State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3862

03/15/2018 Authored by Peterson and Layman
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

A bill for an act

relating to human services; establishing an exception to the hospital moratorium to expand mental health and substance use disorder beds; modifying provisions related to mental health; appropriating money; amending Minnesota Statutes 2016, sections 245A.04, subdivision 7; 256.478; 256B.0622, subdivisions 3a, 4; 256B.0623, subdivision 4; 256B.0624, subdivision 4; 256B.0915, subdivision 3b; 256B.092, subdivision 13; 256B.49, subdivision 24; Minnesota Statutes 2017 Supplement, sections 144.551, subdivision 1; 245G.03, by adding a subdivision.

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

Section 1. Minnesota Statutes 2017 Supplement, section 144.551, subdivision 1, is amended to read:

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of

construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27 beds, of which 12 serve mental health needs, may be transferred from Hennepin County Medical Center to Regions Hospital under this clause;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds used for rehabilitation services in an existing hospital in Carver County serving the southwest suburban metropolitan area. Beds constructed under this clause shall not be eligible for reimbursement under medical assistance or MinnesotaCare;

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County;

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

(19) a critical access hospital established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33,

to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law;

(20) notwithstanding section 144.552, a project for the construction of a new hospital in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

(i) the project, including each hospital or health system that will own or control the entity that will hold the new hospital license, is approved by a resolution of the Maple Grove City Council as of March 1, 2006;

(ii) the entity that will hold the new hospital license will be owned or controlled by one or more not-for-profit hospitals or health systems that have previously submitted a plan or plans for a project in Maple Grove as required under section 144.552, and the plan or plans have been found to be in the public interest by the commissioner of health as of April 1, 2005;

(iii) the new hospital's initial inpatient services must include, but are not limited to, medical and surgical services, obstetrical and gynecological services, intensive care services, orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health services, and emergency room services;

(iv) the new hospital:

(A) will have the ability to provide and staff sufficient new beds to meet the growing needs of the Maple Grove service area and the surrounding communities currently being served by the hospital or health system that will own or control the entity that will hold the new hospital license;

(B) will provide uncompensated care;

(C) will provide mental health services, including inpatient beds;

(D) will be a site for workforce development for a broad spectrum of health-care-related occupations and have a commitment to providing clinical training programs for physicians and other health care providers;

(E) will demonstrate a commitment to quality care and patient safety;

(F) will have an electronic medical records system, including physician order entry;

(G) will provide a broad range of senior services;

(H) will provide emergency medical services that will coordinate care with regional providers of trauma services and licensed emergency ambulance services in order to enhance the continuity of care for emergency medical patients; and

(I) will be completed by December 31, 2009, unless delayed by circumstances beyond the control of the entity holding the new hospital license; and

(v) as of 30 days following submission of a written plan, the commissioner of health has not determined that the hospitals or health systems that will own or control the entity that will hold the new hospital license are unable to meet the criteria of this clause;

(21) a project approved under section 144.553;

(22) a project for the construction of a hospital with up to 25 beds in Cass County within a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder is approved by the Cass County Board;

(23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing a separately licensed 13-bed skilled nursing facility;

(24) notwithstanding section 144.552, a project for the construction and expansion of a specialty psychiatric hospital in Hennepin County for up to 50 beds, exclusively for patients who are under 21 years of age on the date of admission. The commissioner conducted a public interest review of the mental health needs of Minnesota and the Twin Cities metropolitan area in 2008. No further public interest review shall be conducted for the construction or expansion project under this clause;

(25) a project for a 16-bed psychiatric hospital in the city of Thief River Falls, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(26)(i) a project for a 20-bed psychiatric hospital, within an existing facility in the city of Maple Grove, exclusively for patients who are under 21 years of age on the date of admission, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(ii) this project shall serve patients in the continuing care benefit program under section 256.9693. The project may also serve patients not in the continuing care benefit program; and

(iii) if the project ceases to participate in the continuing care benefit program, the commissioner must complete a subsequent public interest review under section 144.552. If the project is found not to be in the public interest, the license must be terminated six months from the date of that finding. If the commissioner of human services terminates the contract without cause or reduces per diem payment rates for patients under the continuing care

benefit program below the rates in effect for services provided on December 31, 2015, the project may cease to participate in the continuing care benefit program and continue to operate without a subsequent public interest review; ~~or~~

