



March 26, 2024

The Honorable Joe Schomacker
Co-Chair, Human Services Finance and Policy Committee
Minnesota House of Representatives
2nd Floor, Centennial Office Building
St. Paul, MN 55155

The Honorable Mohamud Noor
Co-Chair, Human Services Finance and Policy Committee
Minnesota House of Representatives
5th Floor, Centennial Office Building
St. Paul, MN 55155

Re: Legal Aid letter of support regarding HF 257

Dear Co-Chair Schomacker, Co-Chair Noor, and Members of the Committee:

Legal Aid and the Minnesota Disability Law Center (MDLC) write in strong support of HF 257.

HF 257 would require counties to speak to or meet with service participants and/or their legal representatives within ten days of issuing a Notice of Action suspending, reducing, or terminating the person's long-term supports and services, such as brain injury waivers, CADI waivers, CDCS services, elderly waivers, DD waivers, and PCA services.

Currently, service participants receive a Notice of Action, a nine-page form that is difficult to understand and is only in English. A copy of this notice is included in the hearing materials. Often, a misunderstanding, error, or lack of documentation is the reason for the Notice of Action being sent—issues that could easily be resolved without a hearing. However, many counties do not return calls to service participants or their representatives. Some counties even have policies that forbid case managers from discussing issues with service participants once an appeal has been filed. This results in needless hearings where counties must prepare appeal summaries and appear. On the participant side, the person must appeal, wait weeks for a hearing, and then wait months for a decision after the hearing—while worried about whether they will continue to receive the services they need to remain independent and get their basic needs met.

Here are two examples of MDLC cases that demonstrate why this bill is needed:

- MDLC had a client with autism who required a new fence in his backyard to ensure that he did not run into traffic because he did not have age-appropriate safety skills. The county initially denied the request, stating there was not a disability-related need. The county met with MDLC to discuss the issue. The county requested further diagnostic information, which MDLC provided. Based on this information, the fence was approved, and there was no need for an appeal hearing, saving the county and state time and money.
- MDLC had another client whose CDCS budget was reduced by \$15,000 after his MnCHOICES assessment. The assessor made several errors and found that the client no longer had seizures, issues with aggression and property destruction, and elopement. The reduction would have meant that the client would no longer be able to access supports necessary to attend his day program. MDLC tried to contact the county several times and provided additional documentation highlighting the errors in the assessment. The county refused to communicate with MDLC and stated that “the appeal is the proper process to discuss these issues.” After an appeal hearing, the judge ruled in favor of the client, largely based on the paperwork demonstrating that there were errors in the assessment.

This bill will help facilitate necessary conversations in these types of cases and prevent unnecessary appeal hearings, saving time and resources for everyone involved. For counties that already communicate well with participants, this bill will not be a major departure from the status quo. For counties that do not return phone calls or refuse to return phone calls, we anticipate a reduction in appeal numbers.

Thank you for allowing Legal Aid and MDLC to provide written testimony. We ask that HF 257 is laid over for inclusion in the House Human Services Omnibus Bill.

Sincerely,



Jennifer Purrington
Legal Director/Deputy Director
Minnesota Disability Law Center



Ellen Smart
Staff Attorney
Legal Services Advocacy Project

This document has been formatted for accessibility. Please call Ellen Smart at 612/746-3761 if you need this document in an alternative format.

Long-term Services and Supports Reviews

HF 257/SF 141

Context:

Long-term services and supports (LTSS) are essential to the daily lives and wellbeing of many people with disabilities. LTSS encompasses a broad range of services, from assistance with bathing to medication management to meal preparation. Examples of LTSS programs are PCA services, CADI waivers, and brain injury waivers. When a person's long-term services or supports are reduced or denied, they receive a Notice of Action (DHS-2828A-ENG).



Barrier 1: The notice is 9 pages long, difficult to understand, and only available in English.



Barrier 2: The county does not return the client's phone calls or the county has a policy not to discuss the case with the client after an appeal has been filed.

Often, this means that the only way to resolve this issue is to go through a time-consuming appeal process. DLC sees many cases where a Notice of Action was sent because of something simple—a missing form or a misunderstanding between our client and the county—something that could be easily cleared up with a simple conversation.

When clients and/or their representatives are able to speak to their counties about their cases, appeals often become unnecessary, savings clients and counties time and needless worry.

How does this bill solve these problems?

Counties would be required to communicate with clients and/or their representatives, if requested, within ten days of receiving the Notice of Action. This will reduce the need for hearings as well as reduce months of worrying over potentially losing these important services.



