

1.1 moves to amend H.F. No. 2414, the delete everything amendment
1.2 (A19-0349), as follows:

1.3 Page 242, after line 2, insert:

1.4 "Sec. Minnesota Statutes 2018, section 256B.0659, subdivision 11, is amended to read:

1.5 Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant must
1.6 meet the following requirements:

1.7 (1) be at least 18 years of age with the exception of persons who are 16 or 17 years of
1.8 age with these additional requirements:

1.9 (i) supervision by a qualified professional every 60 days; and

1.10 (ii) employment by only one personal care assistance provider agency responsible for
1.11 compliance with current labor laws;

1.12 (2) be employed by a personal care assistance provider agency;

1.13 (3) enroll with the department as a personal care assistant after clearing a background
1.14 study. Except as provided in subdivision 11a, before a personal care assistant provides
1.15 services, the personal care assistance provider agency must initiate a background study on
1.16 the personal care assistant under chapter 245C, and the personal care assistance provider
1.17 agency must have received a notice from the commissioner that the personal care assistant
1.18 is:

1.19 (i) not disqualified under section 245C.14; or

1.20 (ii) is disqualified, but the personal care assistant has received a set aside of the
1.21 disqualification under section 245C.22;

1.22 (4) be able to effectively communicate with the recipient and personal care assistance
1.23 provider agency;

2.1 (5) be able to provide covered personal care assistance services according to the recipient's
2.2 personal care assistance care plan, respond appropriately to recipient needs, and report
2.3 changes in the recipient's condition to the supervising qualified professional or physician;

2.4 (6) not be a consumer of personal care assistance services;

2.5 (7) maintain daily written records including, but not limited to, time sheets under
2.6 subdivision 12;

2.7 (8) effective January 1, 2010, complete standardized training as determined by the
2.8 commissioner before completing enrollment. The training must be available in languages
2.9 other than English and to those who need accommodations due to disabilities. Personal care
2.10 assistant training must include successful completion of the following training components:
2.11 basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic
2.12 roles and responsibilities of personal care assistants including information about assistance
2.13 with lifting and transfers for recipients, emergency preparedness, orientation to positive
2.14 behavioral practices, fraud issues, and completion of time sheets. Upon completion of the
2.15 training components, the personal care assistant must demonstrate the competency to provide
2.16 assistance to recipients;

2.17 (9) complete training and orientation on the needs of the recipient; and

2.18 (10) be limited to providing and being paid for up to 275 hours per month of personal
2.19 care assistance services regardless of the number of recipients being served or the number
2.20 of personal care assistance provider agencies enrolled with. The number of hours worked
2.21 per day shall not be disallowed by the department unless in violation of the law.

2.22 (b) A legal guardian may be a personal care assistant if the guardian is not being paid
2.23 for the guardian services and meets the criteria for personal care assistants in paragraph (a).

2.24 (c) Persons who do not qualify as a personal care assistant include parents, stepparents,
2.25 and legal guardians of minors; spouses; paid legal guardians of adults; family foster care
2.26 providers, except as otherwise allowed in section 256B.0625, subdivision 19a; and staff of
2.27 a residential setting.

2.28 (d) Personal care assistance services qualify for the enhanced rate described in subdivision
2.29 17a if the personal care assistant providing the services:

2.30 (1) provides services, according to the care plan in subdivision 7, to a recipient who
2.31 qualifies for 12 or more hours per day of personal care assistance services; and

2.32 (2) satisfies the current requirements of Medicare for training and competency or
2.33 competency evaluation of home health aides or nursing assistants, as provided in the Code

3.1 of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state-approved
 3.2 training or competency requirements.

3.3 **EFFECTIVE DATE.** This section is effective July 1, 2019.

