Bill Summary Comparison of

Health and Human Services

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| Senate File: 800-3 | House File: UES0800-2 |
| Article 1: Community Supports | Article 2: Continuing Care |

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April 17, 2017

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| Article 1: Community Supports |  | Article 2: Continuing Care |
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| **Section 1 (144A.351)** clarifies that funds appropriated for the long-term care gaps analysis are available in either year of the biennium and deletes obsolete language concerning a completed study. | Senate only |  |
| Section 2 (245D.03, subdivision 1) adds individual community living support, individualized home supports services, employment exploration services, employment development services, and employment support services to the range of services governed by the home and community-based licensing standards under Minnesota Statutes, chapter 245D. The addition of the employment-related services is subject to federal approval. | Senate includes individual community living support offered under the elderly waiver and individualized home support services offered under three disability waivers. | Sec. 4. Applicability. Amends § 245D.03, subd. 1. Modifies the list of services that are governed by the home and community-based services standards chapter of statutes by adding three new employment services. Makes this section effective upon federal approval. Requires the commissioner of human services to notify the revisor of statutes when federal approval is obtained. |
| Section 3 (252.41, subdivision 3) removes supported employment from the definition of day training and habilitation and clarifies that work-related activities included in the definition are only center-based activities and not employment exploration services, employment development services, or employment support services.  This section is subject to federal approval. | Technical difference; staff recommends Senate. | Sec. 6. Day training and habilitation (DT&H) services for adults with developmental disabilities. Amends § 252.41, subd. 3. Modifies the list of DT&H services by removing supported employment and clarifying work-related activities are center-based. Specifies that DT&H services do not include three new employment services that are proposed to be provided under the HCBS disability waivers. Makes this section effective upon federal approval. Requires the commissioner of human services to notify the revisor of statutes when federal approval is obtained. |
| Section 4 (256.477) places in statute an existing grant program currently awarded to Achieving Change Together, a statewide self-advocacy network of people with disabilities, and adds additional conditions for the use of grant funds. | Senate only  \*Similar to a House rider in the appropriations article. |  |
|  | House only | Sec. 8. Home health services. Amends § 256B.0625, subd. 6a. Allows medical assistance (MA) to cover home health services provided in the community where normal life activities take the recipient. |
|  | House only | Sec. 9. Definitions. Amends § 256B.0653, subd. 2. Modifies the definition of “home health agency services.” |
|  | House only | Sec. 10. Home health aide visits. Amends § 256B.0653, subd. 3. Allows home health aide visits to be provided in the community where normal life activities take the recipient. |
|  | House only | Sec. 11. Skilled nurse visit services. Amends § 256B.0653, subd. 4. Allows skilled nurse visits to be provided in the community where normal life activities take the recipient. |
|  | House only | Sec. 12. Home care therapies. Amends § 256B.0653, subd. 5. Allows home care therapies to be provided in the community where normal life activities take the recipient. Home care therapies include physical therapy, occupational therapy, respiratory therapy, and speech and language pathology therapy services. |
|  | House only | Sec. 13. Noncovered home health agency services. Amends § 256B.0653, subd. 6. Modifies the list of noncovered home health agency services by removing from the list home care therapies provided at a day program and adding to the list home health agency services without documentation of a face-to-face encounter. |
|  | House only | Sec. 14. Face-to-face encounter. Amends § 256B.0653, subd. 7. Requires a face-to-face encounter to be completed for all home health services, except when providing a one-time perinatal visit by skilled nursing. Allows the face-to-face encounter to occur through telemedicine. Specifies when the encounter must occur and who may conduct the encounter. Lists duties of the physician responsible for ordering the services. For home health services requiring authorization, specifies that home health agencies must retain documentation of the face-to-face encounter and submit the qualifying documentation to the commissioner upon request. |
| Section 5 (256B.0659, subdivision 1) defines a new service to begin July 1, 2018, called complex personal care assistance services.  Complex PCA services are PCA services provided to a person who qualifies for more than ten hours of PCA services per day and that are provided by a PCA with additional training. | Senate only |  |
