4) name of responsible party and instructions for contact;
- 4.5 (5) description of the recipient's individualized needs for assistance with activities of
4.6 daily living, instrumental activities of daily living, health-related tasks, and behaviors; and
- 4.7 (6) if the recipient qualifies under subdivision 2a for personal care assistance services
4.8 provided in a hospital or outpatient surgical center, a description of the recipient's
4.9 individualized needs for assistance in the event that the recipient is receiving acute care in
4.10 a hospital or outpatient surgical center; and
- 4.11 (7) dated signatures of recipient or responsible party and qualified professional.
- 4.12 (c) The personal care assistance care plan must have instructions and comments about
4.13 the recipient's needs for assistance and any special instructions or procedures required,
4.14 including whether or not the recipient has requested a personal care assistant of the same
4.15 gender. ~~The month-to-month plan for the use of personal care assistance services is part of~~
4.16 ~~the personal care assistance care plan. The personal care assistance care plan must be~~
4.17 ~~completed within the first week after start of services with a personal care provider agency~~
4.18 ~~and must be updated as needed when there is a change in need for personal care assistance~~
4.19 ~~services. A new personal care assistance care plan is required annually at the time of the~~
4.20 ~~reassessment.~~