3.4 Sec. Minnesota Statutes 2018, section 256B.0659, is amended by adding a subdivision
 3.5 to read:

3.6 Subd. 17a. **Enhanced rate.** An enhanced rate of 107.5 percent of the rate paid for
 3.7 personal care assistance services shall be paid for services provided to persons who qualify
 3.8 for 12 or more hours of personal care assistance services per day when provided by a personal
 3.9 care assistant who meets the requirements of subdivision 11, paragraph (d). The enhanced
 3.10 rate for personal care assistance services includes, and is not in addition to, any rate
 3.11 adjustments implemented by the commissioner on July 1, 2019, to comply with the terms
 3.12 of a collective bargaining agreement between the state of Minnesota and an exclusive
 3.13 representative of individual providers under section 179A.54, that provides for wage increases
 3.14 for individual providers who serve participants assessed to need 12 or more hours of personal
 3.15 care assistance services per day.

3.16 **EFFECTIVE DATE.** This section is effective July 1, 2019."

3.17 Page 244, after line 22, insert:

3.18 "Sec. Minnesota Statutes 2018, section 256B.0659, subdivision 24, is amended to read:

3.19 Subd. 24. **Personal care assistance provider agency; general duties.** A personal care
 3.20 assistance provider agency shall:

3.21 (1) enroll as a Medicaid provider meeting all provider standards, including completion
 3.22 of the required provider training;

3.23 (2) comply with general medical assistance coverage requirements;

3.24 (3) demonstrate compliance with law and policies of the personal care assistance program
 3.25 to be determined by the commissioner;

3.26 (4) comply with background study requirements;

3.27 (5) verify and keep records of hours worked by the personal care assistant and qualified
 3.28 professional;

3.29 (6) not engage in any agency-initiated direct contact or marketing in person, by phone,
 3.30 or other electronic means to potential recipients, guardians, or family members;

4.1 (7) pay the personal care assistant and qualified professional based on actual hours of
4.2 services provided;

4.3 (8) withhold and pay all applicable federal and state taxes;

4.4 (9) effective January 1, 2010, document that the agency uses a minimum of 72.5 percent
4.5 of the revenue generated by the medical assistance rate for personal care assistance services
4.6 for employee personal care assistant wages and benefits. The revenue generated by the
4.7 qualified professional and the reasonable costs associated with the qualified professional
4.8 shall not be used in making this calculation;

4.9 (10) make the arrangements and pay unemployment insurance, taxes, workers'
4.10 compensation, liability insurance, and other benefits, if any;

4.11 (11) enter into a written agreement under subdivision 20 before services are provided;

4.12 (12) report suspected neglect and abuse to the common entry point according to section
4.13 256B.0651;

4.14 (13) provide the recipient with a copy of the home care bill of rights at start of service;
4.15 ~~and~~

4.16 (14) request reassessments at least 60 days prior to the end of the current authorization
4.17 for personal care assistance services, on forms provided by the commissioner; and

4.18 (15) document that the additional revenue the agency receives for the enhanced rate is
4.19 passed on, in wages and benefits, to the personal care assistant who provided services to a
4.20 recipient who is eligible for the enhanced rate.

4.21 **EFFECTIVE DATE.** This section is effective July 1, 2019.

4.22 Sec. Minnesota Statutes 2018, section 256B.0659, subdivision 28, is amended to read:

4.23 Subd. 28. **Personal care assistance provider agency; required documentation.** (a)
4.24 Required documentation must be completed and kept in the personal care assistance provider
4.25 agency file or the recipient's home residence. The required documentation consists of:

4.26 (1) employee files, including:

4.27 (i) applications for employment;

4.28 (ii) background study requests and results;

4.29 (iii) orientation records about the agency policies;

5.1 (iv) trainings completed with demonstration of competence, including verification of
5.2 the completion of training required under subdivision 11, paragraph (d), if personal care
5.3 assistance services eligible for the enhanced rate are provided and submitted for
5.4 reimbursement under this section;

5.5 (v) supervisory visits;

5.6 (vi) evaluations of employment; and

5.7 (vii) signature on fraud statement;

5.8 (2) recipient files, including:

5.9 (i) demographics;

5.10 (ii) emergency contact information and emergency backup plan;

5.11 (iii) personal care assistance service plan;

