

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

S.F. No. 3703

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OFFICIAL STATUS
Introduction and first reading
Referred to Human Services Reform Finance and Policy

1.1 A bill for an act
1.2 relating to human services; requiring child care assistance program providers to
1.3 provide proof of surety bond coverage; authorizing reallocation of unspent human
1.4 services grant funding by counties and tribes; requiring enrollment of qualified
1.5 professionals supervising personal care assistants; requiring report on impact of
1.6 nonemergency medical transportation driver enrollment; requiring legislative
1.7 proposal to reform payment system for nursing services and home health services;
1.8 amending Minnesota Statutes 2018, sections 119B.125, by adding a subdivision;
1.9 256B.0659, subdivision 14; proposing coding for new law in Minnesota Statutes,
1.10 chapter 256.

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

1.12 Section 1. Minnesota Statutes 2018, section 119B.125, is amended by adding a subdivision
1.13 to read:

1.14 Subd. 10. Proof of surety bond coverage. All licensed child care centers authorized
1.15 for reimbursement under this chapter that received child care assistance program revenue
1.16 equal to or greater than \$250,000 in the previous calendar year must provide to the
1.17 commissioner proof of surety bond coverage. The surety bond must provide coverage of
1.18 \$100,000, be in a form approved by the commissioner, be renewed at least annually, and
1.19 allow for recovery of costs and fees in pursuing a claim on the bond.

1.20 EFFECTIVE DATE. This section is effective January 1, 2021.

1.21 Sec. 2. [256.0113] COUNTY HUMAN SERVICES STATE FUNDING
1.22 REALLOCATION.

1.23 (a) Beginning October 1, 2020, counties and tribes or tribal agencies receiving human
1.24 services grants funded exclusively with state general fund dollars may allocate unexpended

2.1 grant amounts to county or tribal human services activity for the fourth quarter of the county
2.2 or tribe's fiscal year.

2.3 (b) Any proposed reallocation of unspent funds must be approved by a majority vote of
2.4 the county board or the tribe or tribal agency's governing body.

2.5 (c) Each county, tribe, or tribal agency must report any approved reallocation of unspent
2.6 grant funds to the commissioner of human services by March 31 of each year following a
2.7 reallocation under this section. The report must describe the use of the reallocated human
2.8 services grant funds, compare how the funds were allocated prior to the reallocation, and
2.9 explain the advantages or disadvantages of the reallocation.

2.10 Sec. 3. Minnesota Statutes 2018, section 256B.0659, subdivision 14, is amended to read:

2.11 Subd. 14. **Qualified professional; duties.** (a) Effective January 1, 2010, all personal
2.12 care assistants must be supervised by a qualified professional.

2.13 (b) Through direct training, observation, return demonstrations, and consultation with
2.14 the staff and the recipient, the qualified professional must ensure and document that the
2.15 personal care assistant is:

2.16 (1) capable of providing the required personal care assistance services;

2.17 (2) knowledgeable about the plan of personal care assistance services before services
2.18 are performed; and

2.19 (3) able to identify conditions that should be immediately brought to the attention of the
2.20 qualified professional.

2.21 (c) The qualified professional shall evaluate the personal care assistant within the first
2.22 14 days of starting to provide regularly scheduled services for a recipient, or sooner as
2.23 determined by the qualified professional, except for the personal care assistance choice
2.24 option under subdivision 19, paragraph (a), clause (4). For the initial evaluation, the qualified
2.25 professional shall evaluate the personal care assistance services for a recipient through direct
2.26 observation of a personal care assistant's work. The qualified professional may conduct
2.27 additional training and evaluation visits, based upon the needs of the recipient and the
2.28 personal care assistant's ability to meet those needs. Subsequent visits to evaluate the personal
2.29 care assistance services provided to a recipient do not require direct observation of each
2.30 personal care assistant's work and shall occur:

2.31 (1) at least every 90 days thereafter for the first year of a recipient's services;

3.1 (2) every 120 days after the first year of a recipient's service or whenever needed for
3.2 response to a recipient's request for increased supervision of the personal care assistance
3.3 staff; and

3.4 (3) after the first 180 days of a recipient's service, supervisory visits may alternate
3.5 between unscheduled phone or Internet technology and in-person visits, unless the in-person
3.6 visits are needed according to the care plan.