(27) a project involving the addition of 21 new beds in an existing psychiatric hospital in Hennepin County that is exclusively for patients who are under 21 years of age on the date of admission~~.~~; or

(28) notwithstanding section 144.552, any projects approved by the commissioner under this clause. The commissioner must expedite the review of proposed projects and shall approve projects that:

(i) involve adding new beds to an existing hospital that provides emergency medical services;

(ii) involve adding new psychiatric hospital beds for children or adults who have a mental illness or new beds for adults with a substance use disorder;

(iii) demonstrate collaboration or development of alternatives to hospitalization;

(iv) are supported by community mental health or substance use providers in their community; and

(v) demonstrate a need for beds through data collected from emergency services and mobile crisis teams, including data reflecting the number of patients transferred to hospitals in other communities.

The commissioner may approve up to 100 new beds per year. The new beds must not be used for any services other than services to treat mental illness or substance use disorders.

Sec. 2. Minnesota Statutes 2016, section 245A.04, subdivision 7, is amended to read:

Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

(1) the name of the license holder;

(2) the address of the program;

(3) the effective date and expiration date of the license;

(4) the type of license;

(5) the maximum number and ages of persons that may receive services from the program; and

(6) any special conditions of licensure.

(b) The commissioner may issue an initial license for a period not to exceed two years if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

(c) A decision by the commissioner to issue a license does not guarantee that any person or persons will be placed or cared for in the licensed program. A license shall not be transferable to another individual, corporation, partnership, voluntary association, other organization, or controlling individual or to another location~~.~~, unless:

(1) the license or certification is for mental health centers or clinics under section 245.69, residential programs under section 256B.0622 or 256B.0624, or substance use disorder treatment programs under chapter 245G;

(2) the transfer is being made to a provider entity that is incorporated as a Minnesota nonprofit corporation under chapter 317A; and

(3) the transfer is being made to a provider entity that currently holds at least one license or certification that is the same type as the license or certification being transferred.

(d) A license holder must notify the commissioner and obtain the commissioner's approval before making any changes that would alter the license information listed under paragraph (a).

(e) Except as provided in paragraphs (g) and (h), the commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has:

(1) been disqualified and the disqualification was not set aside and no variance has been granted;

(2) been denied a license within the past two years;

(3) had a license revoked within the past five years;

(4) an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent; or

(5) failed to submit the information required of an applicant under subdivision 1, paragraph (f) or (g), after being requested by the commissioner.

When a license is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A or 245D for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

(f) The commissioner shall not issue or reissue a license if an individual living in the household where the licensed services will be provided as specified under section 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside and no variance has been granted.

(g) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license has been suspended or revoked and the suspension or revocation is under appeal, the program may continue to operate pending a final order from the commissioner. If the license under suspension or revocation will expire before a final order is issued, a temporary provisional license may be issued provided any applicable license fee is paid before the temporary provisional license is issued.

(h) Notwithstanding paragraph (g), when a revocation is based on the disqualification of a controlling individual or license holder, and the controlling individual or license holder is ordered under section 245C.17 to be immediately removed from direct contact with persons receiving services or is ordered to be under continuous, direct supervision when providing direct contact services, the program may continue to operate only if the program complies with the order and submits documentation demonstrating compliance with the order. If the disqualified individual fails to submit a timely request for reconsideration, or if the disqualification is not set aside and no variance is granted, the order to immediately remove the individual from direct contact or to be under continuous, direct supervision remains in effect pending the outcome of a hearing and final order from the commissioner.

(i) For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

(j) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted

a new license to operate the program or the program must not be operated after the expiration date.

(k) The commissioner shall not issue or reissue a license if it has been determined that a tribal licensing authority has established jurisdiction to license the program or service.

Sec. 3. Minnesota Statutes 2017 Supplement, section 245G.03, is amended by adding a subdivision to read:

Subd. 1a. **Assessment of need process.** The assessment of need process under Minnesota Rules, parts 9530.6800 to 9530.6810, is not applicable to programs licensed under this chapter. However, the commissioner may deny issuance of a license to an applicant if the commissioner determines that the services currently available in the local area are sufficient to meet local need and that the addition of new services would be detrimental to individuals seeking these services.

