State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3397

02/12/2024 Authored by Edelson, Baker, Curran, Frederick and Backer
The bill was read for the first time and referred to the Committee on Human Services Policy
03/11/2024 Adoption of Report: Amended and re-referred to the Committee on Human Services Finance

A bill for an act

relating to behavioral health; modifying requirements for peer recovery support services and recovery peers; requiring the development of a tiered reimbursement rate structure for recovery peers; amending Minnesota Statutes 2022, sections 245F.08, subdivision 3; 254B.01, by adding subdivisions; Minnesota Statutes 2023 Supplement, sections 245G.07, subdivision 2; 245I.04, subdivision 19; 254B.05, subdivisions 1, 5; proposing coding for new law in Minnesota Statutes, chapter 254B.

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

Section 1. Minnesota Statutes 2022, section 245F.08, subdivision 3, is amended to read:

Subd. 3. **Peer recovery support services.** ~~(a) Peers in recovery serve as mentors or recovery-support partners for individuals in recovery, and may provide encouragement, self-disclosure of recovery experiences, transportation to appointments, assistance with finding resources that will help locate housing, job search resources, and assistance finding and participating in support groups.~~

~~(b)~~ Peer recovery support services ~~are provided by a recovery peer and must be supervised by the responsible staff person~~ must be provided according to sections 254B.05, subdivision 5, and 254B.052.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 2. Minnesota Statutes 2023 Supplement, section 245G.07, subdivision 2, is amended to read:

Subd. 2. **Additional treatment service.** A license holder may provide or arrange the following additional treatment service as a part of the client's individual treatment plan:

(1) relationship counseling provided by a qualified professional to help the client identify the impact of the client's substance use disorder on others and to help the client and persons in the client's support structure identify and change behaviors that contribute to the client's substance use disorder;

(2) therapeutic recreation to allow the client to participate in recreational activities without the use of mood-altering chemicals and to plan and select leisure activities that do not involve the inappropriate use of chemicals;

(3) stress management and physical well-being to help the client reach and maintain an appropriate level of health, physical fitness, and well-being;

(4) living skills development to help the client learn basic skills necessary for independent living;

(5) employment or educational services to help the client become financially independent;

(6) socialization skills development to help the client live and interact with others in a positive and productive manner;

(7) room, board, and supervision at the treatment site to provide the client with a safe and appropriate environment to gain and practice new skills; and

(8) peer recovery support services must be provided by ~~an individual in~~ a recovery peer qualified according to section 245I.04, subdivision 18. Peer recovery support services ~~include education; advocacy; mentoring through self-disclosure of personal recovery experiences; attending recovery and other support groups with a client; accompanying the client to appointments that support recovery; assistance accessing resources to obtain housing, employment, education, and advocacy services; and nonclinical recovery support to assist the transition from treatment into the recovery community~~ must be provided according to sections 254B.05, subdivision 5, and 254B.052.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 3. Minnesota Statutes 2023 Supplement, section 245I.04, subdivision 19, is amended to read:

Subd. 19. **Recovery peer scope of practice.** (a) A recovery peer, under the supervision of ~~an~~ a licensed alcohol and drug counselor or mental health professional who meets the qualifications under subdivision 2, must:

(1) provide individualized peer support and individual recovery planning to each client;

(2) promote a client's recovery goals, self-sufficiency, self-advocacy, and development of natural supports; and

(3) support a client's maintenance of skills that the client has learned from other services.

(b) A licensed alcohol and drug counselor or mental health professional providing supervision to a recovery peer must meet with the recovery peer face-to-face, either remotely or in person, at least once per month, in order to provide adequate supervision to the recovery peer. Supervision must include reviewing individual recovery plans, as defined in section 254B.01, subdivision 4e, for clients, and may include client updates, discussion of ethical considerations, and any other questions or issues relevant to peer recovery support services.

Sec. 4. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 4e. **Individual recovery plan.** "Individual recovery plan" means a person-centered outline of supports that an eligible vendor of peer recovery support services under section 254B.05, subdivision 1, must develop to respond to an individual's peer recovery support services needs and goals.

Sec. 5. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 8a. **Recovery peer.** "Recovery peer" means a person who is qualified according to section 245I.04, subdivision 18, to provide peer recovery support services within the scope of practice provided under section 245I.04, subdivision 19.

Sec. 6. Minnesota Statutes 2023 Supplement, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **Licensure or certification required.** (a) Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs that provide substance use disorder treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors.