3.7 (d) Communication with the recipient is a part of the evaluation process of the personal
3.8 care assistance staff.

3.9 (e) At each supervisory visit, the qualified professional shall evaluate personal care
3.10 assistance services including the following information:

3.11 (1) satisfaction level of the recipient with personal care assistance services;

3.12 (2) review of the month-to-month plan for use of personal care assistance services;

3.13 (3) review of documentation of personal care assistance services provided;

3.14 (4) whether the personal care assistance services are meeting the goals of the service as
3.15 stated in the personal care assistance care plan and service plan;

3.16 (5) a written record of the results of the evaluation and actions taken to correct any
3.17 deficiencies in the work of a personal care assistant; and

3.18 (6) revision of the personal care assistance care plan as necessary in consultation with
3.19 the recipient or responsible party, to meet the needs of the recipient.

3.20 (f) The qualified professional shall complete the required documentation in the agency
3.21 recipient and employee files and the recipient's home, including the following documentation:

3.22 (1) the personal care assistance care plan based on the service plan and individualized
3.23 needs of the recipient;

3.24 (2) a month-to-month plan for use of personal care assistance services;

3.25 (3) changes in need of the recipient requiring a change to the level of service and the
3.26 personal care assistance care plan;

3.27 (4) evaluation results of supervision visits and identified issues with personal care
3.28 assistance staff with actions taken;

3.29 (5) all communication with the recipient and personal care assistance staff; and

3.30 (6) hands-on training or individualized training for the care of the recipient.

4.1 (g) The documentation in paragraph (f) must be done on agency templates.

4.2 (h) The services that are not eligible for payment as qualified professional services
4.3 include:

4.4 (1) direct professional nursing tasks that could be assessed and authorized as skilled
4.5 nursing tasks;

4.6 (2) agency administrative activities;

4.7 (3) training other than the individualized training required to provide care for a recipient;
4.8 and

4.9 (4) any other activity that is not described in this section.

4.10 (i) The qualified professional must notify the commissioner on a form prescribed by the
4.11 commissioner within 30 days of when a qualified professional is no longer employed by or
4.12 otherwise affiliated with the personal care assistance agency for whom the qualified
4.13 professional previously provided qualified professional services.

4.14 Sec. 4. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES;**
4.15 **NONEMERGENCY MEDICAL TRANSPORTATION REPORTING.**

4.16 By August 1, 2022, the commissioner of human services must report to the chairs and
4.17 ranking minority members of the legislative committees with jurisdiction over health and
4.18 human services. The report must include the commissioner's findings regarding the impact
4.19 of individual driver enrollment under Minnesota Statutes, section 256B.0625, subdivision
4.20 17, paragraph (c), on the program integrity of the provision of nonemergency medical
4.21 transportation services and the availability of drivers.

4.22 Sec. 5. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; HOME**
4.23 **CARE SERVICES PAYMENT REFORM PROPOSAL.**

4.24 By August 1, 2022, the commissioner of human services must submit to the chairs and
4.25 ranking minority members of the legislative committees with jurisdiction over human
4.26 services finance and policy a proposal to adopt a budget-neutral prospective payment system
4.27 for nursing services and home health services under Minnesota Statutes, sections 256B.0625,
4.28 subdivision 6a, and 256B.0653, and home care nursing services under Minnesota Statutes,
4.29 sections 256B.0625, subdivision 7, and 256B.0624, modeled on the Medicare fee-for-service
4.30 home health prospective payment system. The commissioner must include in the proposal
4.31 a case mix adjusted episodic rate, including services, therapies and supplies, minimum visits
4.32 required for an episodic rate, consolidated billing requirements, outlier payments,

- 5.1 low-utilization payments, and other criteria at the commissioner's discretion. In addition to
- 5.2 the budget-neutral payment reform proposal, the commissioner must submit a proposed
- 5.3 mechanism for updating the payment rates to reflect inflation in health care costs.