Sec. 4. Minnesota Statutes 2016, section 256.478, is amended to read:

256.478 ~~HOME AND COMMUNITY-BASED SERVICES TRANSITIONS GRANTS~~ TRANSITION TO COMMUNITY INITIATIVE.

Subdivision 1. **Eligibility.** (a) An individual is eligible for the transition to community initiative if the individual meets the following criteria:

(1) the individual would otherwise remain at the Anoka Metro Regional Treatment Center or the Minnesota Security Hospital;

(2) the individual's discharge would be significantly delayed without the additional resources available through the transitions to community initiative; and

(3) the individual met treatment objectives and no longer needs hospital-level care or a secure treatment setting.

(b) An individual who is in a community hospital and on the waiting list for the Anoka Metro Regional Treatment Center, but for whom alternative community placement would be appropriate is eligible for the transition to community initiative upon the commissioner's approval.

Subd. 2. **Transition grants.** The commissioner shall make available ~~home and community-based services~~ transition to community initiative grants to serve individuals who do not meet eligibility criteria for the medical assistance program under section 256B.056 or 256B.057, but who:

(1) otherwise meet the criteria under section 256B.092, subdivision 13, or 256B.49, subdivision 24; or

(2) otherwise meet the criteria under subdivision 1, and to pay for services and supports not eligible for reimbursement under medical assistance.

Sec. 5. Minnesota Statutes 2016, section 256B.0622, subdivision 3a, is amended to read:

Subd. 3a. **Provider certification and contract requirements for assertive community treatment.** (a) The assertive community treatment provider must~~:~~

~~(1) have a contract with the host county to provide assertive community treatment services; and~~

~~(2)~~ have each ACT team be certified by the state following the certification process and procedures developed by the commissioner. The certification process determines whether the ACT team meets the standards for assertive community treatment under this section as well as minimum program fidelity standards as measured by a nationally recognized fidelity tool approved by the commissioner. Recertification must occur at least every three years.

(b) An ACT team certified under this subdivision must meet the following standards:

(1) have capacity to recruit, hire, manage, and train required ACT team members;

(2) have adequate administrative ability to ensure availability of services;

(3) ensure adequate preservice and ongoing training for staff;

(4) ensure that staff is capable of implementing culturally specific services that are culturally responsive and appropriate as determined by the client's culture, beliefs, values, and language as identified in the individual treatment plan;

(5) ensure flexibility in service delivery to respond to the changing and intermittent care needs of a client as identified by the client and the individual treatment plan;

(6) develop and maintain client files, individual treatment plans, and contact charting;

(7) develop and maintain staff training and personnel files;

(8) submit information as required by the state;

(9) keep all necessary records required by law;

(10) comply with all applicable laws;

(11) be an enrolled Medicaid provider;

(12) establish and maintain a quality assurance plan to determine specific service outcomes and the client's satisfaction with services; and

(13) develop and maintain written policies and procedures regarding service provision and administration of the provider entity.

(c) The commissioner may intervene at any time and decertify an ACT team with cause. The commissioner shall establish a process for decertification of an ACT team and shall require corrective action, medical assistance repayment, or decertification of an ACT team that no longer meets the requirements in this section or that fails to meet the clinical quality standards or administrative standards provided by the commissioner in the application and certification process. The decertification is subject to appeal to the state.

Sec. 6. Minnesota Statutes 2016, section 256B.0622, subdivision 4, is amended to read:

Subd. 4. **Provider licensure and contract requirements for intensive residential treatment services.** (a) The intensive residential treatment services provider must:

(1) be licensed under Minnesota Rules, parts 9520.0500 to 9520.0670;

(2) not exceed 16 beds per site; and

(3) comply with the additional standards in this section~~; and~~.

~~(4) have a contract with the host county to provide these services.~~

(b) The commissioner shall develop procedures for counties and providers to submit contracts and other documentation as needed to allow the commissioner to determine whether the standards in this section are met.