(b) A licensed professional in private practice as defined in section 245G.01, subdivision 17, who meets the requirements of section 245G.11, subdivisions 1 and 4, is an eligible vendor of a comprehensive assessment and assessment summary provided according to section 245G.05, and treatment services provided according to sections 245G.06 and

245G.07, subdivision 1, paragraphs (a), clauses (1) to (5), and (b); and subdivision 2, clauses (1) to (6).

(c) A county is an eligible vendor for a comprehensive assessment and assessment summary when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 5, and completed according to the requirements of section 245G.05. A county is an eligible vendor of care coordination services when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 7, and provided according to the requirements of section 245G.07, subdivision 1, paragraph (a), clause (5). A county is an eligible vendor of peer recovery services when the services are provided by an individual who meets the requirements of section 245G.11, subdivision 8.

(d) A recovery community organization that meets the requirements of clauses (1) to (10) and meets ~~membership~~ certification or accreditation requirements of the ~~Association of Recovery Community Organizations~~ Alliance for Recovery Centered Organizations, the Council on Accreditation of Peer Recovery Support Services, or ~~a Minnesota statewide recovery community organization identified by the commissioner~~ the Minnesota Alliance of Recovery Community Organizations is an eligible vendor of peer recovery support services. Eligible vendors under this paragraph must:

(1) be nonprofit organizations under section 501(c)(3) of the Internal Revenue Code, be free from conflicting self-interests, and be autonomous in decision-making, program development, peer recovery support services provided, and advocacy efforts for the purpose of supporting the recovery community organization's mission;

(2) be led and governed by individuals in the recovery community, with more than 50 percent of the board of directors or advisory board members self-identifying as people in personal recovery from substance use disorders;

(3) ~~primarily focus on recovery from substance use disorders, with missions and visions that support this primary focus~~ have a mission statement and conduct corresponding activities indicating that the organization's primary purpose is to support recovery from substance use disorder;

(4) ~~be grassroots and reflective of and engaged with the community served~~ demonstrate ongoing community engagement with the identified primary region and population served by the organization, including individuals in recovery and their families, friends, and recovery allies;

(5) be accountable to the recovery community through priority-setting and participatory decision-making processes that promote the ~~involvement and~~ engagement of, and consultation with, people in recovery and their families, friends, and recovery allies;

(6) provide nonclinical peer recovery support services, including but not limited to recovery support groups, recovery coaching, telephone recovery support, skill-building ~~groups~~, and harm-reduction activities, and provide recovery public education and advocacy;

(7) have written policies that allow for and support opportunities for all paths toward recovery and refrain from excluding anyone based on their chosen recovery path, which may include but is not limited to harm reduction paths, faith-based paths, and nonfaith-based paths;

(8) ~~be purposeful in meeting the diverse~~ maintain organizational practices to meet the needs of Black, Indigenous, and people of color communities, ~~including~~ LGBTQ+ communities, and other underrepresented or marginalized communities. Organizational practices may include board and staff ~~development activities, organizational practices~~ training, service offerings, advocacy efforts, and culturally informed outreach and ~~service plans~~ services;

(9) ~~be stewards of~~ use recovery-friendly language in all media and written materials that is supportive of and promotes recovery across diverse geographical and cultural contexts and reduces stigma; and

(10) establish and maintain ~~an employee and volunteer~~ a publicly available recovery community organization code of ethics and ~~easily accessible~~ grievance policy and procedures ~~posted in physical spaces, on websites, or on program policies or forms~~.

(e) A recovery community ~~organizations~~ organization approved by the commissioner before June 30, 2023, ~~shall retain their designation as recovery community organizations~~ must meet the requirements under paragraph (d) by January 1, 2025, in order to be an eligible vendor of peer recovery support services.

(f) A recovery community organization that is aggrieved by an accreditation, certification, or membership determination and believes it meets the requirements under paragraph (d) may appeal the determination under section 256.045, subdivision 3, paragraph (a), clause (15), for reconsideration as an eligible vendor. If the human services judge determines that the recovery community organization meets the requirements under paragraph (d), the recovery community organization is an eligible vendor of peer recovery support services.

(g) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, are not eligible vendors. Programs that are not licensed as a residential or nonresidential substance use disorder treatment or withdrawal management program by the commissioner or by tribal government or do not meet the requirements of subdivisions 1a and 1b are not eligible vendors.

(h) Hospitals, federally qualified health centers, and rural health clinics are eligible vendors of a comprehensive assessment when the comprehensive assessment is completed according to section 245G.05 and by an individual who meets the criteria of an alcohol and drug counselor according to section 245G.11, subdivision 5. The alcohol and drug counselor must be individually enrolled with the commissioner and reported on the claim as the individual who provided the service.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2023 Supplement, section 254B.05, subdivision 5, is amended to read:

Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance use disorder services and service enhancements funded under this chapter.

