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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 3323

03/05/2018 Authored by Zerwas, Erickson, Newberger, Franson and Nornes
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; modifying state-operated services; amending Minnesota
1.3 Statutes 2016, section 246.54, subdivisions 1a, 1b, by adding subdivisions;
1.4 Minnesota Statutes 2017 Supplement, section 256.045, subdivision 3.

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

1.6 Section 1. Minnesota Statutes 2016, section 246.54, subdivision 1a, is amended to read:

1.7 Subd. 1a. **Anoka-Metro Regional Treatment Center.** (a) A county's payment of the
1.8 cost of care provided at Anoka-Metro Regional Treatment Center shall be according to the
1.9 following schedule:

1.10 (1) zero percent for the first 30 days;

1.11 (2) 20 percent for days 31 and over if the stay is determined to be clinically appropriate
1.12 for the client; and

1.13 (3) 100 percent for each day during the stay, including the day of admission, when the
1.14 facility determines that it is clinically appropriate for the client to be discharged, provided
1.15 (i) the discharge plan does not recommend a referral to the community competency
1.16 restoration program, and (ii) the facility meets the notice requirements under subdivision
1.17 1d.

1.18 (b) If payments received by the state under sections 246.50 to 246.53 exceed 80 percent
1.19 of the cost of care for days over 31 for clients who meet the criteria in paragraph (a), clause
1.20 (2), the county shall be responsible for paying the state only the remaining amount. The
1.21 county shall not be entitled to reimbursement from the client, the client's estate, or from the
1.22 client's relatives, except as provided in section 246.53.

2.1 Sec. 2. Minnesota Statutes 2016, section 246.54, subdivision 1b, is amended to read:

2.2 Subd. 1b. **Community behavioral health hospitals.** A county's payment of the cost of
 2.3 care provided at state-operated community-based behavioral health hospitals shall be
 2.4 according to the following schedule:

2.5 (1) 100 percent for each day during the stay, including the day of admission, when the
 2.6 facility determines that it is clinically appropriate for the client to be discharged, provided
 2.7 (i) the discharge plan does not recommend a referral to the community competency
 2.8 restoration program, and (ii) the facility meets the notice requirements under subdivision
 2.9 1d; and

2.10 (2) the county shall not be entitled to reimbursement from the client, the client's estate,
 2.11 or from the client's relatives, except as provided in section 246.53.

2.12 Sec. 3. Minnesota Statutes 2016, section 246.54, is amended by adding a subdivision to
 2.13 read:

2.14 Subd. 1d. **Notice requirements.** The facility shall send a notice and a preliminary
 2.15 discharge plan with the discharge date to the county and commissioner ten days before the
 2.16 discharge of a client. The commissioner and facility shall partner with the county to find
 2.17 appropriate placement for the client by the discharge date in the notice. If on or after the
 2.18 discharge date, the client is not discharged due to any delay caused by the facility, the county
 2.19 must not be charged for the cost of care.

2.20 Sec. 4. Minnesota Statutes 2016, section 246.54, is amended by adding a subdivision to
 2.21 read:

2.22 Subd. 3. **Wait list.** The commissioner shall share with the counties a comprehensive
 2.23 and continuously updated list of providers and facilities that counties can access in order
 2.24 to find timely and appropriate placement of clients who are discharged under subdivisions
 2.25 1a and 1b.

2.26 Sec. 5. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 3, is amended
 2.27 to read:

2.28 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

2.29 (1) any person applying for, receiving or having received public assistance, medical
 2.30 care, or a program of social services granted by the state agency or a county agency or the
 2.31 federal Food Stamp Act whose application for assistance is denied, not acted upon with

3.1 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
3.2 to have been incorrectly paid;

3.3 (2) any patient or relative aggrieved by an order of the commissioner under section
3.4 252.27;

3.5 (3) a party aggrieved by a ruling of a prepaid health plan;

3.6 (4) except as provided under chapter 245C, any individual or facility determined by a
3.7 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
3.8 they have exercised their right to administrative reconsideration under section 626.557;

3.9 (5) any person whose claim for foster care payment according to a placement of the
3.10 child resulting from a child protection assessment under section 626.556 is denied or not
3.11 acted upon with reasonable promptness, regardless of funding source;