Sec. 7. Minnesota Statutes 2016, section 256B.0623, subdivision 4, is amended to read:

Subd. 4. **Provider entity standards.** (a) The provider entity must be certified by the state following the certification process and procedures developed by the commissioner.

(b) The certification process is a determination as to whether the entity meets the standards in this subdivision. The certification must specify which adult rehabilitative mental health services the entity is qualified to provide.

~~(c) A noncounty provider entity must obtain additional certification from each county in which it will provide services. The additional certification must be based on the adequacy of the entity's knowledge of that county's local health and human service system, and the ability of the entity to coordinate its services with the other services available in that county.~~

~~A county-operated entity must obtain this additional certification from any other county in which it will provide services.~~

~~(d)~~ (c) Recertification must occur at least every three years.

~~(e)~~ (d) The commissioner may intervene at any time and decertify providers with cause. The decertification is subject to appeal to the state. A county board may recommend that the state decertify a provider for cause.

~~(f)~~ (e) The adult rehabilitative mental health services provider entity must meet the following standards:

(1) have capacity to recruit, hire, manage, and train mental health professionals, mental health practitioners, and mental health rehabilitation workers;

(2) have adequate administrative ability to ensure availability of services;

(3) ensure adequate preservice and inservice and ongoing training for staff;

(4) ensure that mental health professionals, mental health practitioners, and mental health rehabilitation workers are skilled in the delivery of the specific adult rehabilitative mental health services provided to the individual eligible recipient;

(5) ensure that staff is capable of implementing culturally specific services that are culturally competent and appropriate as determined by the recipient's culture, beliefs, values, and language as identified in the individual treatment plan;

(6) ensure enough flexibility in service delivery to respond to the changing and intermittent care needs of a recipient as identified by the recipient and the individual treatment plan;

(7) ensure that the mental health professional or mental health practitioner, who is under the clinical supervision of a mental health professional, involved in a recipient's services participates in the development of the individual treatment plan;

(8) assist the recipient in arranging needed crisis assessment, intervention, and stabilization services;

(9) ensure that services are coordinated with other recipient mental health services providers and the county mental health authority and the federally recognized American Indian authority and necessary others after obtaining the consent of the recipient. Services must also be coordinated with the recipient's case manager or care coordinator if the recipient is receiving case management or care coordination services;

(10) develop and maintain recipient files, individual treatment plans, and contact charting;

(11) develop and maintain staff training and personnel files;

(12) submit information as required by the state;

(13) establish and maintain a quality assurance plan to evaluate the outcome of services provided;

(14) keep all necessary records required by law;

(15) deliver services as required by section 245.461;

(16) comply with all applicable laws;

(17) be an enrolled Medicaid provider;

(18) maintain a quality assurance plan to determine specific service outcomes and the recipient's satisfaction with services; and

(19) develop and maintain written policies and procedures regarding service provision and administration of the provider entity.

Sec. 8. Minnesota Statutes 2016, section 256B.0624, subdivision 4, is amended to read:

Subd. 4. **Provider entity standards.** (a) A provider entity is an entity that meets the standards listed in paragraph (b) and:

(1) is a county board operated entity; or

(2) is a provider entity that is under contract with the county board in the county where the potential crisis or emergency is occurring. To provide services under this section, the provider entity must directly provide the services; or if services are subcontracted, the provider entity must maintain responsibility for services and billing.

(b) The adult mental health crisis response services provider entity must have the capacity to meet and carry out the following standards:

(1) has the capacity to recruit, hire, and manage and train mental health professionals, practitioners, and rehabilitation workers;

(2) has adequate administrative ability to ensure availability of services;

(3) is able to ensure adequate preservice and in-service training;

(4) is able to ensure that staff providing these services are skilled in the delivery of mental health crisis response services to recipients;

(5) is able to ensure that staff are capable of implementing culturally specific treatment identified in the individual treatment plan that is meaningful and appropriate as determined by the recipient's culture, beliefs, values, and language;

(6) is able to ensure enough flexibility to respond to the changing intervention and care needs of a recipient as identified by the recipient during the service partnership between the recipient and providers;

(7) is able to ensure that mental health professionals and mental health practitioners have the communication tools and procedures to communicate and consult promptly about crisis assessment and interventions as services occur;

