

## CHAPTER 252

SERVICES FOR PERSON WITH  
MENTAL RETARDATION

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**252.025 STATE HOSPITALS FOR PERSONS WITH MENTAL RETARDATION.**

Subd. 1. [Repealed, 1Sp2003 c 14 art 6 s 68]

Subd. 2. [Repealed, 1Sp2003 c 14 art 6 s 68]

Subd. 4. [Repealed, 1Sp2003 c 14 art 6 s 68]

Subd. 5. [Repealed, 1Sp2003 c 14 art 6 s 68]

Subd. 6. [Repealed, 1Sp2003 c 14 art 6 s 68]

Subd. 7. **Minnesota extended treatment options.** The commissioner shall develop by July 1, 1997, the Minnesota extended treatment options to serve Minnesotans who have mental retardation and exhibit severe behaviors which present a risk to public safety. This program must provide specialized residential services in Cambridge and an array of community support services statewide.

**History:** 1Sp2003 c 14 art 6 s 37

**252.032** [Repealed, 1Sp2003 c 14 art 6 s 68]

**252.06 SHERIFF TO TRANSPORT PERSONS.**

It shall be the duty of the sheriff of any county, upon the request of the commissioner of human services, to take charge of, transport, and deliver any person who has been committed by the district court of any county to the care and custody of the commissioner of human services to a state-operated services facility as may be designated by the commissioner of human services.

**History:** 1Sp2003 c 14 art 6 s 38

**252.10** [Repealed, 1Sp2003 c 14 art 6 s 68]

**252.21 COUNTY BOARDS MAY MAKE GRANTS FOR DEVELOPMENTAL ACHIEVEMENT CENTER SERVICES FOR CHILDREN WITH MENTAL RETARDATION OR RELATED CONDITIONS.**

In order to assist county boards in carrying out responsibilities for the provision of daytime developmental achievement center services for eligible children, the county board or boards are hereby authorized to make grants, within the limits of the money appropriated, to developmental achievement centers for services to children with mental retardation or related conditions. In order to fulfill its responsibilities to children with mental retardation or related conditions as required by sections 125A.03 to 125A.48, and 125A.65, a county board may, beginning January 1, 1983, contract with developmental achievement centers or other providers.

**History:** 1Sp2003 c 14 art 11 s 11

**252.24 DUTIES OF COUNTY BOARDS.**

[For text of subs 1 to 3, see M.S.2002]

Subd. 4. **Fees.** The county board may, with the approval of the commissioner, establish a schedule of fees for daytime developmental achievement services. No child,

or family of a child, with mental retardation or a related condition shall be denied daytime developmental achievement services because of an inability to pay such a fee.

*[For text of subd 5, see M.S.2002]*

**History:** *1Sp2003 c 14 art 11 s 11*

**252.27 PARENTAL CONTRIBUTION FOR THE COST OF CHILDREN'S SERVICES.**

*[For text of subs 1 to 2, see M.S.2002]*

Subd. 2a. **Contribution amount.** (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute monthly to the cost of services, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.67 or through title IV-E of the Social Security Act.

(b) For households with adjusted gross income equal to or greater than 100 percent of federal poverty guidelines, the parental contribution shall be computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents:

(1) if the adjusted gross income is equal to or greater than 100 percent of federal poverty guidelines and less than 175 percent of federal poverty guidelines, the parental contribution is \$4 per month;

(2) if the adjusted gross income is equal to or greater than 175 percent of federal poverty guidelines and less than or equal to 375 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at one percent of adjusted gross income at 175 percent of federal poverty guidelines and increases to 7.5 percent of adjusted gross income for those with adjusted gross income up to 375 percent of federal poverty guidelines;

(3) if the adjusted gross income is greater than 375 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be 7.5 percent of adjusted gross income;

(4) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than 975 percent of federal poverty guidelines, the parental contribution shall be ten percent of adjusted gross income; and

(5) if the adjusted gross income is equal to or greater than 975 percent of federal poverty guidelines, the parental contribution shall be 12.5 percent of adjusted gross income.