Contact: Ellen Smart, Legal Aid, eesmart@mnlsap.org

A DLC client (a child with Down syndrome) received a Notice of Action indicating that the county had reduced their PCA services from five hours per day to *30 minutes per day*.

The reason for the reduction was not explained on the Notice of Action. DLC and the child's parents contacted the county, but multiple calls were not returned. DLC submitted letters from the child's therapist and doctor attesting that the child's needs had not changed. The county did not acknowledge the letters.

The case proceeded to a hearing. The judge ruled in favor of the child, and the PCA hours were restored.

This issue could have been resolved months earlier, had the county returned phone calls or acknowledged the additional documentation.

LONG-TERM SERVICES AND SUPPORTS

Notice of Action (Assessments and Reassessments)

You are receiving this form because you recently had an assessment or reassessment.

DATE

--

Information

You

NAME	PMI	PHONE NUMBER	
ADDRESS	CITY	STATE	ZIP CODE

Your representative

NAME			
ADDRESS	CITY	STATE	ZIP CODE

Your lead agency

AGENCY NAME	AGENCY REPRESENTATIVE	PHONE NUMBER	
ADDRESS	CITY	STATE	ZIP CODE

Programs and services available to you

After your assessment/reassessment for services, we determined the following programs and services are available to you.

--

Notice of action about denial, termination or reduction of services

After your assessment/reassessment for services, we determined that the following programs and services are either not available to you or will be changed. This is the action being taken.

No change to your current programs or services

Reduction in services or budget

EFFECTIVE DATE

Program/service

We reduced your level of participation in the following program(s) or services:

- Alternative Care (AC)
- Brain Injury (BI) Waiver
- Community Access for Disability Inclusion (CADI) Waiver
- Community Alternative Care (CAC) Waiver
- Developmental Disabilities (DD) Waiver
- Elderly Waiver (EW)
- Essential community supports (ECS)
- Personal care assistance (PCA).

Reason

The reason for this reduction is because:

- There was a change in your assessed needs
- You chose to change your amount of service
- You chose to to use an alternative service.

Legal citation

The following Minnesota statute applies to this change:

Explanation

This is the reason why this reduction happened. It includes information about how your plan for supports or your access to resources is affected.

--

Termination

EFFECTIVE DATE

Program/service

We are ending one or more of the following programs and/or services:

- Alternative Care (AC)
- Brain Injury (BI) Waiver
- Community Access for Disability Inclusion (CADI) Waiver
- Community Alternative Care (CAC) Waiver
- Consumer Support Grant (CSG)
- Developmental Disabilities (DD) Waiver
- Elderly Waiver (EW)
- Essential Community Supports (ECS)
- Nursing facility
- Personal care assistance (PCA)
- Semi-independent living services (SILS).

Reason

The reason that this service or program is ending is because:

- You have a change in your assessed needs
- You do not meet financial eligibility criteria
- You no longer meet eligibility criteria
- You chose to terminate service
- DHS or the lead agency took corrective action (e.g., fraud, requirements for participation not followed, etc.)
- You do not need a level of care an institution provides.

Legal citation

The following Minnesota statute applies to this change:

Explanation

This is the reason why this service or program is ending. It includes information about how your plan for supports or your access to resources is affected.

Denial of services

EFFECTIVE DATE

Program/service

You have been denied for the following program(s) or services:

- Alternative Care (AC)

Reason

You were denied because:

- You are not 65 years or older
- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria: _____
- You do not need the level of care that a nursing facility provides
- Your needs are met without an AC-paid service
- You chose not to use the AC program.

Legal citation

Minnesota Statute, Section 256B.0913 applies to this change (Alternative Care [AC] Program)

- Elderly Waiver (EW)

Reason

You were denied because:

- You are not 65 years or older
- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria
- You do not need the level of care that a nursing facility provides
- Your needs are met without a waiver service
- You chose not to use the EW program.

Legal citation

Minnesota Statute, Section 256B.0915 applies to this change (Elderly Waiver [EW] program)

- Essential Community Supports (ECS)

Reason

You were denied because:

- You meet eligibility criteria that qualify you for PCA services
- You are not 65 years or older
- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria
- Your needs are met without this service
- You chose not to use the ECS program.

Legal citation

Minnesota Statute, Section 256B.0922 applies to this change (Essential Community Supports [ECS])

- Personal care assistance (PCA)

Reason

You were denied because:

- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria
- You do not meet access criteria
- You chose not to use the PCA program.

Legal citation

Minnesota Statute, Section 256B.0659 applies to this change (Personal care assistance [PCA])

Developmental Disabilities (DD) Waiver

Reason

You were denied because:

- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria
- You do not meet diagnostic criteria
- You do not need the level of care an intermediate care facility for individuals with developmental disabilities (ICF/DD) provides
- Your needs are met without a waiver service
- You chose not to use the DD Waiver program.