(8) is able to coordinate these services with county emergency services, community hospitals, ambulance, transportation services, social services, law enforcement, and mental health crisis services through regularly scheduled interagency meetings;

(9) is able to ensure that mental health crisis assessment and mobile crisis intervention services are available 24 hours a day, seven days a week;

(10) is able to ensure that services are coordinated with other mental health service providers, county mental health authorities, or federally recognized American Indian authorities and others as necessary, with the consent of the adult. Services must also be coordinated with the recipient's case manager if the adult is receiving case management services;

(11) is able to ensure that crisis intervention services are provided in a manner consistent with sections 245.461 to 245.486;

(12) is able to submit information as required by the state;

(13) maintains staff training and personnel files;

(14) is able to establish and maintain a quality assurance and evaluation plan to evaluate the outcomes of services and recipient satisfaction;

(15) is able to keep records as required by applicable laws;

(16) is able to comply with all applicable laws and statutes;

(17) is an enrolled medical assistance provider; and

(18) develops and maintains written policies and procedures regarding service provision and administration of the provider entity, including safety of staff and recipients in high-risk situations.

(c) A provider entity that is providing crisis stabilization services in a residential setting under subdivision 7 is not required to meet the requirements in paragraph (a), but must meet the standards in paragraph (b).

Sec. 9. Minnesota Statutes 2016, section 256B.0915, subdivision 3b, is amended to read:

Subd. 3b. **Cost limits for elderly waiver applicants who reside in a nursing facility or another eligible facility.** (a) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly waivered services, a monthly conversion budget limit for the cost of elderly waivered services may be requested. The monthly conversion budget limit for the cost of elderly waiver services shall be ~~the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides until July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented, the monthly conversion budget limit for the cost of elderly waiver services shall be~~ based on the per diem nursing facility rate as determined by the resident assessment system as described in section 256B.438 for residents in the nursing facility where the elderly waiver applicant currently resides. The monthly conversion budget limit shall be calculated by multiplying the per diem by 365, divided by 12, and reduced by the recipient's maintenance needs allowance as described in subdivision 1d. The initially approved monthly conversion budget limit shall be adjusted annually as described in subdivision 3a, paragraph (a). The limit under this ~~subdivision~~ paragraph only applies to persons discharged from a nursing facility after a minimum 30-day stay and found eligible for waivered services on or after July 1, 1997. For conversions from the nursing home to the elderly waiver with consumer directed community support services, the nursing facility per diem used to calculate the monthly conversion budget limit must be reduced by a percentage equal to the percentage difference between the consumer directed services budget limit that would be assigned according to the federally approved waiver plan and the corresponding community case mix cap, but not to exceed 50 percent.

(b) A person who meets elderly waiver eligibility criteria and the eligibility criteria under section 256.478, subdivision 1, is eligible for a special monthly budget limit for the cost of elderly waivered services up to $21,610 per month. The special monthly budget limit shall be adjusted annually as described in subdivision 3a, paragraphs (a) and (e). For persons using a special monthly budget limit under the elderly waiver with consumer-directed

community support services, the special monthly budget limit must be reduced as described in paragraph (a).

(c) The commissioner may provide an additional payment for documented costs between a threshold determined by the commissioner and the special monthly budget limit to a managed care plan for elderly waiver services provided to a person who is:

(1) eligible for a special monthly budget limit under paragraph (b); and

(2) enrolled in a managed care plan that provides elderly waiver services under section 256B.69.

(d) For monthly conversion budget limits under paragraph (a) and special monthly budget limits under paragraph (b), the service rate limits for adult foster care under subdivision 3d and for customized living under subdivision 3e may be exceeded if necessary for the provider to meet identified needs and provide services as approved in the coordinated service and support plan, providing that the total cost of all services does not exceed the monthly conversion or special monthly budget limit. Service rates shall be established using tools provided by the commissioner.

(e) The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waivered services, including specialized supplies and equipment and environmental accessibility adaptations; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes once federal approval is obtained.