5.12 (iv) personal care assistance care plan;

5.13 (v) month-to-month service use plan;

5.14 (vi) all communication records;

5.15 (vii) start of service information, including the written agreement with recipient; and

5.16 (viii) date the home care bill of rights was given to the recipient;

5.17 (3) agency policy manual, including:

5.18 (i) policies for employment and termination;

5.19 (ii) grievance policies with resolution of consumer grievances;

5.20 (iii) staff and consumer safety;

5.21 (iv) staff misconduct; and

5.22 (v) staff hiring, service delivery, staff and consumer safety, staff misconduct, and
5.23 resolution of consumer grievances;

5.24 (4) time sheets for each personal care assistant along with completed activity sheets for
5.25 each recipient served; and

5.26 (5) agency marketing and advertising materials and documentation of marketing activities
5.27 and costs.

5.28 (b) The commissioner may assess a fine of up to \$500 on provider agencies that do not
5.29 consistently comply with the requirements of this subdivision.

6.1 **EFFECTIVE DATE.** This section is effective July 1, 2019."

6.2 Page 246, line 13, delete everything after "to" and insert "account for the additional cost
6.3 of providing enhanced rate personal care assistance services under section"

6.4 Page 246, line 14, before the period, insert "or section 256B.85"

6.5 Page 276, after line 15, insert:

6.6 "Sec. Minnesota Statutes 2018, section 256B.85, is amended by adding a subdivision
6.7 to read:

6.8 **Subd. 7a. Enhanced rate.** An enhanced rate of 107.5 percent of the rate paid for CFSS
6.9 must be paid for services provided to persons who qualify for 12 or more hours of CFSS
6.10 per day when provided by a support worker who meets the requirements of subdivision 16,
6.11 paragraph (e). The enhanced rate for CFSS includes, and is not in addition to, any rate
6.12 adjustments implemented by the commissioner on July 1, 2019, to comply with the terms
6.13 of a collective bargaining agreement between the state of Minnesota and an exclusive
6.14 representative of individual providers under section 179A.54 that provides for wage increases
6.15 for individual providers who serve participants assessed to need 12 or more hours of CFSS
6.16 per day.

6.17 **EFFECTIVE DATE.** This section is effective July 1, 2019.

6.18 Sec. Minnesota Statutes 2018, section 256B.85, subdivision 10, is amended to read:

6.19 **Subd. 10. Agency-provider and FMS provider qualifications and duties.** (a)
6.20 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision
6.21 13a shall:

6.22 (1) enroll as a medical assistance Minnesota health care programs provider and meet all
6.23 applicable provider standards and requirements;

6.24 (2) demonstrate compliance with federal and state laws and policies for CFSS as
6.25 determined by the commissioner;

6.26 (3) comply with background study requirements under chapter 245C and maintain
6.27 documentation of background study requests and results;

6.28 (4) verify and maintain records of all services and expenditures by the participant,
6.29 including hours worked by support workers;

7.1 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,
 7.2 or other electronic means to potential participants, guardians, family members, or participants'
 7.3 representatives;

7.4 (6) directly provide services and not use a subcontractor or reporting agent;

7.5 (7) meet the financial requirements established by the commissioner for financial
 7.6 solvency;

7.7 (8) have never had a lead agency contract or provider agreement discontinued due to
 7.8 fraud, or have never had an owner, board member, or manager fail a state or FBI-based
 7.9 criminal background check while enrolled or seeking enrollment as a Minnesota health care
 7.10 programs provider; and

7.11 (9) have an office located in Minnesota.

7.12 (b) In conducting general duties, agency-providers and FMS providers shall:

7.13 (1) pay support workers based upon actual hours of services provided;

7.14 (2) pay for worker training and development services based upon actual hours of services
 7.15 provided or the unit cost of the training session purchased;

7.16 (3) withhold and pay all applicable federal and state payroll taxes;

7.17 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,
 7.18 liability insurance, and other benefits, if any;

7.19 (5) enter into a written agreement with the participant, participant's representative, or
 7.20 legal representative that assigns roles and responsibilities to be performed before services,
 7.21 supports, or goods are provided;

7.22 (6) report maltreatment as required under sections 626.556 and 626.557; ~~and~~

7.23 (7) comply with any data requests from the department consistent with the Minnesota
 7.24 Government Data Practices Act under chapter 13; and

7.25 (8) maintain documentation for the requirements under subdivision 16, paragraph (e),
 7.26 clause (2), to qualify for an enhanced rate under this section.

