House Research
Act Summary

CHAPTER: 163 **SESSION:** 2016 Regular Session

TOPIC: DHS Policy

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Date: May 31, 2016

Article 1: Ombudsman for Long-Term Care

Overview

This article makes changes to statutory provisions related to the ombudsman for long-term care to comply with federal law.

1 **Office of Ombudsman for Long-Term Care.** Amends § 256.974. Updates federal law citations and specifies that the ombudsman for long-term care is a distinct entity, separately identifiable from other state agencies. Removes Minnesota Board on Aging authority to designate local programs for the provision of ombudsman services to clients in county or multicounty areas. Makes this section effective the day following final enactment.

2 **Office.** Amends § 256.9741, subd. 5. Modifies the definition of "office." Makes this section effective the day following final enactment.

3 **Representatives of the office.** Amends § 256.9741, by adding subd. 7. Defines "representatives of the office." Makes this section effective the day following final enactment.

4 **State long-term care ombudsman.** Amends § 256.9741, by adding subd. 8. Defines "state long-term care ombudsman." Makes this section effective the day following final enactment.

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5 **Duties and powers of the office.** Amends § 256.9742. Specifies that the office of ombudsman for long-term care is a distinct entity and not a program under the Board on Aging. Makes conforming terminology changes. Makes this section effective the day following final enactment.

Article 2: Chemical and Mental Health Services

Overview

This article establishes requirements and more specific standards for Assertive Community Treatment teams and imposes a state certification requirement on providers of these services. This article also instructs the commissioner to develop a proposal to reform the substance use disorder treatment system and seek federal approval to implement the proposal.

1 **Mental health professional.** Amends § 245.462, subd. 18. To the definition of mental health professional, adds osteopathic physicians certified by the American Osteopathic Board of Neurology and Psychiatry.

2 **Mental health professional.** Amends § 245.4871, subd. 27. To the definition of mental health professional, adds osteopathic physicians certified by the American Osteopathic Board of Neurology and Psychiatry.

3 **Scope.** Amends § 256B.0615, subd. 1. Makes a technical correction.

4 **Establishment.** Amends § 256B.0615, subd. 2. Makes a technical correction.

5 **Assertive community treatment and intensive residential treatment services.** Amends § 256B.0622.

Subd. 1. Scope. Adds cross-references to the definitions of assertive community treatment clients and intensive residential treatment services clients.

Subd. 2. Definitions. Provides definitions of the following terms: "ACT team," "assertive community treatment," "individual treatment plan," "assertive engagement," "benefits and finance support," "co-occurring disorder treatment," "crisis assessment and intervention," "employment services," "family psychoeducation and support," "housing access support," "individual treatment team," "intensive residential treatment services treatment team," "intensive residential treatment services," "medication assistance and support," "medication education," "overnight staff," "mental health certified peer specialist services," "physical health services," "primary team member," "rehabilitative mental health services," "symptom management," "therapeutic interventions," and "wellness self-management and prevention."

Subd. 2a. Eligibility for assertive community treatment. Provides the criteria an individual must meet in order to be eligible for ACT services. The individual must be 18 years of age or older, have a diagnosis of a psychotic disorder or bipolar disorder, have significant function impairment, and have a need for continuous high-intensity services. A mental health professional must document that no other

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community resources are available to provide treatment as effectively as ACT services. The commissioner may approve individuals age 16 or 17 for ACT services.

Subd. 2b. Continuing stay and discharge criteria for assertive community treatment. Paragraph (a) lists the criteria a client must meet in order to maintain eligibility for services.

Paragraph (b) lists the discharge criteria.

Paragraph (c) allows clients who are discharged to voluntarily return to the ACT team within three months of discharge if the client does not adjust well to the new service.

Subd. 3. Eligibility for intensive residential treatment services. Provides the criteria an individual must meet in order to be eligible for IRTS. Among the criteria, an individual must be at least 18 years of age, eligible for medical assistance, have a diagnosed mental illness, and have functional impairments. A mental health professional must document that no other community resources are available, the client is likely to experience a mental health crisis, or the client is likely to need treatment in a more restrictive setting if IRTS services are not provided.

Subd. 3a. Provider certification. Paragraph (a) requires ACT providers to have a contract with the host county and to be certified by the state.

Paragraph (b) lists the standards for a certified ACT team.

Paragraph (c) allows the commissioner to decertify an ACT team at any time with cause. Requires the commissioner to establish a decertification process.

Subd. 4. Provider licensure and contract requirements for intensive residential treatment services. Makes technical changes so that this subdivision applies only to IRTS programs.

Subd. 5a. Standards for intensive residential rehabilitative mental health services. Provides requirements for staffing, including staff to client ratios, staff qualifications, and treatment team responsibilities. Requires that the individual treatment plan must be completed within 24 hours of admission and the initial functional assessment within ten days of intake.

Subds. 5 and 6 are stricken.

Subd. 7. Assertive community treatment service standards. Paragraph (a) lists the services that must be offered by an ACT team.

Paragraph (b) requires ACT teams to provide all services necessary to meet a client's needs as identified in the individualized treatment plan.

Subd. 7b. Assertive community treatment team staff requirements and roles. Lists professionals who must be on an ACT team, their qualifications, and roles: team leader, psychiatric care provider, nursing staff, co-occurring disorder specialist, vocational specialist, mental health certified peer specialist, administrative assistant, and additional staff based on team size.

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Subd. 7c. Assertive community treatment program size and opportunities. Provides the staffing requirements for small, midsize, and large ACT teams.