3.12 (6) any person to whom a right of appeal according to this section is given by other
3.13 provision of law;

3.14 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
3.15 under section 256B.15;

3.16 (8) an applicant aggrieved by an adverse decision to an application or redetermination
3.17 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

3.18 (9) except as provided under chapter 245A, an individual or facility determined to have
3.19 maltreated a minor under section 626.556, after the individual or facility has exercised the
3.20 right to administrative reconsideration under section 626.556;

3.21 (10) except as provided under chapter 245C, an individual disqualified under sections
3.22 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
3.23 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
3.24 individual has committed an act or acts that meet the definition of any of the crimes listed
3.25 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
3.26 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment
3.27 determination under clause (4) or (9) and a disqualification under this clause in which the
3.28 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
3.29 a single fair hearing. In such cases, the scope of review by the human services judge shall
3.30 include both the maltreatment determination and the disqualification. The failure to exercise
3.31 the right to an administrative reconsideration shall not be a bar to a hearing under this section
3.32 if federal law provides an individual the right to a hearing to dispute a finding of
3.33 maltreatment;

4.1 (11) any person with an outstanding debt resulting from receipt of public assistance,
4.2 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the
4.3 Department of Human Services or a county agency. The scope of the appeal is the validity
4.4 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
4.5 the debt;

4.6 (12) a person issued a notice of service termination under section 245D.10, subdivision
4.7 3a, from residential supports and services as defined in section 245D.03, subdivision 1,
4.8 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

4.9 (13) an individual disability waiver recipient based on a denial of a request for a rate
4.10 exception under section 256B.4914; ~~or~~

4.11 (14) a person issued a notice of service termination under section 245A.11, subdivision
4.12 11, that is not otherwise subject to appeal under subdivision 4a; or

4.13 (15) a county disputes cost of care under section 246.54.

4.14 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
4.15 is the only administrative appeal to the final agency determination specifically, including
4.16 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
4.17 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
4.18 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
4.19 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
4.20 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
4.21 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A
4.22 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
4.23 available when there is no district court action pending. If such action is filed in district
4.24 court while an administrative review is pending that arises out of some or all of the events
4.25 or circumstances on which the appeal is based, the administrative review must be suspended
4.26 until the judicial actions are completed. If the district court proceedings are completed,
4.27 dismissed, or overturned, the matter may be considered in an administrative hearing.

4.28 (c) For purposes of this section, bargaining unit grievance procedures are not an
4.29 administrative appeal.

4.30 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
4.31 clause (5), shall be limited to the issue of whether the county is legally responsible for a
4.32 child's placement under court order or voluntary placement agreement and, if so, the correct
4.33 amount of foster care payment to be made on the child's behalf and shall not include review
4.34 of the propriety of the county's child protection determination or child placement decision.

5.1 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
5.2 whether the proposed termination of services is authorized under section 245D.10,
5.3 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
5.4 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,
5.5 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of
5.6 termination of services, the scope of the hearing shall also include whether the case
5.7 management provider has finalized arrangements for a residential facility, a program, or
5.8 services that will meet the assessed needs of the recipient by the effective date of the service
5.9 termination.

5.10 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
5.11 under contract with a county agency to provide social services is not a party and may not
5.12 request a hearing under this section, except if assisting a recipient as provided in subdivision
5.13 4.

5.14 (g) An applicant or recipient is not entitled to receive social services beyond the services
5.15 prescribed under chapter 256M or other social services the person is eligible for under state
5.16 law.

5.17 (h) The commissioner may summarily affirm the county or state agency's proposed
5.18 action without a hearing when the sole issue is an automatic change due to a change in state
5.19 or federal law.

5.20 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
5.21 appeal, an individual or organization specified in this section may contest the specified
5.22 action, decision, or final disposition before the state agency by submitting a written request
5.23 for a hearing to the state agency within 30 days after receiving written notice of the action,
5.24 decision, or final disposition, or within 90 days of such written notice if the applicant,
5.25 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision
5.26 13, why the request was not submitted within the 30-day time limit. The individual filing
5.27 the appeal has the burden of proving good cause by a preponderance of the evidence.