| Section 6 (256B.0659, subdivision 2) makes a conforming change to a cross-reference. | Senate only |  |
| Section 7 (256B.0559, subdivision 11) specifies that a PCA is qualified to provide complex PCA services only if the PCA meets the home health aide or nursing assistant competency evaluation standards under Medicare, or under a similar state standard. | Senate only |  |
| Section 8 (256B.0659, subdivision 17a) specifies that the rate for complex PCA services beginning July 1, 2018, is 110 percent of the rate for PCA services. | Senate only |  |
| Section 9 (256B.0659, subdivision 21) requires PCA provider agencies to maintain documentation that any PCA providing complex PCA services has satisfied all of the requirements for provision of complex PCA services. | Senate only |  |
| Section 10 (256B.0911, subdivision 1a) provides a definition of “person-centered planning” that incorporates a definition of “informed choice.” | Senate only |  |
| Sections 11 to 17 contain changes to MnCHOICES and the reassessment process for home care nursing, personal care assistance services, elderly waiver services, alternative care services, and disability waiver services. |  |  |
| Section 11 (256B.0911, subdivision 3a) modifies existing language concerning long-term care assessments and community support planning so that the existing requirements apply only to initial assessments and initial community support planning and requires assessors to include discussions of independent living and alternatives to corporate foster care.  This section also modifies the risk management standards that must be included in a written community support plan to require that risk management strategies be practical. | Senate only |  |
| Section 12 (256B.0911, subdivision 3f) permits a service plan update or service plan modification to substitute for a reassessment unless a reassessment is required under federal law or the person’s condition or needs have changed significantly. | Senate only |  |
| Section 13 (256B.0911, subdivision 3g) requires annual reassessments whenever required by federal law or when requested by a person receiving services or by the person’s legal representative. | Senate only |  |
| Section 14 (256B.0911, subdivision 4d) modifies the language governing face-to-face long-term care assessments of individuals under age 65 who reside in a nursing facility by requiring annual face-to-face reassessments only for individuals whose condition is likely to change. | Senate only |  |
| Section 15 (256B.0915, subdivision 1a) eliminates the requirement for an annual face-to-face visit to elderly waiver recipients by a case manager. | Senate only |  |
| Section 16 (256B.0915, subdivision 5) modifies the requirements for annual reassessments for continued eligibility for elderly waiver services by permitting annual service plan updates to substitute for annual reassessments. | Senate only |  |
| Section 17 (256B.49, subdivision 15) eliminates the requirement that people on a maintenance plan under a disability waiver must be reassessed annually. | Senate only |  |
| Section 18 (256B.4913, subdivision 4a) clarifies the historical rate for day service recipients and adds an additional year of banding to the disability waiver rate system implementation. The banding provision in this section is subject to federal approval.  Currently, banding will continue until January 1, 2019.  The Department of Human Services is awaiting approval of a zero percent band for the 2019 calendar year, which would extend banding until January 1, 2020.  This section adds another one percent banding year, which would extend banding until January 1, 2021, thereby allowing the disability waiver rate system (DWRS) rates to take effect during calendar year 2021 as individuals renew their individual service plans. | The Senate adds an additional year of banding; the House does not. | Sec. 17. Rate stabilization adjustment. Amends § 256B.4913, subd. 4a. Modifies the historical rate for certain day service recipients. Makes this section effective the day following final enactment. |
| **Section 19 (256B.4913, subdivision 7**) clarifies that new services added to the disability waiver rate system are not subject to banding. | Identical | Sec. 18. New services. Amends § 256B.4913, by adding subd. 7. Specifies that a service added after January 1, 2014, is not subject to the rate stabilization adjustment. Specifies that employment support services authorized after January 1, 2018, under the new employment services definition according to the HCBS waivers for persons with disabilities are not subject to the rate stabilization adjustment. Makes this section effective the day following final enactment. |
| **Section 20 (256B.4914, subdivision 2)** modifies the definition of “unit of service” for the purposes of unit-based services without programming under the disability waiver rate system, thereby allowing respite care services to be reimbursed at a market rate. This section is subject to federal approval. | Technical differences in the effective date; staff recommends House. | Sec. 19. Definitions. Amends § 256B.4914, subd. 2. Modifies the definition of “unit of service” for certain unit-based services without programming. Makes this section effective upon federal approval. Requires the commissioner of human services to notify the revisor of statutes when federal approval is obtained. |
