

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 1028

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| DATE | D-PG | OFFICIAL STATUS |
|------------|------|--|
| 02/01/2023 | 563 | Introduction and first reading Referred to Human Services |
| 03/08/2023 | | Comm report: To pass as amended and re-refer to Finance Author added Mitchell |

1.1 A bill for an act

1.2 relating to human services; modifying medical assistance coverage for special

1.3 education school social work services; amending Minnesota Statutes 2022, section
256B.0625, subdivision 26.

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

1.6 Section 1. Minnesota Statutes 2022, section 256B.0625, subdivision 26, is amended to

1.7 read:

1.8 Subd. 26. **Special education services.** (a) Medical assistance covers evaluations necessary

1.9 in making a determination for eligibility for individualized education program and

1.10 individualized family service plan services and for medical services identified in a recipient's

1.11 individualized education program and individualized family service plan and covered under

1.12 the medical assistance state plan. Covered services include occupational therapy, physical

1.13 therapy, speech-language therapy, clinical psychological services, nursing services, school

1.14 psychological services, school social work services, personal care assistants serving as

1.15 management aides, assistive technology devices, transportation services, health assessments,

1.16 and other services covered under the medical assistance state plan. Mental health services

1.17 eligible for medical assistance reimbursement must be provided or coordinated through a

1.18 children's mental health collaborative where a collaborative exists if the child is included

1.19 in the collaborative operational target population. The provision or coordination of services

1.20 does not require that the individualized education program be developed by the collaborative.

1.21 The services may be provided by a Minnesota school district that is enrolled as a medical

1.22 assistance provider or its subcontractor, and only if the services meet all the requirements

1.23 otherwise applicable if the service had been provided by a provider other than a school

2.1 district, in the following areas: medical necessity; physician's, advanced practice registered
2.2 nurse's, or physician assistant's orders; documentation; personnel qualifications; and prior
2.3 authorization requirements. The nonfederal share of costs for services provided under this
2.4 subdivision is the responsibility of the local school district as provided in section 125A.74.
2.5 Services listed in a child's individualized education program are eligible for medical
2.6 assistance reimbursement only if those services meet criteria for federal financial participation
2.7 under the Medicaid program.

2.8 (b) Approval of health-related services for inclusion in the individualized education
2.9 program does not require prior authorization for purposes of reimbursement under this
2.10 chapter. The commissioner may require physician, advanced practice registered nurse, or
2.11 physician assistant review and approval of the plan not more than once annually or upon
2.12 any modification of the individualized education program that reflects a change in
2.13 health-related services.

2.14 (c) Services of a speech-language pathologist provided under this section are covered
2.15 notwithstanding Minnesota Rules, part 9505.0390, subpart 1, item L, if the person:

2.16 (1) holds a masters degree in speech-language pathology;

2.17 (2) is licensed by the Professional Educator Licensing and Standards Board as an
2.18 educational speech-language pathologist; and

2.19 (3) either has a certificate of clinical competence from the American Speech and Hearing
2.20 Association, has completed the equivalent educational requirements and work experience
2.21 necessary for the certificate or has completed the academic program and is acquiring
2.22 supervised work experience to qualify for the certificate.

2.23 (d) Medical assistance coverage for medically necessary services provided under other
2.24 subdivisions in this section may not be denied solely on the basis that the same or similar
2.25 services are covered under this subdivision.

2.26 (e) The commissioner shall develop and implement package rates, bundled rates, or per
2.27 diem rates for special education services under which separately covered services are grouped
2.28 together and billed as a unit in order to reduce administrative complexity.

2.29 (f) The commissioner shall develop a cost-based payment structure for payment of these
2.30 services. Only costs reported through the designated Minnesota Department of Education
2.31 data systems in distinct service categories qualify for inclusion in the cost-based payment
2.32 structure. The commissioner shall reimburse claims submitted based on an interim rate, and
2.33 shall settle at a final rate once the department has determined it. The commissioner shall

3.1 notify the school district of the final rate. The school district has 60 days to appeal the final
3.2 rate. To appeal the final rate, the school district shall file a written appeal request to the
3.3 commissioner within 60 days of the date the final rate determination was mailed. The appeal
3.4 request shall specify (1) the disputed items and (2) the name and address of the person to
3.5 contact regarding the appeal.

3.6 (g) Effective July 1, 2000, medical assistance services provided under an individualized
3.7 education program or an individual family service plan by local school districts shall not
3.8 count against medical assistance authorization thresholds for that child.

3.9 (h) Nursing services as defined in section 148.171, subdivision 15, and provided as an
3.10 individualized education program health-related service, are eligible for medical assistance
3.11 payment if they are otherwise a covered service under the medical assistance program.
3.12 Medical assistance covers the administration of prescription medications by a licensed nurse
3.13 who is employed by or under contract with a school district when the administration of
3.14 medications is identified in the child's individualized education program. The simple
3.15 administration of medications alone is not covered under medical assistance when
3.16 administered by a provider other than a school district or when it is not identified in the
3.17 child's individualized education program.

3.18 (i) School social work services provided by a mental health professional, as defined in
3.19 section 245I.04, subdivision 2, or mental health practitioner, as defined in section 245I.04,
3.20 subdivision 4, under the supervision of a mental health professional, are eligible for medical
3.21 assistance payment. A mental health practitioner performing school social work services
3.22 under this section must provide services within the mental health practitioner's licensure
3.23 scope of practice, if applicable, and within the mental health practitioner scope of practice
3.24 under section 245I.04, subdivision 5.

3.25 (j) Notwithstanding Minnesota Rules, part 9505.0371, a special education evaluation,
3.26 individualized education program, or individual family service plan may be used to determine
3.27 medical necessity and eligibility for school social work services under paragraph (i) instead
3.28 of a diagnostic assessment if the special education evaluation, individualized education
3.29 program, or individual family service plan includes a sign, symptom, or condition
3.30 ICD-10-CM code for the student.

3.31 (k) A school social worker or school providing mental health services under paragraph
3.32 (i) is not required to be certified to provide children's therapeutic services and supports
3.33 under section 256B.0943.

- 4.1 (1) Covered mental health services provided by a school social worker under paragraph
4.2 (i) include but are not limited to:
- 4.3 (1) administering and reporting standardized measures;
4.4 (2) care coordination;
4.5 (3) children's mental health crisis assistance, planning, and response services;
4.6 (4) children's mental health clinical care consultation;
4.7 (5) dialectical behavioral therapy for adolescents;
4.8 (6) direction of mental health behavioral aides;
4.9 (7) family psychoeducation;
4.10 (8) individual, family, and group psychotherapy;
4.11 (9) mental health behavioral aide services;
4.12 (10) skills training; and
4.13 (11) treatment plan development and review.
- 4.14 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
4.15 whichever is later. The commissioner shall notify the revisor of statutes when federal
4.16 approval has been obtained.