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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1867

02/28/2019 Authored by Zerwas, Considine and Cantrell
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
03/28/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

- 1.1 A bill for an act
- 1.2 relating to human services; establishing a state agency hearing for a county to
- 1.3 dispute liability for a portion of the cost of care of clients in regional treatment
- 1.4 centers or state nursing facilities due to delayed discharge; precluding recovery of
- 1.5 disputed costs of care from clients; amending Minnesota Statutes 2018, sections
- 1.6 246.51, subdivision 3; 256.045, subdivision 3.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2018, section 246.51, subdivision 3, is amended to read:
- 1.9 Subd. 3. **Applicability.** The commissioner may recover, under sections 246.50 to 246.55,
- 1.10 the cost of any care provided in a state facility, including care provided prior to July 1, 1989,
- 1.11 regardless of the terminology used to designate the status or condition of the person receiving
- 1.12 the care or the terminology used to identify the facility. The commissioner must not recover
- 1.13 from a client any amount that is the subject of a disputed county cost of care under section
- 1.14 256.045, subdivision 3, paragraph (a), clause (15). For purposes of recovering the cost of
- 1.15 care provided prior to July 1, 1989, the term "state facility" as used in sections 246.50 to
- 1.16 246.55 includes "state hospital," "regional treatment center," or "regional center"; and the
- 1.17 term "client" includes, but is not limited to, persons designated as "having a mental illness
- 1.18 or developmental disability," or "chemically dependent."
- 1.19 Sec. 2. Minnesota Statutes 2018, section 256.045, subdivision 3, is amended to read:
- 1.20 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:
- 1.21 (1) any person applying for, receiving or having received public assistance, medical
- 1.22 care, or a program of social services granted by the state agency or a county agency or the
- 1.23 federal Food Stamp Act whose application for assistance is denied, not acted upon with

2.1 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
2.2 to have been incorrectly paid;

2.3 (2) any patient or relative aggrieved by an order of the commissioner under section
2.4 252.27;

2.5 (3) a party aggrieved by a ruling of a prepaid health plan;

2.6 (4) except as provided under chapter 245C, any individual or facility determined by a
2.7 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
2.8 they have exercised their right to administrative reconsideration under section 626.557;

2.9 (5) any person whose claim for foster care payment according to a placement of the
2.10 child resulting from a child protection assessment under section 626.556 is denied or not
2.11 acted upon with reasonable promptness, regardless of funding source;

2.12 (6) any person to whom a right of appeal according to this section is given by other
2.13 provision of law;

2.14 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
2.15 under section 256B.15;

2.16 (8) an applicant aggrieved by an adverse decision to an application or redetermination
2.17 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

2.18 (9) except as provided under chapter 245A, an individual or facility determined to have
2.19 maltreated a minor under section 626.556, after the individual or facility has exercised the
2.20 right to administrative reconsideration under section 626.556;

2.21 (10) except as provided under chapter 245C, an individual disqualified under sections
2.22 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
2.23 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
2.24 individual has committed an act or acts that meet the definition of any of the crimes listed
2.25 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
2.26 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment
2.27 determination under clause (4) or (9) and a disqualification under this clause in which the
2.28 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
2.29 a single fair hearing. In such cases, the scope of review by the human services judge shall
2.30 include both the maltreatment determination and the disqualification. The failure to exercise
2.31 the right to an administrative reconsideration shall not be a bar to a hearing under this section
2.32 if federal law provides an individual the right to a hearing to dispute a finding of
2.33 maltreatment;

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914; ~~or~~

(14) a person issued a notice of service termination under section 245A.11, subdivision 11, that is not otherwise subject to appeal under subdivision 4a; or

(15) a county disputes cost of care under section 246.54 based on a delayed client discharge from a state-operated facility caused by any of the following circumstances:

(i) the county was not given notice that the client no longer meets the medical criteria for the state-operated facility;

(ii) the determination that the client no longer meets the medical criteria for the state-operated facility was made on a holiday or weekend;

(iii) the state-operated facility disagrees with the county's discharge plan; or

(iv) incomplete paperwork.

The commissioner shall, upon enactment of this section, conduct ongoing meetings with representatives of counties to address the lack of available beds for individuals who meet the criteria for safety net services as defined in the December 30, 2015, report to the commissioner of human services, entitled "Transitioning MSOCS Residential to a Safety Net Service: Community Based Steering Committee Recommendations."

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A

hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a, paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

(f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(g) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(h) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

(i) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization specified in this section may contest the specified

5.1 action, decision, or final disposition before the state agency by submitting a written request
5.2 for a hearing to the state agency within 30 days after receiving written notice of the action,
5.3 decision, or final disposition, or within 90 days of such written notice if the applicant,
5.4 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision
5.5 13, why the request was not submitted within the 30-day time limit. The individual filing
5.6 the appeal has the burden of proving good cause by a preponderance of the evidence.