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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1395

03/11/2013 Authored by Dehn, R.; Clark and Huntley

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; removing residency ratio restrictions for home and
1.3 community-based services waiver and general assistance recipients; amending
1.4 Minnesota Statutes 2012, sections 256B.492; 256D.44, subdivision 5.

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

1.6 Section 1. Minnesota Statutes 2012, section 256B.492, is amended to read:

1.7 256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE
1.8 WITH DISABILITIES.

1.9 (a) Individuals receiving services under a home and community-based waiver under
1.10 section 256B.092 or 256B.49 may receive services in the following settings:

- 1.11 (1) an individual's own home or family home;
1.12 (2) a licensed adult foster care setting of up to five people; and
1.13 (3) community living settings as defined in section 256B.49, subdivision 23, where
1.14 individuals with disabilities may reside in all of the units in a building of four or fewer
1.15 units, and no more than the greater of four or 25 percent of the units in a multifamily
1.16 building of more than four units.

1.17 (b) The settings in paragraph (a) must not:

- 1.18 (1) be located in a building that is a publicly or privately operated facility that
1.19 provides institutional treatment or custodial care;
1.20 (2) be located in a building on the grounds of or adjacent to a public or private
1.21 institution;
1.22 (3) be a housing complex designed expressly around an individual's diagnosis or
1.23 disability;

2.1 (4) be segregated based on a disability, either physically or because of setting
2.2 characteristics, from the larger community; and

2.3 (5) have the qualities of an institution which include, but are not limited to:
2.4 regimented meal and sleep times, limitations on visitors, and lack of privacy. Restrictions
2.5 agreed to and documented in the person's individual service plan shall not result in a
2.6 residence having the qualities of an institution as long as the restrictions for the person are
2.7 not imposed upon others in the same residence and are the least restrictive alternative,
2.8 imposed for the shortest possible time to meet the person's needs.

2.9 (c) The provisions of paragraphs (a) and (b) do not apply to any setting in which
2.10 individuals receive services under a home and community-based waiver as of July 1,
2.11 2012, and the setting does not meet the criteria of this section.

2.12 (d) Notwithstanding paragraph (c), a program in Hennepin County established as
2.13 part of a Hennepin County demonstration project is qualified for the exception allowed
2.14 under paragraph (c).

2.15 (e) The commissioner shall submit an amendment to the waiver plan no later than
2.16 December 31, 2012.

2.17 Sec. 2. Minnesota Statutes 2012, section 256D.44, subdivision 5, is amended to read:

2.18 Subd. 5. **Special needs.** In addition to the state standards of assistance established in
2.19 subdivisions 1 to 4, payments are allowed for the following special needs of recipients of
2.20 Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
2.21 center, or a group residential housing facility.

2.22 (a) The county agency shall pay a monthly allowance for medically prescribed
2.23 diets if the cost of those additional dietary needs cannot be met through some other
2.24 maintenance benefit. The need for special diets or dietary items must be prescribed by
2.25 a licensed physician. Costs for special diets shall be determined as percentages of the
2.26 allotment for a one-person household under the thrifty food plan as defined by the United
2.27 States Department of Agriculture. The types of diets and the percentages of the thrifty
2.28 food plan that are covered are as follows:

2.29 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

2.30 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent
2.31 of thrifty food plan;

2.32 (3) controlled protein diet, less than 40 grams and requires special products, 125
2.33 percent of thrifty food plan;

2.34 (4) low cholesterol diet, 25 percent of thrifty food plan;

2.35 (5) high residue diet, 20 percent of thrifty food plan;

3.1 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

3.2 (7) gluten-free diet, 25 percent of thrifty food plan;

3.3 (8) lactose-free diet, 25 percent of thrifty food plan;

3.4 (9) antidumping diet, 15 percent of thrifty food plan;

3.5 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

3.6 (11) ketogenic diet, 25 percent of thrifty food plan.

3.7 (b) Payment for nonrecurring special needs must be allowed for necessary home
3.8 repairs or necessary repairs or replacement of household furniture and appliances using
3.9 the payment standard of the AFDC program in effect on July 16, 1996, for these expenses,
3.10 as long as other funding sources are not available.

3.11 (c) A fee for guardian or conservator service is allowed at a reasonable rate
3.12 negotiated by the county or approved by the court. This rate shall not exceed five percent
3.13 of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the
3.14 guardian or conservator is a member of the county agency staff, no fee is allowed.

3.15 (d) The county agency shall continue to pay a monthly allowance of \$68 for
3.16 restaurant meals for a person who was receiving a restaurant meal allowance on June 1,
3.17 1990, and who eats two or more meals in a restaurant daily. The allowance must continue
3.18 until the person has not received Minnesota supplemental aid for one full calendar month
3.19 or until the person's living arrangement changes and the person no longer meets the criteria
3.20 for the restaurant meal allowance, whichever occurs first.

3.21 (e) A fee of ten percent of the recipient's gross income or \$25, whichever is less,
3.22 is allowed for representative payee services provided by an agency that meets the
3.23 requirements under SSI regulations to charge a fee for representative payee services. This
3.24 special need is available to all recipients of Minnesota supplemental aid regardless of
3.25 their living arrangement.

3.26 (f)(1) Notwithstanding the language in this subdivision, an amount equal to the
3.27 maximum allotment authorized by the federal Food Stamp Program for a single individual
3.28 which is in effect on the first day of July of each year will be added to the standards of
3.29 assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify
3.30 as shelter needy and are: (i) relocating from an institution, or an adult mental health
3.31 residential treatment program under section 256B.0622; (ii) eligible for the self-directed
3.32 supports option as defined under section 256B.0657, subdivision 2; or (iii) home and
3.33 community-based waiver recipients living in their own home or rented or leased apartment
3.34 which is not owned, operated, or controlled by a provider of service not related by blood
3.35 or marriage, unless allowed under paragraph (g).

4.1 (2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the
4.2 shelter needy benefit under this paragraph is considered a household of one. An eligible
4.3 individual who receives this benefit prior to age 65 may continue to receive the benefit
4.4 after the age of 65.

4.5 (3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that
4.6 exceed 40 percent of the assistance unit's gross income before the application of this
4.7 special needs standard. "Gross income" for the purposes of this section is the applicant's or
4.8 recipient's income as defined in section 256D.35, subdivision 10, or the standard specified
4.9 in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or
4.10 state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be
4.11 considered shelter needy for purposes of this paragraph.

4.12 (g) Notwithstanding this subdivision, to access housing and services as provided
4.13 in paragraph (f), the recipient may choose housing that may be owned, operated, or
4.14 controlled by the recipient's service provider. ~~In a multifamily building of more than four
4.15 units, the maximum number of units that may be used by recipients of this program shall
4.16 be the greater of four units or 25 percent of the units in the building. In multifamily
4.17 buildings of four or fewer units, all of the units may be used by recipients of this program.~~

4.18 When housing is controlled by the service provider, the individual may choose the
4.19 individual's own service provider as provided in section 256B.49, subdivision 23, clause
4.20 (3). When the housing is controlled by the service provider, the service provider shall
4.21 implement a plan with the recipient to transition the lease to the recipient's name. Within
4.22 two years of signing the initial lease, the service provider shall transfer the lease entered
4.23 into under this subdivision to the recipient. In the event the landlord denies this transfer,
4.24 the commissioner may approve an exception within sufficient time to ensure the continued
4.25 occupancy by the recipient. This paragraph expires June 30, 2016.