

256B.4905 HOME AND COMMUNITY-BASED SERVICES POLICY STATEMENT.

Subdivision 1. MS 2020 [Repealed, 1Sp2021 c 7 art 13 s 79]

Subd. 1a. **Informed choice.** For purposes of this section, "informed choice" means a choice that adults who have disabilities and, with support from their families or legal representatives, that children who have disabilities make regarding services and supports that best meets the adult's or children's needs and preferences. Before making an informed choice, an individual who has disabilities must be provided, in an accessible format and manner that meets the individual's needs, the tools, information, and opportunities that the individual requires to understand all of the individual's options.

Subd. 2. MS 2020 [Repealed, 1Sp2021 c 7 art 13 s 79]

Subd. 2a. **Informed choice policy.** (a) It is the policy of this state that all adults who have disabilities and, with support from their families or legal representatives, that all children who have disabilities:

- (1) may make informed choices to select and utilize disability services and supports; and
- (2) are offered an informed decision-making process sufficient to make informed choices.

(b) It is the policy of this state that disability waivers services support the presumption that adults who have disabilities and, with support from their families or legal representatives, all children who have disabilities may make informed choices; and that all adults who have disabilities and all families of children who have disabilities and are accessing waiver services under sections 256B.092 and 256B.49 are provided an informed decision-making process that satisfies the requirements of subdivision 3a.

Subd. 3. MS 2020 [Repealed, 1Sp2021 c 7 art 13 s 79]

Subd. 3a. **Informed decision making.** "Informed decision making" means a process that provides accessible, correct, and complete information to help an individual who is accessing waiver services under sections 256B.092 and 256B.49 make an informed choice. This information must be accessible and understandable to the individual so that the individual is able to demonstrate understanding of the options. Any written information provided in the process must be accessible and the process must be experiential whenever possible. The process must also consider and offer to the individual, in a person-centered manner, the following:

- (1) reasonable accommodations as needed or requested by the individual to fully participate in the informed decision-making process and acquire the information necessary to make an informed choice;
- (2) discussion of the individual's own preferences, abilities, goals, and objectives;
- (3) identification of the person's cultural needs and access to culturally responsive services and providers;
- (4) information about the benefits of inclusive and individualized services and supports;
- (5) presentation and discussion of all options with the person;
- (6) documentation, in a manner prescribed by the commissioner, of each option discussed;
- (7) exploration and development of new or other options;
- (8) facilitation of opportunities to visit alternative locations or to engage in experiences to understand how any service option might work for the person;

(9) opportunities to meet with other individuals with disabilities who live, work, and receive services different from the person's own services;

(10) development of a transition plan, when needed or requested by the person, to facilitate the choice to move from one service type or setting to another, and authorization of the services and supports necessary to effectuate the plan;

(11) identification of any barriers to assisting or implementing the person's informed choice and authorization of the services and supports necessary to overcome those barriers; and

(12) ample time and timely opportunity to consider available options before the individual makes a final choice or changes a choice.

Subd. 4. MS 2020 [Repealed, 1Sp2021 c 7 art 13 s 79]

Subd. 4a. **Informed choice in employment policy.** It is the policy of this state that working-age individuals who have disabilities:

(1) can work and achieve competitive integrated employment with appropriate services and supports, as needed;

(2) make informed choices about their postsecondary education, work, and career goals;

(3) will be offered the opportunity to make an informed choice, at least annually, to pursue postsecondary education or to work and earn a competitive wage; and

(4) will be offered benefits planning assistance and supports to understand available work incentive programs and to understand the impact of work on benefits.

Subd. 5. MS 2020 [Repealed, 1Sp2021 c 7 art 13 s 79]

Subd. 5a. **Employment first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all working-age Minnesotans with disabilities can work and achieve competitive integrated employment with appropriate services and supports, as needed; and

(2) each waiver recipient of working age be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to work and earn a competitive wage before being offered exclusively day services as defined in section 245D.03, subdivision 1, paragraph (c), clause (4), or successor provisions.

Subd. 6. MS 2020 [Repealed, 1Sp2021 c 7 art 13 s 79]

Subd. 7. **Informed choice in community living policy.** It is the policy of this state that all adults who have disabilities:

(1) can live in the communities of the individual's choosing with appropriate services and supports as needed; and

(2) have the right, at least annually, to make an informed decision-making process that can help them make an informed choice to live outside of a provider-controlled setting.

Subd. 8. **Independent living first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all adults who have disabilities can and want to live in the communities of the individual's choosing with services and supports, as needed; and

(2) each adult waiver recipient is offered, after an informed decision-making process and during a person-centered planning process, the opportunity to live as independently as possible, in a nonprovider-controlled setting, before the recipient is offered a provider-controlled setting. A provider-controlled setting includes customized living services provided in a single-family home or residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), or successor provisions, unless the residential supports and services are provided in a family adult foster care residence under a shared-living option as described in Laws 2013, chapter 108, article 7, section 62.

Subd. 9. **Informed choice in self-direction policy.** It is the policy of this state that adults who have disabilities and families of children who have disabilities:

(1) can direct the adult's or child's needed services and supports; and

(2) have the right to make an informed choice to self-direct the adult's or child's services and supports before being offered options that do not allow the adult or family to self-direct the adult's or child's services and supports.

Subd. 10. **Informed choice in self-direction implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) disability waivers under sections 256B.092 and 256B.49 support the presumption that adults who have disabilities and families of children who have disabilities can direct all of their services and supports, including self-directed funding options; and

(2) each waiver recipient is offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose self-directed services and supports, including self-directed funding options, before the recipient is offered services and supports that are not self-directed.

Subd. 11. **Informed choice in technology policy.** It is the policy of this state that all adults who have disabilities and children who have disabilities:

(1) can use assistive technology, remote supports, or a combination of both to enhance the adult's or child's independence and quality of life; and

(2) have the right, at least annually, to make an informed choice about the adult's or child's use of assistive technology and remote supports.

Subd. 12. **Informed choice and technology prioritization in implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) disability waivers under sections 256B.092 and 256B.49 support the presumption that all adults who have disabilities and children who have disabilities may use assistive technology, remote supports, or both to enhance the adult's or child's independence and quality of life; and

(2) each individual accessing waiver services is offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose assistive technology, remote support,

or both prior to the commissioner offering or reauthorizing services that utilize direct support staff to ensure equitable access.

History: *1Sp2020 c 2 art 3 s 1; 1Sp2021 c 7 art 13 s 31-41; 2023 c 61 art 1 s 21; 2024 c 108 art 1 s 17*