

252.50 STATE-OPERATED PROGRAMS.

Subdivision 1. **Community-based programs established.** The commissioner shall establish a system of state-operated, community-based programs for persons with developmental disabilities. For purposes of this section, "state-operated, community-based program" means a program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with developmental disabilities. Employees of the programs, except clients who work within and benefit from these treatment and habilitation programs, must be state employees under chapters 43A and 179A. Although any clients who work within and benefit from these treatment and habilitation programs are not employees under chapters 43A and 179A, the Department of Human Services may consider clients who work within and benefit from these programs employees for federal tax purposes. The establishment of state-operated, community-based programs must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with developmental disabilities. State-operated, community-based programs may include, but are not limited to, community group homes, foster care, supportive living services, day training and habilitation programs, and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and shall, within the limits of available appropriations, establish additional state-operated, community-based programs for persons with developmental disabilities. State-operated, community-based programs may accept admissions from regional treatment centers, from the person's own home, or from community programs. State-operated, community-based programs offering day program services may be provided for persons with developmental disabilities who are living in state-operated, community-based residential programs until July 1, 2000. No later than 1994, the commissioner, together with family members, counties, advocates, employee representatives, and other interested parties, shall begin planning so that by July 1, 2000, state-operated, community-based residential facilities will be in compliance with section 252.41, subdivision 9.

Subd. 2. **Authorization to build or purchase.** Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based programs. The commissioner must develop the state-operated community residential facilities authorized in the worksheets of the house of representatives appropriations and senate finance committees. If financing through state general obligation bonds is not available, the commissioner shall finance the purchase or construction of state-operated, community-based facilities with the Minnesota Housing Finance Agency. The commissioner shall make payments through the Department of Administration to the Minnesota Housing Finance Agency in

repayment of mortgage loans granted for the purposes of this section. Programs must be adaptable to the needs of persons with developmental disabilities and residential programs must be homelike.

Subd. 2a. **Use of enhanced waived services funds.** The commissioner may, within the limits of appropriations made available for this purpose, use enhanced waived services funds under the home and community-based waiver for persons with developmental disabilities to move to state-operated community programs and to private facilities.

Subd. 3. **Alternative funding mechanisms.** To the extent possible, the commissioner may amend the medical assistance home and community-based waiver and, as appropriate, develop special waiver procedures for targeting services to persons currently in state regional treatment centers.

Subd. 4. **Counties.** State-operated, community-based programs may be developed in conjunction with existing county responsibilities and authorities for persons with developmental disabilities. Assessment, placement, screening, case management responsibilities, and determination of need procedures must be consistent with county responsibilities established under law and rule. Counties may enter into shared service agreements with state-operated programs.

Subd. 5. **Location of programs.** (a) In determining the location of state-operated, community-based programs, the needs of the individual client shall be paramount. The commissioner shall also take into account:

(1) the personal preferences of the persons being served and their families as determined by Minnesota Rules, parts 9525.0015 to 9525.0165;

(2) location of the support services established by the individual service plans of the persons being served;

(3) the appropriate grouping of the persons served;

(4) the availability of qualified staff;

(5) the need for state-operated, community-based programs in the geographical region of the state; and

(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

(b) State-operated, community-based programs must be located according to section 252.28.

Subd. 6. **Rates for state-operated, community-based programs.** State-operated, community-based programs that meet the definition of a facility in Minnesota Rules, part 9553.0020, subpart 19, must be reimbursed consistent with Minnesota Rules, parts 9553.0010

to 9553.0080. State-operated, community-based programs that meet the definition of vendor in section 252.41, subdivision 9, must be reimbursed consistent with the rate setting procedures in sections 252.41 to 252.46 and Minnesota Rules, parts 9525.1200 to 9525.1330. This subdivision does not operate to abridge the statutorily created pension rights of state employees or collective bargaining agreements reached pursuant to chapter 179A.

Subd. 7. Crisis services. Within the limits of appropriations, state-operated regional technical assistance must be available in each region to assist counties, residential and day programming staff, and families to prevent or resolve crises that could lead to a change in placement. Crisis capacity must be provided on all regional treatment center campuses serving persons with developmental disabilities. In addition, crisis capacity may be developed to serve 16 persons in the Twin Cities metropolitan area. Technical assistance and consultation must also be available in each region to providers and counties. Staff must be available to provide:

- (1) individual assessments;
- (2) program plan development and implementation assistance;
- (3) analysis of service delivery problems; and
- (4) assistance with transition planning, including technical assistance to counties and providers to develop new services, site the new services, and assist with community acceptance.

Subd. 8. Spiritual care services. An organized means for providing spiritual care services and follow-up may be established as part of the comprehensive health care, congruent with the operational philosophy of the Department of Human Services, to residents of state-operated residential facilities and former residents discharged to private facilities, by persons certified for ministry in specialized settings.

Subd. 9. Evaluation of community-based services development. The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services, including state-operated programs for persons with developmental disabilities.

The commissioner shall evaluate the progress of the development and quality of community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1991, and January 31, 1993.

Subd. 10. Rules and licensure. Each state-operated residential and day habilitation service site shall be separately licensed and movement of residents between them shall be governed by applicable rules adopted by the commissioner.

Subd. 11. Agreement authorized. The agreement between the commissioner of human services, the state negotiator, and the bargaining representatives of state employees, dated March

10, 1989, concerning the Department of Human Services plan to restructure the regional treatment centers, is ratified, subject to approval by the Legislative Commission on Employee Relations.

History: *1988 c 689 art 2 s 109; 1989 c 282 art 6 s 21; 1991 c 292 art 6 s 41; 1992 c 513 art 9 s 22; 1Sp1993 c 1 art 7 s 34; 1997 c 7 art 1 s 100; 2005 c 56 s 1; 2008 c 223 s 1; 2009 c 79 art 8 s 11*