| **Section 21** **(256B.4914, subdivision 3)** adds individualized home supports, independent living skills specialist services, employment exploration services, employment development services, and employment support services to the disability waiver rate system. Portions of this section are subject to federal approval. | * Senate includes individualized home supports; House does not. * Senate makes inclusion of independent living skills effective upon federal approval; House makes its inclusion effective January 1, 2020. | Sec. 20. Applicable services. Amends § 256B.4914, subd. 3. Adds independent living skills specialist services and three employment services to the list of services that are governed by the Disability Waiver Rate System (DWRS). Makes this section effective upon federal approval, except independent living skills specialist services are effective January 1, 2020. Requires the commissioner of human services to notify the revisor of statutes when federal approval is obtained. |
| **Section 22 (256B.1914, subdivision 5)** modifies the base wage index, component values and the frequency of inflation adjustments, and requires study and evaluation of various wage and component values.  **Paragraph (a)** modifies the base wage index by modifying the data to which the commissioner will refer when determining the base wage for staff providing various services and by creating five new base wage calculations for three new employment-related services, for independent living skills specialist services, and for individualized home supports services.  Most of these changes are effective January 1, 2018.  **Paragraph (d)** modifies the absence and utilization factor for day services, which is effective January 1, 2019.  **Paragraph (h)** eliminates the requirement to apply both the wage inflation factor and the consumer price index factor to the same component values, thereby ensuring that factors that have a wage inflation factor built into them do not also get a CPI adjustment.  **Paragraphs (h) and (i)** increase the frequency of the automatic inflation adjustments from every five years beginning July 1, 2017, to every two years beginning July 1, 2022.  **Paragraph (j)** requires the commissioner to make recommendations to the legislature to replace any of the wage codes that become obsolete in the future.  **Paragraph (k)** requires the commissioner to study the costs of providing services whose rates are determined by the disability waiver rate system, and requires providers to submit business data for the purposes of this study.  **Paragraph (l)** specifies the timeline for the submission by providers of their business data and specifies penalties the commissioner must impose of providers who fail to meet the timeline.  **Paragraph (m)** require the commissioner to randomly audit a representative sample of the cost data submitted.  **Paragraph (n)** permits the commissioner, based on the commissioner’s research, to make recommendations to the legislature concerning changes to the component values and inflationary adjustments.  **Paragraph (o)** requires the commissioner to provide technical assistance and training to providers so that they are able to comply with the requirement to submit valid business data. | Paragraph (a). Senate includes a base wage calculation for individualized home support services staff; House does not.   * Senate modifies the base wages for supervisory staff, registered nurses, and licensed practical nurses; House does not. * Technical difference in paragraph (a); staff recommends Senate.   Paragraphs (b) and (c) contain no changes.  Paragraph (d). Senate increases the absence and utilization factor ratio for day services from 3.9 to 9.4; House increases it to 5.9.  Paragraphs (e) to (g) are identical.  Paragraph (h) – Technical differences; staff recommends Senate.  Paragraph (i) – Technical differences; staff recommends Senate.  Paragraph (j) – Technical differences; staff recommends House.  The remaining paragraphs are identical. | Sec. 21. Base wage index and standard component values. Amends § 256B.4914, subd. 5. Paragraph (a) modifies various base wage calculations and adds calculations for independent living skills specialist staff, employment exploration services staff, and employment development services staff.  Paragraph (d) modifies certain component values for day services.  Paragraphs (e) to (g) modify certain component values for unit-based service with programming and unit-based services without programming.  Paragraphs (h) and (i) remove language requiring the commissioner to make certain inflationary adjustments every five years and requires the adjustments to be made every two years beginning on January 1, 2022. Require the commissioner to publish updated values and load them into the rate management system.  