If the child lives with the parent, the annual adjusted gross income is reduced by \$2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents under age 21, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services.

Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a). An amount equal to the annual court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income of the parent making the payment prior to calculating the parental contribution under paragraph (b).

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, "insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

(i) The contribution under paragraph (b) shall be reduced by \$300 per fiscal year if, in the 12 months prior to July 1:

- (1) the parent applied for insurance for the child;
- (2) the insurer denied insurance;
- (3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal; and
- (4) as a result of the dispute, the insurer reversed its decision and granted insurance.

For purposes of this section, "insurance" has the meaning given in paragraph (h).

A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including, but not limited to, the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.

*[For text of subs 2b to 6, see M.S.2002]*

**History:** 1Sp2003 c 14 art 6 s 39

## 252.282 ICF/MR LOCAL SYSTEM NEEDS PLANNING.

*[For text of subs 1 to 3, see M.S.2002]*

Subd. 4. **Statewide advisory committee.** (a) The commissioner shall appoint a five-member statewide advisory committee. The advisory committee shall include representatives of providers and counties and the commissioner or the commissioner's designee.

(b) The criteria for ranking proposals, already developed in 1997 by a task force authorized by the legislature, shall be adopted and incorporated into the decision-making process. Specific guidelines, including:

(1) time frame for submission of requests;

(2) the funds appropriated by the legislature for the purposes outlined in section 256B.5013, subdivisions 2 and 3; and

(3) state policy directions for the provision of services to persons with developmental disabilities, shall be established and announced through the State Register, and all requests shall be considered in comparison to each other and the ranking criteria. The advisory committee shall review and recommend requests to the commissioner for approval of facility rate adjustments to address closures, downsizings, or relocations. The committee shall ensure that:

(1) applications are in compliance with applicable state and federal law and with the state plan;

(2) cost projections for the proposed service are within the fundings limits established by the legislative appropriation; and

(3) their recommendations are submitted to the commissioner.

*[For text of subd 5, see M.S.2002]*

**History:** 1Sp2003 c 14 art 3 s 59

#### **252.32 FAMILY SUPPORT PROGRAM.**

Subdivision 1. **Program established.** In accordance with state policy that all children are entitled to live in families that offer safe, nurturing, permanent relationships, and that public services be directed toward preventing the unnecessary separation of children from their families, and because many families who have children with disabilities have special needs and expenses that other families do not have, the commissioner of human services shall establish a program to assist families who have dependent children with disabilities living in their home. The program shall make support grants available to the families.

Subd. 1a. **Support grants.** (a) Provision of support grants must be limited to families who require support and whose dependents are under the age of 21 and who have been certified disabled under section 256B.055, subdivision 12, paragraphs (a), (b), (c), (d), and (e). Families who are receiving home and community-based waived services for persons with mental retardation or related conditions are not eligible for support grants.

Families whose annual adjusted gross income is \$60,000 or more are not eligible for support grants except in cases where extreme hardship is demonstrated. Beginning in state fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics Consumer Price Index (all urban) for that year.

(b) Support grants may be made available as monthly subsidy grants and lump sum grants.

(c) Support grants may be issued in the form of cash, voucher, and direct county payment to a vendor.

(d) Applications for the support grant shall be made by the legal guardian to the county social service agency. The application shall specify the needs of the families, the form of the grant requested by the families, and the items and services to be reimbursed.

Subd. 2. [Repealed, 1Sp2003 c 14 art 3 s 60]

Subd. 3. **Amount of support grant; use.** Support grant amounts shall be determined by the county social service agency. Services and items purchased with a support grant must:

(1) be over and above the normal costs of caring for the dependent if the dependent did not have a disability;

(2) be directly attributable to the dependent's disabling condition; and

(3) enable the family to delay or prevent the out-of-home placement of the dependent.

