

**9525.1870 PROVIDER CONTRACTS AND SUBCONTRACTS.**

Subpart 1. **Contracts.** To receive medical assistance reimbursement for home and community-based services, the provider must have a contract developed with the host county. In addition, the contract must contain the information in items A to F and subpart 2:

- A. maximum and minimum number of persons to be served;
  - B. description of how the services will benefit the persons in attaining the goals in the persons' individual service plans;
  - C. description of how the benefits of the services will be measured;
  - D. an agreement to comply with parts 9525.1800 to 9525.1930;
  - E. description of ongoing training to be provided under part 9525.1850, item E;
- and

F. other provisions the county board determines are needed to ensure the county's ability to comply with part 9525.1900.

Subp. 2. **Required provision.** Each contract and subcontract must contain the following provision. If any contract does not contain the following provision, the provision shall be considered an implied provision of the contract.

"The provider acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as a third-party beneficiary, is an affected party under this contract. The provider specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or sue the provider for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance, of all or any part of the contract between the county board and the provider. The provider specifically acknowledges that the county board and the Minnesota Department of Human Services are entitled to and may recover from the provider reasonable attorney's fees and costs and disbursements associated with any action taken under this paragraph that is successfully maintained. This provision shall not be construed to limit the rights of any party to the contract or any other third party beneficiary, nor shall it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity."

Subp. 3. **Subcontracts.** If the provider subcontracts with another contractor the provider shall:

- A. have written permission from the host county to subcontract;
- B. ensure that the subcontract meets all the requirements of subpart 1;
- C. ensure that the subcontractor meets the requirements in part 9525.1850; and

D. ensure that the subcontractor performs fully the terms of the subcontract.

Subp. 4. **Noncompliance.** If the provider or subcontractor fails to comply with the contract, the county board may seek any available legal remedy.

The county board shall notify the commissioner in writing within 30 days when the county board has reasonable grounds to believe that a contract required under this part has been breached in a material manner or that a provider or subcontractor has taken any action or failed to take any action that constitutes anticipatory breach of the contract. The county board may allow the provider or subcontractor a reasonable amount of time to cure the breach or anticipatory breach. The county board shall notify the commissioner in writing within ten working days if the provider or subcontractor takes any action or fails to take any action in response to the opportunity to cure. In the notice, the county board shall inform the commissioner of the action the county board intends to take.

**Statutory Authority:** *MS s 256B.092; 256B.501; 256B.502; 256B.503*

**History:** *10 SR 838; 16 SR 2238; L 2003 1Sp14 art 11 s 11*

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