

Bill Summary Comparison of Health and Human Services

House File 2128-4
Article 15: Community Supports
Policy

Senate File UEH2128-1
Article 15: Community Supports
Policy

Prepared by:
House Research and Senate Counsel, Research and Fiscal Analysis
May 5, 2021

This publication can be made available in alternative format upon request.
Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance.

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
		Page R1: Senate only	Section 1 (245.4874, subdivision 1) authorizes the commissioner of human services to access private data on individuals related to an individual child’s mental health screening for the purposes of program evaluation and improvement.
		Page R3: Senate only	Section 2 (245.697, subdivision 1) modifies membership on the State Advisory Council on Mental Health to include a representative of the Minnesota Department of Health, of the American Indian Mental Health Advisory Council, and of a consumer-run mental health advocacy group.
		Page R4: Senate only	Section 3 (252.43) clarifies that determinations of need are required for all day services for adults with disabilities, except when a day service provider changes name or ownership.
		Page R5: Senate only	Sections 4 to 47 updates statutes governing public guardianships (chapter 252A) for persons with developmental disabilities to reflect changes made to guardianship law (chapter 524) in Laws 2020 chapter 86, article 1, including modernizing terminology and requiring before imposing public guardianship that a less restrictive alternatives to public guardianship be attempted and determined to be insufficient to meet the person’s needs.
		Page R17: Senate only	Sections 49 to 53 (256B.051) renames “housing support services” as “housing stabilization services” to prevent confusion between this medical assistance service and the state-funded housing support program under chapter 256I.
		Page R19: Senate only	Section 52 (256B.051, subdivision 6) requires housing stabilization service providers to complete annual

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
			vulnerable adult training.
		Page R20: Senate only	Section 54 (256B.051, subdivision 8) specifies the requirements for documenting the provision of housing stabilization services.
1	Service standards. Amends § 256B.0947, subd. 6. Makes clarifying change.	Page R20: Identical	Section 55 (256B.0947, subdivision 6) clarifies that a treatment team must complete an individual treatment plan for intensive nonresidential rehabilitative mental health services.
		Page R22: Senate only	Section 56 (256B.4912, subdivision 13) aligns the statutory disability waiver transportation standards for a driver and a vehicle with the federally approved waiver plans.
2	Managed care contracts. Amends § 256B.69, subd. 5a. Requires managed care plans to use processes, forms, documentation, data reporting, and other policies consistent with MA fee-for-service or DHS contract requirements for community first services and supports (CFSS), which are scheduled to replace PCA services beginning in October.	Page R22: Identical	Section 57 (256B.69, subdivision 5a) extends the current requirements regarding administration of the PCA program by managed care organization to the administration of CFSS.
3	Basis and scope. Amends § 256B.85, subd. 1. Clarifies that supports purchased under CFSS are not considered home care services.	Page R26: Identical	Section 58 (256B.85, subdivision 1) clarifies that services and supports purchased under CFSS are not home care services for the purposes of Department of Health licensing.
4	Definitions. Amends § 256B.85, subd. 2. Clarifies the definitions of “activities of daily living,” “complex health-related needs,” “CFSS service delivery plan,” “dependency,” “extended CFSS,” “medication assistance,” “participant’s representative,” and “shared services.”	Page R26: Technical difference in paragraph (r) Staff recommends Senate	Section 59 (256B.85, subdivision 2) makes various clarifying changes to definitions for the purposes of CFSS, including: Paragraph (b) modifies and clarifies the meaning of activities of daily living for the purposes of CFSS. Paragraph (f) clarifies that CFSS covers complex health-related interventions ordered by an advanced practice registered nurse or physician’s assistance.

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
			Paragraph (u) strikes language related to the definition of “participant’s representative.” Expanded and clarifying language is proposed in section 75 (256B.85, subdivision 14a)
5	Eligibility. Amends § 256B.85, subd. 3. Clarifies eligibility for CFSS.	Page R32: Identical	Section 60 (256B.85, subdivision 3) clarifies eligibility for CFSS.
6	Eligibility for other services. Amends § 256B.85, subd. 4. Makes technical changes.	Page R32: Identical	Section 61 (256B.85, subdivision 4) makes a technical change.
7	Assessment requirements. Amends § 256B.85, subd. 5. Modifies assessment requirements under CFSS.	Page R32: Identical	Section 62 (256B.85, subdivision 5) clarifies the notice requirements following a long-term care consultation assessment, and clarifies the process for authorizing temporary CFSS without an assessment.
8	CFSS service delivery plan. Amends § 256B.85, subd. 6. Clarifies CFSS service delivery plans must meet the needs identified in the developmental disabilities waiver coordinated service and support plan. Requires the CFSS service delivery plan to describe the units or dollar amount available to the participant.	Page R33: Identical	Section 63 (256B.85, subdivision 6) makes clarifying and technical changes and specifies that a CFSS service delivery plan must describe the units of service or dollar amount available to a CFSS participant.
9	CFSS; covered services. Amends § 256B.85, subd. 7. Modifies prohibitions for CFSS support workers who are the parent, stepparent, or legal guardian of a participant under age 18, or who are a participant’s spouse.	Page R35: Identical	Section 64 (256B.85, subdivision 7) modifies restrictions on the wages for support workers who are the parent, stepparent, legal guardian, or spouse of the participant.
10	Determination of CFSS service authorization amount. Amends § 256B.85, subd. 8. Clarifies the provision of additional service units for level I behaviors.	Page R36: Identical	Section 65 (256B.85, subdivision 8) clarifies the conditions under which a participant qualifies for additional units of service for level I behaviors.