The design and delivery of services and items purchased under this section must suit the dependent's chronological age and be provided in the least restrictive environment possible, consistent with the needs identified in the individual service plan.

Items and services purchased with support grants must be those for which there are no other public or private funds available to the family. Fees assessed to parents for health or human services that are funded by federal, state, or county dollars are not reimbursable through this program.

In approving or denying applications, the county shall consider the following factors:

(1) the extent and areas of the functional limitations of the disabled child;

(2) the degree of need in the home environment for additional support; and

(3) the potential effectiveness of the grant to maintain and support the person in the family environment.

The maximum monthly grant amount shall be \$250 per eligible dependent, or \$3,000 per eligible dependent per state fiscal year, within the limits of available funds. The county social service agency may consider the dependent's supplemental security income in determining the amount of the support grant.

Any adjustments to their monthly grant amount must be based on the needs of the family and funding availability.

*[For text of subds 3a and 3b, see M.S.2002]*

**Subd. 3c. County board responsibilities.** County boards receiving funds under this section shall:

(1) submit a plan to the department for the management of the family support grant program. The plan must include the projected number of families the county will serve and policies and procedures for:

(i) identifying potential families for the program;

(ii) grant distribution;

(iii) waiting list procedures; and

(iv) prioritization of families to receive grants;

(2) determine the eligibility of all persons proposed for program participation;

(3) approve a plan for items and services to be reimbursed and inform families of the county's approval decision;

(4) issue support grants directly to, or on behalf of, eligible families;

(5) inform recipients of their right to appeal under subdivision 3e;

(6) submit quarterly financial reports under subdivision 3b and indicate the annual grant level for each family, the families denied grants, and the families eligible but waiting for funding; and

(7) coordinate services with other programs offered by the county.

*[For text of subds 3d and 5, see M.S.2002]*

**History:** 1Sp2003 c 14 art 3 s 5-8; art 11 s 11

## 252.41 DEFINITIONS.

*[For text of subds 1 and 2, see M.S.2002]*

**Subd. 3. Day training and habilitation services for adults with mental retardation, related conditions.** "Day training and habilitation services for adults with mental retardation and related conditions" means services that:

(1) include supervision, training, assistance, and supported employment, work-related activities, or other community-integrated activities designed and implemented

in accordance with the individual service and individual habilitation plans required under Minnesota Rules, parts 9525.0015 to 9525.0165, to help an adult reach and maintain the highest possible level of independence, productivity, and integration into the community; and

(2) are provided under contract with the county where the services are delivered by a vendor licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2, to provide day training and habilitation services.

Day training and habilitation services reimbursable under this section do not include special education and related services as defined in the Education of the Handicapped Act, United States Code, title 20, chapter 33, section 1401, clauses (6) and (17), or vocational services funded under section 110 of the Rehabilitation Act of 1973, United States Code, title 29, section 720, as amended.

*[For text of subs 4 to 9, see M.S.2002]*

**History:** *1Sp2003 c 14 art 3 s 9*

### **252.431 SUPPORTED EMPLOYMENT SERVICES; DEPARTMENTAL DUTIES; COORDINATION.**

The commissioners of economic security, human services, and education shall ensure that supported employment services provided as part of a comprehensive service system will:

(1) provide the necessary supports to assist persons with severe disabilities to obtain and maintain employment in normalized work settings available to the general work force that:

(i) maximize community and social integration; and  
(ii) provide job opportunities that meet the individual's career potential and interests;

(2) allow persons with severe disabilities to actively participate in the planning and delivery of community-based employment services at the individual, local, and state level; and

(3) be coordinated among the Departments of Human Services, Economic Security, and Education to:

(i) promote the most efficient and effective funding;  
(ii) avoid duplication of services; and  
(iii) improve access and transition to employability services.

The commissioners of economic security, human services, and education shall report to the legislature by January 1993 on the steps taken to implement this section.