(b) Eligible substance use disorder treatment services include:

(1) those licensed, as applicable, according to chapter 245G or applicable Tribal license and provided according to the following ASAM levels of care:

(i) ASAM level 0.5 early intervention services provided according to section 254B.19, subdivision 1, clause (1);

(ii) ASAM level 1.0 outpatient services provided according to section 254B.19, subdivision 1, clause (2);

(iii) ASAM level 2.1 intensive outpatient services provided according to section 254B.19, subdivision 1, clause (3);

(iv) ASAM level 2.5 partial hospitalization services provided according to section 254B.19, subdivision 1, clause (4);

(v) ASAM level 3.1 clinically managed low-intensity residential services provided according to section 254B.19, subdivision 1, clause (5);

(vi) ASAM level 3.3 clinically managed population-specific high-intensity residential services provided according to section 254B.19, subdivision 1, clause (6); and

(vii) ASAM level 3.5 clinically managed high-intensity residential services provided according to section 254B.19, subdivision 1, clause (7);

(2) comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05;

(3) treatment coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(4) peer recovery support services provided according to section 245G.07, subdivision 2, clause (8);

(5) withdrawal management services provided according to chapter 245F;

(6) hospital-based treatment services that are licensed according to sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

(7) adolescent treatment programs that are licensed as outpatient treatment programs according to sections 245G.01 to 245G.18 or as residential treatment programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or applicable tribal license;

(8) ASAM 3.5 clinically managed high-intensity residential services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide ASAM level of care 3.5 according to section 254B.19, subdivision 1, clause (7), and are provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

(9) room and board facilities that meet the requirements of subdivision 1a.

(c) The commissioner shall establish higher rates for programs that meet the requirements of paragraph (b) and one of the following additional requirements:

(1) programs that serve parents with their children if the program:

(i) provides on-site child care during the hours of treatment activity that:

(A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter 9503; or

(B) is licensed under chapter 245A and sections 245G.01 to 245G.19; or

(ii) arranges for off-site child care during hours of treatment activity at a facility that is licensed under chapter 245A as:

(A) a child care center under Minnesota Rules, chapter 9503; or

(B) a family child care home under Minnesota Rules, chapter 9502;

(2) culturally specific or culturally responsive programs as defined in section 254B.01, subdivision 4a;

(3) disability responsive programs as defined in section 254B.01, subdivision 4b;

(4) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; or

(5) programs that offer services to individuals with co-occurring mental health and substance use disorder problems if:

(i) the program meets the co-occurring requirements in section 245G.20;

(ii) 25 percent of the counseling staff are licensed mental health professionals under section 245I.04, subdivision 2, or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and mental health professional under section 245I.04, subdivision 2, except that no more than 50 percent of the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance use disorder and the interaction between the two; and

(vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder training annually.

(d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at

the substance use disorder facility of the child care provider's current licensure to provide child care services.

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) ~~Subject to federal approval,~~ Substance use disorder services that are otherwise covered as direct face-to-face services may be provided via telehealth as defined in section 256B.0625, subdivision 3b. The use of telehealth to deliver services must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services.

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

(h) Payment for outpatient substance use disorder services that are licensed according to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless prior authorization of a greater number of hours is obtained from the commissioner.

(i) Payment for substance use disorder services under this section must start from the day of service initiation, when the comprehensive assessment is completed within the required timelines.

(j) Eligible vendors of peer recovery support services must:

(1) submit to a review by the commissioner of up to 15 percent of all medical assistance and behavioral health fund claims to determine the medical necessity of peer recovery support services for entities billing for peer recovery support services individually and not receiving a daily rate;

(2) limit an individual client to 14 hours per week for peer recovery support services from an individual provider of peer recovery support services. Additional service hours may be authorized at the commissioner's discretion; and

(3) require authorization for more than 728 hours of peer recovery support services per calendar year for an individual client receiving services.

(k) Peer recovery support services not provided in accordance with section 254B.052 are subject to monetary recovery under section 256B.064 as money improperly paid.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 8. **[254B.052] PEER RECOVERY SUPPORT SERVICES REQUIREMENTS.**

Subdivision 1. **Peer recovery support services; service requirements.** (a) Peer recovery support services are face-to-face interactions between a recovery peer and a client in which specific goals identified in an individual recovery plan, treatment plan, or stabilization plan are discussed and addressed. Peer recovery support services are provided to promote a client's recovery goals, self-sufficiency, self-advocacy, and development of natural supports, and to support maintenance of a client's recovery.