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
11	<p>Authorization; exceptions. Amends § 256B.85, by adding subd. 8a. Provides for exceptions to CFSS service authorizations.</p>	Page R37: Identical	<p>Section 66 (256B.85, subdivision 8a) establishes alternative authorization procedures for CFSS for temporary provision of CFSS, emergency provision of CFSS, temporary higher level of need for a current participant, reinstated MA eligibility, agency error, a third-party payer denies or adjusts payment, or temporary disenrollment from a managed care plan.</p>
12	<p>Noncovered services. Amends § 256B.85, subd. 9. Clarifies noncovered services in residential settings and for children under age 18 under CFSS.</p>	Page R38: Identical	<p>Section 67 (256B.85, subdivision 9) clarifies that CFSS does not cover services (1) provided in a foster care setting unless the setting is the licensee’s primary residence; (2) services that are the contractual obligation of a foster care provider; (3) certain assistance with instrumental activities of daily living provided to children; and (4) services provided in certain institutional settings.</p>
13	<p>Agency provider and FMS provider qualifications and duties. Amends § 256B.85, subd. 10. Requires agency providers to complete required training as determined by the commissioner. Clarifies general duties of agency providers and FMS providers under CFSS.</p>	Page R41: Identical	<p>Section 68 (256B.85, subdivision 10) clarifies CFSS agency-provider and FMS provider qualifications and duties.</p>
14	<p>Agency provider model. Amends § 256B.85, subd. 11. Requires the agency to make a reasonable effort to fulfill the participant’s request for the participant’s preferred worker. Makes terminology consistent.</p>	<p>Page R42: Technical difference in paragraph (b) Staff recommends Senate</p>	<p>Section 69 (256B.85, subdivision 11) requires an agency-provider to make a reasonable effort to fulfill a participant’s request for the participant’s preferred support worker.</p>
15	<p>Agency provider model; support worker competency. Amends § 256B.11b. Clarifies support worker competency requirements under CFSS. Clarifies requirements when providing shared services.</p>	<p>Page R43: Technical difference in paragraph (a) Staff recommends Senate</p>	<p>Section 70 (256B.85, subdivision 11b) establishes timelines for agency-providers to complete an evaluation of support workers’ competency through direct observation; documentation requirements related to support worker orientation and instruction for performing health-related tasks; and requirements related to developing support worker training and development</p>

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
			plans.
16	Requirements for enrollment of CFSS agency providers. Amends § 256B.85, subd. 12. Clarifies requirements CFSS agency providers must meet at the time of enrollment, reenrollment, and revalidation as a CFSS agency provider.	Page R44: Identical	Section 71 (256B.85, subdivision 12) clarifies CFSS agency-provider enrollment requirements, including by applying the existing fidelity bond coverage amount to each provider location.
17	CFSS agency provider requirements; notice regarding termination of services. Amends § 256B.85, subd. 12b. Extends the timeline for agency providers to provide a termination of services notice to a participant from ten calendar days to 30 calendar days before the proposed termination of service. Corrects spelling.	Page R46: Identical	Section 72 (256B.85, subdivision 12b) extends from 10 to 30 the number of days' notice a CFSS provider-agency must give a participant before terminating services.
18	Budget model. Amends § 256B.85, subd. 13. Requires two or more participants who are using the budget model, living in the same household, and using the same worker to use the same FMS provider. If the FMS provider advises that there is a joint employer in the budget model, requires all participants associated with that joint employer to use the same FMS provider.	Page R47: Technical difference in paragraph (c) Staff recommends Senate	Section 73 (256B.85, subdivision 13) requires participants using the budget model who share CFSS services or who are the joint employer of a single support worker to use the same FMS provider.
19	Financial management services. Amends § 256B.85, subd. 13a. Expands FMS provider requirements to include providing written notice to the participant or the participant's representative at least 30 calendar days before a proposed service termination becomes effective. Removes unnecessary language.	Page R48: Identical	Section 74 (256B.85, subdivision 13a) requires a FMS provider to give a participant 30 days' notice before terminating FMS services.
20	Participant's representative responsibilities. Amends § 256B.85, by adding subd. 14a. Paragraph (a) requires a participant to use a participant's representative to receive CFSS	Page R49: Identical	Section 75 (256B.85, subdivision 14a) specifies when a participant's representative is required for a participant to receive CFSS, the requires for participant representatives, the