7.27 **EFFECTIVE DATE.** This section is effective July 1, 2019."

7.28 Page 279, after line 23, insert:

7.29 "Sec. Minnesota Statutes 2018, section 256B.85, subdivision 16, is amended to read:

7.30 Subd. 16. **Support workers requirements.** (a) Support workers shall:

8.1 (1) enroll with the department as a support worker after a background study under chapter
8.2 245C has been completed and the support worker has received a notice from the
8.3 commissioner that the support worker:

8.4 (i) is not disqualified under section 245C.14; or

8.5 (ii) is disqualified, but has received a set-aside of the disqualification under section
8.6 245C.22;

8.7 (2) have the ability to effectively communicate with the participant or the participant's
8.8 representative;

8.9 (3) have the skills and ability to provide the services and supports according to the
8.10 participant's CFSS service delivery plan and respond appropriately to the participant's needs;

8.11 (4) complete the basic standardized CFSS training as determined by the commissioner
8.12 before completing enrollment. The training must be available in languages other than English
8.13 and to those who need accommodations due to disabilities. CFSS support worker training
8.14 must include successful completion of the following training components: basic first aid,
8.15 vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and
8.16 responsibilities of support workers including information about basic body mechanics,
8.17 emergency preparedness, orientation to positive behavioral practices, orientation to
8.18 responding to a mental health crisis, fraud issues, time cards and documentation, and an
8.19 overview of person-centered planning and self-direction. Upon completion of the training
8.20 components, the support worker must pass the certification test to provide assistance to
8.21 participants;

8.22 (5) complete employer-directed training and orientation on the participant's individual
8.23 needs;

8.24 (6) maintain the privacy and confidentiality of the participant; and

8.25 (7) not independently determine the medication dose or time for medications for the
8.26 participant.

8.27 (b) The commissioner may deny or terminate a support worker's provider enrollment
8.28 and provider number if the support worker:

8.29 (1) does not meet the requirements in paragraph (a);

8.30 (2) fails to provide the authorized services required by the employer;

8.31 (3) has been intoxicated by alcohol or drugs while providing authorized services to the
8.32 participant or while in the participant's home;

9.1 (4) has manufactured or distributed drugs while providing authorized services to the
9.2 participant or while in the participant's home; or

9.3 (5) has been excluded as a provider by the commissioner of human services, or by the
9.4 United States Department of Health and Human Services, Office of Inspector General, from
9.5 participation in Medicaid, Medicare, or any other federal health care program.

9.6 (c) A support worker may appeal in writing to the commissioner to contest the decision
9.7 to terminate the support worker's provider enrollment and provider number.

9.8 (d) A support worker must not provide or be paid for more than 275 hours of CFSS per
9.9 month, regardless of the number of participants the support worker serves or the number
9.10 of agency-providers or participant employers by which the support worker is employed.
9.11 The department shall not disallow the number of hours per day a support worker works
9.12 unless it violates other law.

9.13 (e) CFSS qualify for an enhanced rate if the support worker providing the services:

9.14 (1) provides services, within the scope of CFSS described in subdivision 7, to a participant
9.15 who qualifies for 12 or more hours per day of CFSS; and

9.16 (2) satisfies the current requirements of Medicare for training and competency or
9.17 competency evaluation of home health aides or nursing assistants, as provided in the Code
9.18 of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state-approved
9.19 training or competency requirements.

9.20 **EFFECTIVE DATE.** This section is effective July 1, 2019."

9.21 Renumber the sections in sequence and correct the internal references

9.22 Amend the title accordingly