Legal citation

Minnesota Statute, Section 256B.092 applies to this change (Developmental Disabilities [DD] Waiver)

Brain Injury (BI) Waiver

Reason

You were denied because:

- You did not access the BI Waiver before age 65
- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria
- You do not meet disability certification criteria
- You do not need the level of care a neurobehavioral hospital provides
- You do not need the level of care a nursing facility that specializes in brain injuries provides
- Your needs are met without a waiver service
- You chose not to use the BI Waiver program.

Legal citation

Minnesota Statute, Section 256B.49 applies to this change (Disability waivers: Brain Injury [BI], Community Alternative Care [CAC] and Community Access for Disability Inclusion [CADI])

Community Access for Disability Inclusion (CADI) Waiver

Reason

You were denied because:

- You were not accessing the CADI waiver prior to age 65
- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria
- You do not meet disability certification criteria
- You do not need the level of care a nursing facility provides
- Your needs are met without a waiver service
- You chose not to use the CADI program.

Legal citation

Minnesota Statute, Section 256B.49 applies to this change (Disability waivers: Brain Injury [BI], Community Alternative Care [CAC] and Community Access for Disability Inclusion [CADI])

Community Alternative Care (CAC) Waiver.

Reason

You were denied because:

- You are not accessing the CAC Waiver before the age of 65
- You do not meet financial eligibility criteria
- You do not meet other eligibility criteria
- You do not meet disability certification criteria
- You do not need the level of care a hospital provides
- Your needs are met without a waiver service
- You chose not to use the CAC waiver program.

Legal citation

Minnesota Statute, Section 256B.49 applies to this change (Disability waivers: Brain Injury [BI], Community Alternative Care [CAC] and Community Access for Disability Inclusion [CADII])

Denial explanation

This is the reason why this service or program was denied. It includes information about how your plan for supports or your access to resources is affected.

Appeal Notice and Instructions

Purpose

The purpose of this notice is to tell you how to appeal a decision that denied, stopped, suspended, reduced or changed your long-term services and supports.

Your right to appeal

You have the right to appeal this decision to a human services judge from the Minnesota Department of Human Services.

How to appeal

There is no special form to make an appeal. A short letter is OK. To appeal:

- **Put your appeal request in writing**
- **Be clear about what you are appealing**
- **State why you think what was done was wrong**
- **You can submit this appeal online at:**
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-0033-ENG> or
- **Send a copy of this notice with your appeal request to:**
Minnesota Department of Human Services
Appeals Division
P.O. Box 64941
St. Paul, MN 55164-0941
651-431-3600 (voice)
651-431-7523 (fax)

Time limit

You have 30 days from the day you get this notice to send your appeal request. You may send it to either your assessor/case manager or to the state appeals division at the address above.

If you miss the deadline

If you miss the 30-day deadline, you may still be able to appeal. You need to give the state a good reason why you did not appeal within 30 days and the state must agree with you. If that happens, you can still appeal up to 90 days from the day you received this notice. However, if you would like to keep services the same until the appeal decision, you must submit a written request to the appeals unit at the above address, usually no later than 10 days following the date you received this notice. More instructions are found under "Right to keep services the same until the appeal decision."

Right to keep services the same until the appeal decision

You have a right to request that your services be kept the way they were before you received this notice. To do this, you must send a written request to the appeals unit at the above address. If your services have changed for any other reason indicated, you must file the appeal requesting continuation of services, no later than 10 days following the date you received this notice. If requested, the kind of service and the number of hours you get may be kept at the amount you had at the time of this notice until the Minnesota Department of Human Services decides your appeal.

After the appeal decision

If you requested to keep the same services and hours and you lose your appeal, the state may bill you for the difference between the cost of the services you received and the cost of the services you would have received if you had not requested that the higher level of services continue pending your appeal.

How to prepare for your appeal

You may speak for yourself at the appeal or you can have a friend, relative, advocate or attorney help you. The human services judge will send you a letter telling you when and where to come for the appeal. That letter will tell you more about how to prepare for the appeal.

Questions

If you have questions or do not understand this notice, ask your assessor/case manager or provider to assist you.

Civil Rights Notice

Discrimination is against the law. The Minnesota Department of Human Services (DHS) does not discriminate on the basis of any of the following:

- race
- color
- national origin
- creed
- religion
- sexual orientation
- public assistance status
- marital status
- age
- disability
- sex
- political beliefs

Civil Rights Complaints

You have the right to file a discrimination complaint if you believe you were treated in a discriminatory way by a social services agency.