(b) Peer recovery support services must be provided according to an individual recovery plan if provided by a recovery community organization or county, a treatment plan if provided in a substance use disorder treatment program under chapter 245G, or a stabilization plan if provided by a withdrawal management program under chapter 245F.

(c) A client receiving peer recovery support services must participate in the services voluntarily. Any program that incorporates peer recovery support services must provide written notice to the client that peer recovery support services will be provided.

(d) Peer recovery support services may include limited transportation or group activities directly related to a client's individual recovery plan. Peer recovery support services may not be provided to a client residing with or employed by a recovery peer from whom they receive services.

Subd. 2. **Individual recovery plan.** (a) The individual recovery plan must be developed with the client, and must be completed within the first three sessions with a recovery peer. A recovery peer may bill for up to two hours prior to the client's completion of a comprehensive assessment.

(b) The recovery peer must document how each session ties into the client's individual recovery plan. The individual recovery plan must be updated as needed. The individual recovery plan must include:

(1) the client's name;

(2) the recovery peer's name;

(3) the name of the recovery peer's supervisor;

(4) the client's recovery goals;

(5) the client's resources and assets to support recovery;

(6) activities that may support meeting identified goals; and

(7) the planned frequency of peer recovery support services sessions between the recovery peer and the client.

Subd. 3. **Eligible vendor documentation requirements.** An eligible vendor of peer recovery support services under section 254B.05, subdivision 1, must keep a secure file for each individual receiving medical assistance peer recovery support services. The file must include, at a minimum:

(1) the client's comprehensive assessment under section 245G.05 that led to the client's referral for peer recovery support services;

(2) the client's individual recovery plan; and

(3) documentation of each billed peer recovery support services interaction between the client and the recovery peer, including the date, start and end time with a.m. and p.m. designations, the client's response, and the name of the recovery peer who provided the service.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 9. **RECOVERY PEERS; TIERED REIMBURSEMENT RATES.**

(a) The commissioner of human services shall develop and implement a tiered reimbursement rate structure for recovery peers who meet the qualifications under Minnesota Statutes, section 245I.04, subdivision 18. The rate structure must include two rate tiers, as follows:

(1) tier one, providing peer recovery support services on a one-on-one basis; and

(2) tier two, providing peer recovery support services for a group of up to four clients, if appropriate based on each client's individual recovery plan.

(b) The commissioner shall implement the tiered reimbursement rate structure no later than September 1, 2024.

Sec. 10. **PEER RECOVERY SUPPORT SERVICES AND RECOVERY COMMUNITY ORGANIZATION WORKING GROUP.**

Subdivision 1. **Establishment; duties.** The commissioner of human services must convene a working group to develop recommendations on:

(1) peer recovery support services billing rates and practices, including a billing model for providing services to groups larger than four clients at one time;

(2) acceptable activities to bill for peer recovery services, including group activities and transportation related to individual recovery plans;

(3) ways to address authorization for additional service hours and a review of the amount of peer recovery support services clients may need;

(4) improving recovery peer supervision and reimbursement for the costs of providing recovery peer supervision for provider organizations;

(5) certification or other regulation of recovery community organizations and recovery peers; and

(6) policy and statutory changes to improve access to peer recovery support services and increase oversight of provider organizations.

Subd. 2. **Membership; meetings.** (a) Members of the working group must include, but not be limited to:

(1) a representative of the Alliance for Recovery Centered Organizations;

(2) a representative of the Minnesota Alliance of Recovery Community Organizations;

(3) a representative of the Council on Accreditation of Peer Recovery Support Services;

(4) a representative of the Minnesota Association of Resources for Recovery and Chemical Health;

(5) representatives from at least three recovery community organizations who are eligible vendors of peer recovery support services under Minnesota Statutes, section 254B.05, subdivision 1;

(6) at least two currently practicing recovery peers qualified under Minnesota Statutes, section 245I.04, subdivision 18;

(7) at least two individuals currently providing supervision for recovery peers according to Minnesota Statutes, section 245I.04, subdivision 19;

(8) the commissioner of human services or a designee;

(9) a representative of county social services agencies; and

(10) a representative of a Tribal social services agency.

(b) The commissioner of human services must make appointments to the working group by July 1, 2024, and convene the first meeting of the working group by August 1, 2024.

(c) The commissioner of human services must provide administrative support and meeting space for the working group. The working group may conduct meetings remotely.

Subd. 3. **Report.** The commissioner must complete and submit a report on the recommendations in this section to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance on or before December 15, 2024.

Subd. 4. **Expiration.** The working group expires upon submission of the report to the legislature under subdivision 3.