Paragraph (j) requires the commissioner to recommend to the legislature codes or items to update and replace missing component values if Bureau of Labor Statistics occupational codes or Consumer Price Index items are unavailable in the future.  Paragraph (k) requires the commissioner to ensure that wage values and component values reflect the cost to provide the service. Requires providers enrolled to provide services with rates determined under the DWRS to submit business cost data to the commissioner to support research on the cost of providing services that have rates determined by the DWRS. Lists the cost data that must be submitted.  Paragraph (l) requires providers to submit the cost data at least once in any five-year period, on a schedule determined by the commissioner. Requires the commissioner to temporarily suspend payments to a provider if cost component data is not received 90 days after the required submission date. Requires withheld payments to be made once data is received by the commissioner.  Paragraph (m) requires the commissioner to conduct a random audit of data submitted by providers to ensure accuracy.  Paragraph (n) requires the commissioner to analyze cost documentation and to submit recommendations on component values and inflationary factor adjustments to the legislative committees with jurisdiction over human services every four years beginning January 1, 2020. Requires the commissioner to release business cost data in an aggregate form.  Paragraph (o) requires the commissioner to develop and implement a process for providing training and technical assistance necessary to support provider submission of cost documentation.  Makes the amendments to paragraphs (a) to (g) effective January 1, 2018, except the change in the absence and utilization factor for day services is effective January 1, 2019. Makes the amendments to paragraphs (h) to (o) effective the day following final enactment. |
| **Section 23 (256B.4914, subdivision 6)** effective January 1, 2018, reduces the maximum number of foster care and supportive living services that may be authorized from 365 to 350 days, and makes a conforming change.  **Sections 24 and 26** make conforming changes, except that **section 25 (256B.4914, subdivision 8, clause (13))** modifies the staffing ratio for employment support services. | * Senate reduces the number of foster care and supportive living service days that may be authorized; House does not. * Conforming changes are not identical due to differing positions concerning individualized home supports. | Sec. 22. Payments for residential support services. Amends § 256B.4914, subd. 6. Makes a conforming change to a cross-reference.  House sections 23, 24, and 25 make conforming changes, except that section 24 also makes changes to the employment support services staffing ratio. |
| **Section 27 (256B.4914, subdivision 10)** modifies the commissioner’s DWRS research duties. | Identical | Sec. 26. Updating payment values and additional information. Amends § 256B.4914, subd. 10. Modifies certain analyses and evaluations the commissioner must conduct. Modifies the date of the next report to the legislature regarding the DWRS. Removes obsolete language. Beginning July 1, 2017, requires the commissioner to renew analysis and implement changes to the regional adjustment factors when certain adjustments occur. Requires the commissioner to study the underlying cost of absence and utilization for day services. Requires the commissioner to make recommendations to the legislature by January 15, 2018, for changes, if any, to the absence and utilization factor ratio component values for day services. Beginning July 1, 2017, requires the commissioner to collect transportation and trip information for all day services through the DWRS. Makes this section effective the day following final enactment. |
| **Section 28 (256B.4914, subdivision 16)** exempts individualized home support services from the budget neutrality factor the day following enactment.  The Senate also repeals the budget neutrality factor in the last section of this article effective July 1, 2017. | Senate only |  |
| **Sections 29 to 31** contain conforming changes to MnCHOICES and the reassessment process for community first services and supports. | Senate only |  |
| **Sections 32 to 41** modify the Deaf and Hard-of-Hearing Act. |  |  |
| **Section 32 (256C.23, subdivision 1a)** defines “culturally affirmative.” | Identical | Sec. 30. Culturally affirmative. Amends § 256C.23, by adding subd. 1a. Defines “culturally affirmative” in the chapter of statute governing deaf and hard-of-hearing services. |
| **Section 33 (256C.23, subdivision 2)** modifies the definition of “deaf” by including additional examples of visual and manual means of communication. | Technical differences; staff recommends House. | Sec. 31. Deaf. Amends § 256C.23, subd. 2. Updates the definition of “deaf.” |
| **Section 34 (256C, subdivision 2c)** defines “interpretive services.” | Technical differences; staff recommends House. | Sec. 32. Interpreting services. Amends § 256C.23, by adding subd. 2c. Defines “interpreting services.” |
| **Section 35 (256C.23, subdivision 6)** defines “real-time captioning.” | Identical | Sec. 33. Real-time captioning. Amends § 256C.23, by adding subd. 6. Defines “real-time captioning.” |