Contact **DHS** directly only if you have a **discrimination** complaint:

Civil Rights Coordinator
 Minnesota Department of Human Services
 Equal Opportunity and Access Division
 P.O. Box 64997
 St. Paul, MN 55164-0997
 651-431-3040 (voice) or use your preferred relay service

Minnesota Department of Human Rights (MDHR)

In Minnesota, you have the right to file a complaint with the MDHR if you believe you have been discriminated against because of any of the following:

- race
- color
- national origin
- religion
- creed
- sex
- sexual orientation
- marital status
- public assistance status
- disability

Contact the **MDHR** directly to file a complaint:

Minnesota Department of Human Rights
 Freeman Building, 625 North Robert Street
 St. Paul, MN 55155
 651-539-1100 (voice)
 800-657-3704 (toll free)
 711 or 800-627-3529 (MN Relay)
 651-296-9042 (fax)
Info.MDHR@state.mn.us (email)

U.S. Department of Health and Human Services' Office for Civil Rights (OCR)

You have the right to file a complaint with the OCR, a federal agency, if you believe you have been discriminated against because of any of the following:

- race
- color
- national origin
- age
- disability
- sex
- religion

Contact the **OCR** directly to file a complaint:

Director
 U.S. Department of Health and Human Services' Office for Civil Rights
 200 Independence Avenue SW, Room 509F
 HHH Building
 Washington, DC 20201
 800-368-1019 (voice)
 800-537-7697 (TDD)
 Complaint Portal: <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>

651-431-4300 or 866-265-7655

Attention. If you need free help interpreting this document, call the above number.

ያስተውሉ፡ ካለምንም ክፍያ ይህንን ደብዳቤ ለማረጋገጥ ከፈለጉ ከላይ ወደተጻፈው የስልክ ቁጥር ይደውሉ።

ملاحظة: إذا أردت مساعدة مجانية لترجمة هذه الوثيقة، اتصل على الرقم أعلاه.

သတိ။ ဤစာရွက်စာတမ်းအားအခမဲ့ဘာသာပြန်ပေးခြင်း အကူအညီလိုအပ်ပါက၊ အထက်ပါဖုန်းနံပါတ်ကိုခေါ်ဆိုပါ။

កំណត់សំគាល់ ។ បើអ្នកត្រូវការជំនួយក្នុងការបកប្រែឯកសារនេះដោយឥតគិតថ្លៃ សូមហៅទូរស័ព្ទតាមលេខខាងលើ ។

請注意，如果您需要免費協助傳譯這份文件，請撥打上面的電話號碼。

Attention. Si vous avez besoin d'une aide gratuite pour interpréter le présent document, veuillez appeler au numéro ci-dessus.

Thov ua twb zoo nyeem. Yog hais tias koj xav tau kev pab txhais lus rau tsab ntaub ntawv no pub dawb, ces hu rau tus najnpawb xov tooj saum toj no.

ဟ်သူဟ်သးဘဉ်တက့ၢ်. ဝဲန့ၢ်လိာ်ဘဉ်တၢ်စၢၤတၢ်လီၤတၢ်ကကျိးထံဝဲဒၣ်လံာ် တီလံာ်မိတခါအံၤန့ၢ်,ကိးဘဉ်လီၤတဲာ်နီၢ်ဂံၢ်လၢထးအံၤန့ၢ်တက့ၢ်.

알려드립니다. 이 문서에 대한 이해를 돕기 위해 무료로 제공되는 도움을 받으시려면 위의 전화번호로 연락하십시오.

ໂປຣດຊາບ. ຖ້າຫາກ ທ່ານຕ້ອງການການຊ່ວຍເຫຼືອໃນການແປເອກະສານນີ້ພໍດີ, ຈົ່ງໂທໂປທີ່ໝາຍເລກຂ້າງເທິງນີ້.

Hubachiisa. Dokumentiin kun bilisa akka siif hiikamu gargaarsa hoo feete, lakkoobsa gubbatti kenname bibili.

Внимание: если вам нужна бесплатная помощь в устном переводе данного документа, позвоните по указанному выше телефону.

Digniin. Haddii aad u baahantahay caawimaad lacag-la' aan ah ee tarjumaadda qoraalkan, lambarka kore wac.

Atención. Si desea recibir asistencia gratuita para interpretar este documento, llame al número indicado arriba.

Chú ý. Nếu quý vị cần được giúp đỡ dịch tài liệu này miễn phí, xin gọi số bên trên.

LB2 (8-16)



For accessible formats of this publication, ask your county worker. For assistance with additional equal access to human services, contact your county's ADA coordinator. (ADA4 [9-15])