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
	<p>services if the participant is unable to direct the participant’s own care. Lists circumstances under which a participant’s representative is required.</p> <p>Paragraph (b) lists requirements a participant’s representative must meet.</p> <p>Paragraph (c) lists certain persons who are prohibited from being a participant’s representative.</p> <p>Paragraph (d) allows a licensed family foster parent to be the participant’s representative under certain circumstances.</p> <p>Paragraph (e) allows for two persons to be designated as the participant’s representative.</p> <p>Paragraph (f) requires the participant or the participant’s legal representative to appoint a participant’s representative.</p> <p>Paragraph (g) requires a participant’s representative to enter into a written agreement with an agency provider or FMS provider and lists the items that must be included in the agreement.</p> <p>Paragraph (h) allows a participant’s representative to temporarily delegate responsibility to another adult and lists duties a participant’s representative must meet in delegating responsibility.</p> <p>Paragraph (i) specifies the length of time the designation of a participant’s representative remains in place.</p> <p>Paragraph (j) allows a lead agency to disqualify a participant’s representative who engages in conduct that creates an imminent risk of harm to the participant, the support worker, or other staff.</p>		<p>requirements of a written agreement between a participant representation and an agency-provider or FMS provider; the requirements for delegating a participant’s representative’s duties to another adult, and the circumstances under which a lead agency may disqualify an individual as serving as a participant representative.</p>

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
	Requires a participant’s representative who fails to provide support required by the participant to be referred to the common entry point.		
21	Documentation of support services provided; time sheets. Amends § 256B.85, subd. 15. Clarifies support workers must submit time sheets at least once per month. Makes technical changes.	Page R51: Identical	Section 76 (256B.85, subdivision 15) clarifies that support worker timesheets must be submitted at least once per month.
22	Consultation services provider qualifications and requirements. Amends § 256B.85, subd. 17a. Expands the list of qualifications and requirements consultation services providers must meet under CFSS to include proof of surety bond coverage and reporting of maltreatment of minors and vulnerable adults.	Page R53: Identical	Section 77 (256B.85, subdivision 17a) specifies the surety bond requirements for consultation service providers; and requires consultation service providers to report maltreatment of vulnerable adults and minors.
23	Worker training and development services. Amends § 256B.85, subd. 18a. Requires worker training and development services to be delivered by an individual competent to perform, teach, or assign the tasks, including health-related tasks, identified in the plan through education, training, and work experience. Modifies the list of items worker training and development services do not include.	Page R54: Technical difference in paragraph (e), clause (5) Staff recommends Senate	Section 78 (256B.85, subdivision 18a) specifies the required qualifications of individuals providing worker training and development services and clarifies the limit on covered worker training and development services.
24	Service-related rights under an agency provider. Amends § 256B.85, subd. 20b. Clarifies participant’s service-related rights under an agency provider related to shared services.	Page R55: Identical	Section 79 (256B.85, subdivision 20b) specifies that a participant has a right to be told before services begin of any agreements for shared services.
25	Commissioner’s access. Amends § 256B.85, subd. 23. Makes technical and clarifying changes.	Page R55: Identical	Section 80 clarifies the potential consequences of a provider-agency, FMS provider, or consultation services provider denying the commissioner access to the provider’s offices and records

HOUSE

SENATE

Section	Article 15: Community Supports Policy		Article 15: Community Supports Policy
			when the commissioner is investigating possible overpayments.
26	<p>Sanctions; information for participants upon termination of services. Amends § 256B.85, subd. 23a. Clarifies consultation services providers must also provide a participant with notice of service termination and support the participant in transitioning to another provider. Allows the commissioner to inform the ombudsman for long-term care and the lead agencies for all participants with active service agreements with a consultation services provider whose enrollment has been suspended or terminated.</p>	Page R56: Identical	Section 81 (256B.85, subdivision 23a) clarifies that existing sanctions for agency-providers and FMS service providers also apply to consultation service providers.
		Page R57: Senate only	Section 82 (256L.03, subdivision 1) clarifies the CFSS and housing stabilization services are not covered services under MinnesotaCare.
		Page R57: Senate only	Section 83 (Revisor Instruction) requires the revisor of statutes to change where appropriate the term “consolidated chemical dependency treatment fund” to the term “behavioral health fund”; the term “housing support services” to “housing stabilization services”; and the term “group residential housing” to “housing support”.
		Page R58: Senate only	Section 84 (Repealer) repeals statutory language related to determinations of need for day services and related appeals; repeals the definitions of public conservator and conservatee, and related definitions, from the public guardianship statute to conform with updated language elsewhere in the article.