| **Sections 36 (256C.233, subdivision 1)** specifies that the commissioners of education, employment and economic development, and health shall advise the commissioner of human services on the activities of the Deaf and Hard-of-Hearing Division; removes from the jurisdiction of the Division the educational and occupational needs of individuals. | Identical | Sec. 34. Deaf and Hard-of-Hearing Services Division. Amends § 256C.233, subd. 1. Updates the list of activities the division must address. Removes language referring to an “interagency management team” and replaces it with “interagency advisors.” Updates language to be person-centered. |
| **Section 37 (256C.233, subdivision 2)** modifies the duties of the Division by supplementing mere promulgation of information with advocacy, training, service provision, including the provision of mental health services, research, and reporting to the legislature on the activities of the Division. | Technical differences; staff recommends House. | Sec. 35. Responsibilities. Amends § 256C.233, subd. 2. Updates the list of duties the division must perform. Updates language to be person-centered. |
| **Section 38 (256C.24, subdivision 1)** incorporates people first language and requires the Division to establish at least six regional service centers. | Identical | Sec. 36. Location. Amends § 256C.24, subd. 1. Sets a minimum number of regional service centers the division must establish. Updates language to be person-centered. |
| **Section 39 (256C.24, subdivision 2)** modifies the duties of the regional service centers.  **Section 40 (256C.24, subdivision 4)** permits individuals traveling more than 50 miles round-trip to receive services at a regional service center to be reimbursed at the reimbursement rate established by the Internal Revenue Service. | Similar with addition of Senate Section 40. Staff recommends House, paragraph (a), with grammatical correction and Senate Section 40. | Sec. 37. Responsibilities. Amends § 256C.24, subd. 2. Paragraph (a) updates the list of duties the regional service centers must perform. Updates language to be person-centered.  Paragraph (b) allows people who have to travel more than 50 miles round-trip from home or work to receive services at a regional service center to be reimbursed for mileage at the reimbursement rate established by the IRS. |
| **Section 41 (256C.261**) clarifies the minimum allocation of grant funding for services and supports for children and for adults, and prohibits regional service centers from providing services under the consumer-directed grant program. | Identical | Sec. 38. Services for persons who are deafblind. Amends § 256C.261. Removes obsolete language and updates language to be person-centered. Requires consumer-directed services to be provided in whole by grant-funded providers. Prohibits the regional services centers from providing grant-funded consumer-directed services. |
| **Section 43 (Federal Waiver Request)** requires the commissioner of human services to make all necessary waiver amendment requests for the elimination of supported employment and the creation of three new employment-related services. | Technical differences; staff recommends House. | Sec. 69. Exception to the budget methodology for persons leaving institutions and crisis residential settings. By September 30, 2017, requires the commissioner to establish an institutional and crisis bed CDCS budget exception process. Lists to whom the exception process will apply. For purposes of this exception, lists the settings that are considered to be institutional. Limits the budget exception to no more than the amount of appropriate less-restrictive available services determined by the lead agency managing the individual’s home and community-based services (HCBS) waiver. Requires lead agencies to notify DHS of the budget exception. Makes this section effective the day following final enactment. |
| **Section 42 (CDCS budget Methodology Exception for Persons Leaving Institutions and Crisis Residential Settings)** directs the commissioner of human services to establish a consumer-directed community supports budget exception process for individuals who are currently residing in an institutional setting, as defined in paragraph (b), who have been approved for discharge from the institutional setting, but who have not been offered the appropriate services within 60 days of receiving discharge approval, and whose needs cannot be accommodated in a noninstitutional setting within the consumer-directed community supports budget limitations. | * Differing eligibility – Senate requires an individual to meet both conditions; House requires only one. * Differing language concerning “institutional setting” and “less-restrictive.” | Sec. 68. Federal waiver amendments. Requires the commissioner of human services to submit necessary waiver amendments to CMS to add employment exploration services, employment development services, and employment support services to the HCBS disability waivers. Also requires the commissioner to submit necessary waiver amendments to remove community-based employment services from DT&H and prevocational services. Requires the commissioner to submit all necessary waiver amendments by October 1, 2017. Makes this section effective the day following final enactment. |