Sec. 10. Minnesota Statutes 2016, section 256B.092, subdivision 13, is amended to read:

Subd. 13. **Waiver allocations for transition populations.** (a) The commissioner shall make available additional waiver allocations and additional necessary resources ~~to assure timely discharges from the Anoka Metro Regional Treatment Center and the Minnesota Security Hospital in St. Peter~~ for individuals who meet the ~~following~~ eligibility criteria~~:~~ established under section 256.478, subdivision 1.

~~(1) are otherwise eligible for the developmental disabilities waiver under this section;~~

~~(2) who would otherwise remain at the Anoka Metro Regional Treatment Center or the Minnesota Security Hospital;~~

~~(3) whose discharge would be significantly delayed without the available waiver allocation; and~~

~~(4) who have met treatment objectives and no longer meet hospital level of care.~~

(b) Additional waiver allocations under this subdivision must meet cost-effectiveness requirements of the federal approved waiver plan.

(c) Any corporate foster care home developed under this subdivision must be considered an exception under section 245A.03, subdivision 7, paragraph (a).

Sec. 11. Minnesota Statutes 2016, section 256B.49, subdivision 24, is amended to read:

Subd. 24. **Waiver allocations for transition populations.** (a) The commissioner shall make available additional waiver allocations and additional necessary resources ~~to assure timely discharges from the Anoka Metro Regional Treatment Center and the Minnesota Security Hospital in St. Peter~~ for individuals who meet the ~~following~~ eligibility criteria~~:~~ established under section 256.478, subdivision 1.

~~(1) are otherwise eligible for the brain injury, community access for disability inclusion, or community alternative care waivers under this section;~~

~~(2) who would otherwise remain at the Anoka Metro Regional Treatment Center or the Minnesota Security Hospital;~~

~~(3) whose discharge would be significantly delayed without the available waiver allocation; and~~

~~(4) who have met treatment objectives and no longer meet hospital level of care.~~

(b) Additional waiver allocations under this subdivision must meet cost-effectiveness requirements of the federal approved waiver plan.

(c) Any corporate foster care home developed under this subdivision must be considered an exception under section 245A.03, subdivision 7, paragraph (a).

Sec. 12. **COMMUNITY-BASED COMPETENCY RESTORATION SERVICES.**

(a) The commissioner of human services shall provide grants to adult mental health initiatives, counties, Indian tribes, or community mental health providers for planning and development of community-based competency assessment and restoration services to support individuals who, according to Minnesota Rules of Criminal Procedure, rule 20.01, have been referred for examination or found by a court to be incapable of understanding the criminal proceedings or participating in their defense.

(b) Grants must be issued through a competitive request for proposals process. Grant applications shall provide details on how the intended service will address identified needs and must demonstrate collaboration between county or tribal social services, community mental health providers, and the courts. Applicants must demonstrate the ability to sustain the project after onetime state grant funding is no longer available. Grants funded under this section must include funding for applicants from rural areas.

Sec. 13. **PILOT PROJECTS; HYBRID INTENSIVE RESIDENTIAL TREATMENT SERVICES.**

Subdivision 1. **Grants and eligibility.** The commissioner of human services shall administer grants to establish alternative community services for individuals who no longer need the level of care provided at the Anoka Metro Regional Treatment Center, and:

(1) have involvement with the criminal justice system; or

(2) have been committed to the commissioner and diversion from a jail is appropriate.

Subd. 2. **Pilot project.** Projects shall provide intensive residential treatment services as defined under Minnesota Statute, section 256B.0622, subdivision 2, paragraph (n), except that:

(1) lengths of stay may be 180 days or more;

(2) number of beds may be six to 16; and

(3) residents automatically qualify for group residential housing.

Subd. 3. **Evaluation.** The projects must evaluate the effectiveness of the programs, including rates of rehospitalization, employment, criminal justice involvement, and engagement in treatment and provide the evaluation to the legislative committees with jurisdiction over mental health issues by February 15, 2020.

Sec. 14. **APPROPRIATION.**

(a) $500,000 in fiscal year 2019 is appropriated from the general fund to the commissioner of human services for transition grants under Minnesota Statutes, section 256.478. This is an ongoing appropriation.

(b) $..... in fiscal year 2019 is appropriated from the general fund to the commissioner of human services for start-up funding for pilot projects involving hybrid intensive residential treatment services.