**History:** *2003 c 130 s 12*

### **252.44 COUNTY BOARD RESPONSIBILITIES.**

(a) When the need for day training and habilitation services in a county has been determined under section 252.28, the board of commissioners for that county shall:

(1) authorize the delivery of services according to the individual service and habilitation plans required as part of the county's provision of case management services under Minnesota Rules, parts 9525.0015 to 9525.0165. For calendar years for which section 252.46, subdivisions 2 to 10, apply, the county board shall not authorize a change in service days from the number of days authorized for the previous calendar year unless there is documentation for the change in the individual service plan. An increase in service days must also be supported by documentation that the goals and objectives assigned to the vendor cannot be met more economically and effectively by other available community services and that without the additional days of service the individual service plan could not be implemented in a manner consistent with the service principles in section 252.42;

(2) contract with licensed vendors, as specified in paragraph (b), under sections 256E.12 and 256B.092 and rules adopted under those sections;

- (3) ensure that transportation is provided or arranged by the vendor in the most efficient and reasonable way possible;
- (4) set payment rates under section 252.46;
- (5) monitor and evaluate the cost and effectiveness of the services; and
- (6) reimburse vendors for the provision of authorized services according to the rates, procedures, and regulations governing reimbursement.

(b) With all vendors except regional centers, the contract must include the approved payment rates, the projected budget for the contract period, and any actual expenditures of previous and current contract periods. With all vendors, including regional centers, the contract must also include the amount, availability, and components of day training and habilitation services to be provided, the performance standards governing service provision and evaluation, and the time period in which the contract is effective.

**History:** *1Sp2003 c 14 art 11 s 11*

#### 252.46 PAYMENT RATES.

Subdivision 1. **Rates.** (a) Payment rates to vendors, except regional centers, for county-funded day training and habilitation services and transportation provided to persons receiving day training and habilitation services established by a county board are governed by subdivisions 2 to 19. The commissioner shall approve the following three payment rates for services provided by a vendor:

- (1) a full-day service rate for persons who receive at least six service hours a day, including the time it takes to transport the person to and from the service site;
- (2) a partial-day service rate that must not exceed 75 percent of the full-day service rate for persons who receive less than a full day of service; and
- (3) a transportation rate for providing, or arranging and paying for, transportation of a person to and from the person's residence to the service site.

(b) Notwithstanding any law or rule to the contrary, the commissioner may authorize county participation in a voluntary individualized payment rate structure for day training and habilitation services to allow a county the flexibility to change, after consulting with providers, from a site-based payment rate structure to an individual payment rate structure for the providers of day training and habilitation services in the county. The commissioner shall seek input from providers and consumers in establishing procedures for determining the structure of voluntary individualized payment rates to ensure that there is no additional cost to the state or counties and that the rate structure is cost-neutral to providers of day training and habilitation services, on July 1, 2004, or on day one of the individual rate structure, whichever is later.

(c) Medical assistance rates for home and community-based service provided under section 256B.501, subdivision 4, by licensed vendors of day training and habilitation services must not be greater than the rates for the same services established by counties under sections 252.40 to 252.46. For very dependent persons with special needs the commissioner may approve an exception to the approved payment rate under section 256B.501, subdivision 4 or 8.

*[For text of subs 2 to 20, see M.S.2002]*

Subd. 21. **Managed care pilot.** (a) The commissioner may initiate a capitated risk-based managed care option for persons with mental retardation or related conditions, which includes capitated payments for day training and habilitation and alternative active treatment services. The commissioner may permit the health plan, care system, or other health plan network participating in this managed care option to negotiate day training and habilitation rates. The commissioner may grant a variance to any of the provisions in sections 252.40 to 252.46 and Minnesota Rules, parts 9525.1200 to 9525.1580, necessary to implement the pilot.

(b) The commissioner shall report to the legislature financial and program results along with a recommendation as to whether the pilot should be expanded.

**History:** *2003 c 47 s 1; 1Sp2003 c 14 art 3 s 10*