| **Section 44 (Transportation Study)** requires the commissioner of human services to conduct a study to identify opportunities to increase access to transportation for individuals who receive home and community-based services. | Identical | Sec. 66. Transportation study. Requires the commissioner of human services to conduct a study to increase access to transportation services for an individual who receives HCBS. Requires the commissioner to submit a report to the legislative committees with jurisdiction over human services by January 15, 2019. Lists the information that must be included in the report. Makes this section effective the day following final enactment. |
| **Section 45 (Direction to the Commissioner; Telecommunication Equipment program)** requires the commissioner and the Commission of Deaf, Deafblind and Hard-of-Hearing Minnesotans to make recommendations to the legislature concerning the modernization of the telecommunication equipment program. | Technical differences; staff recommends House. | Sec. 63. Direction to commissioner; telecommunication equipment program. Requires the commissioner of human services to work in consultation with the Commission of Deaf, Deafblind, and Hard-of-Hearing Minnesotans to provide recommendations by January 15, 2018, to the legislative committees with jurisdiction over human services to modernize the telecommunications equipment program. Lists the items the recommendations must address. |
| **Section 46 (Direction to the Commissioner; Billing for Mental Health Services)** requires the commissioner of human services to report to the legislature on the costs and benefits of the Deaf and Hard-of-Hearing Division providing mental health services. | Identical | Sec. 64. Direction to commissioner; billing for mental health services. By January 1, 2018, requires the commissioner of human services to report to the legislative committees with jurisdiction over deaf and hard-of-hearing services on the potential costs and benefits of the Deaf and Hard-of-Hearing Services Division billing for the cost of providing mental health services. |
| **Section 47 (Direction to the Commissioner of Human Services**) requires the commissioner to work with lead agencies to reform to the MnCHOICES assessment tool to reduce the amount of time certified assessors completing the online forms. | Senate only |  |
| **Section 48 (Expansion of CDCS Budget Methodology Exception)** directs the commissioner of human services to request a waiver amendment to permit a budget increase of up to 30 percent for individuals eligible for consumer-directed community supports who require greater resources than currently allowed in order to increase the amount of time they can work, transition into their own home, or develop a positive support plan. | Similar but:   * Senate creates new session law expanding an existing budget exception; House amends past session law. * House language effective upon federal approval; Senate language effective July 1, 2017. | Sec. 60. Expansion of CDCS budget methodology exception. Amends Laws 2015, ch. 71, art. 7, § 54. Expands the 2015 CDCS budget methodology exception. Limits the exception for persons who are currently using licensed providers for employment supports or services during the day or residential services to persons who can demonstrate that the total cost of CDCS services, including the exception, will be less than the cost of current waiver services. Makes the exception effective October 1, 2017, or upon federal approval, whichever is later. Requires the commissioner of human services to notify the revisor of statutes when federal approval is obtained. |
|  | House only | Sec. 62. CDCS revised budget methodology report. Requires the commissioner of human services, in consultation with others, to develop a revised CDCS budget methodology. Specifies criteria upon which the new methodology must be based. By December 15, 2018, requires the commissioner to report a revised CDCS budget methodology, including proposed legislation and funding necessary to implement the new methodology, to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services. Makes this section effective the day following final enactment. |
| **Section 49 (Repealer)** repeals the budget neutrality factor from the disability waiver rate system effective January 1, 2018.  This section also repeals subdivisions within the Deaf and Hard-of-Hearing Services Act, including the definition of “regional service center,” the duty of state agencies with respect to the Division, and language concerning interpreter services, which is incorporated elsewhere in the bill. | Technical differences; staff recommends House. | Sec. 70. Repealer. Paragraph (a) repeals Minnesota Statutes, sections 256C.23, subd. 3 (definitions; regional service center); 256C.233, subd. 4 (duties of state agencies; state commissioners); and 256C.25, subds. 1 (interpreter services; establishment) and 2 (interpreter services; duties).  Paragraph (b) repeals Minnesota Statutes, section 256B.4914, subd. 16 (budget neutrality adjustments), effective January 1, 2018. |