Subd. 7d. Assertive community treatment program organization and communication requirements. Requires ACT teams to provide at least 75 percent of all services outside an office or facility setting. Among the requirements, teams must be responsive to changing needs of clients, interact with families and other support persons, conduct daily meetings, and engage clients in services.

Subd. 7e. Assertive community treatment assessment and individual treatment plan. Paragraph (a) requires a diagnostic assessment and a 30-day treatment plan to be completed the day of the client's admission. Establishes time frames for completion of a functional assessment, an in-depth assessment, and a comprehensive case conference.

Paragraph (b) establishes the requirements for development of individual treatment plans.

Subd. 7f. ACT team variance. Allows the commissioner to grant variances to specific requirements when a team is unable to meet the requirement, but is able to demonstrate how the variance will not have an adverse effect on clients. Allows the commissioner to require the team to develop a plan to come into compliance and to impose time limits for compliance. The decision of the commissioner is final and not appealable.

Subd. 8. Medical assistance payment for assertive community treatment and intensive residential treatment services. Strikes the word "recipient" and inserts "client." Adds clarifying language.

Subd. 9. Provider enrollment; rate setting for county-operated entities. No changes.

Subd. 10. Provider enrollment; rate setting for specialized program. Strikes the word "recipients" and inserts "clients."

Subd. 11. Sustainability grants. No changes.

Effective date. For ACT teams certified after January 1, 2016, this section is effective July 1, 2016. For teams certified before January 1, 2016, this section is effective January 1, 2017.

6 **Definitions.** Amends § 256B.0947, subd. 2. Clarifies that intensive nonresidential rehabilitative mental health services may be provided to children who are ages 16, 17, 18, 19, or 20. Adds a cross-reference and corrects a professional title.

7 **Substance use disorder system reform.**

Subd. 1. Authorization of substance use disorder treatment system reform. Instructs the commissioner to design a reform of the treatment system.

Subd. 2. Goals. Establishes the goals of the reform project.

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Subd. 3. Reform proposal. Paragraph (a) requires the reform proposal to create a robust continuum of care to treat all dimensions of substance use disorders. Lists elements that are to be included in the reform proposal.

Paragraph (b) instructs the commissioner to seek federal authority to implement the proposal.

Paragraph (c) provides that implementation is contingent upon legislative approval.

Subd. 4. Legislative update. Requires the commissioner, no later than February 1, 2017, to present an update to the legislature on the progress of the reform proposal.

Subd. 5. Stakeholder input. Instructs the commissioner to consult with consumers, providers, counties, tribes, health plans, and others.

Article 3: Miscellaneous

Overview

This article amends various provisions related to the Child Fatality and Near Fatality Review Team, adult foster care, and community integration for individuals with disabilities, and housing supports for individuals who experience homelessness.

1 **Individualized education programs.** Amends Minnesota Statutes 2015 Supplement, § 125A.08. Requires a school district evaluation team to obtain verification from a licensed health care professional that at child has a medical condition before making a determination of other health disability.

2 **Definitions.** Amends § 148.975, subd. 1. Adds psychology students, predoctoral psychology interns, and individuals who are completing postdoctoral supervision to the definition of psychology professionals who are protected under the duty to warn statute.

3 **Duty to warn.** Amends § 148B.1751. Adds marriage and family students or interns practicing under supervision for purposes of protection under the duty to warn statute.

4 **Duty to warn; limitation on liability.** Amends § 148F.13, subd. 2. Adds alcohol and drug counseling students and postdegree individuals for purposes of protection under the duty to warn statute.

5 **Adult foster care and community residential setting license capacity.** Amends § 245A.11, subd. 2a. Modifies language to allow the commissioner to grant a waiver to licensed facilities to allow the use of an additional bed for respite or emergency crisis services. This change allows the commissioner flexibility to grant a variance for programs licensed to care for fewer than four individuals. Modifies the sunset date of the commissioner's authority to issue licenses for five-bed corporate foster care homes under certain circumstances. Provides an immediate effective date.

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6 **Department of Human Services Child Fatality and Near Fatality Review Team.** Amends Minnesota Statutes 2015 Supplement, § 256.01, subd. 12a. Adds a new paragraph to prohibit members of the review team from disclosing what transpired during the review, except to carry out the purpose of the team. Classifies proceedings and records as protected nonpublic data under section 13.02, subdivision 13. Records are not discoverable and cannot be used in criminal or civil proceedings in certain cases, but documents available from other sources are not immune from discovery or use in a civil or criminal proceeding.

7 **Requirements for clinicians certified as health care homes.** Amends § 256B.0751, subd. 3. Requires clinics or clinicians certified as health care homes to renew their certification every three years. Prior to this change in law, annual certification was required.

8 **Assessment and support planning.** Amends § 256B.0911, subd. 3a. Allows individuals to participate with the client in the MnCHOICES assessment. Prohibits providers of services or individuals with a financial interest from participating in the assessment.

9 **Reimbursement for basic care services.** Amends Minnesota Statutes 2015 Supplement, § 256B.766. Modifies medical assistance reimbursement for certain durable medical equipment and services provided on or after July 1, 2015. Makes this section effective retroactively to July 1, 2015.

10 **License required; staffing qualifications.** Amends § 256I.04, subd. 2a. Updates a professional title. Strikes the requirement for a provider to have a Minnesota driver's license, allowing the provider to have a valid license from any state. Provides an immediate effective date.

11 **Conditions prior to imposing remedies.** Amends § 402A.18, subd. 3. Allows the commissioner more flexibility in determining whether a county or service delivery authority has a performance disparity related to a racial or ethnic subgroup and imposing a performance improvement plan to correct the disparity. Provides an immediate effective date.

12 **Action plan to increase community integration of people with disabilities.** Requires the commissioners of human services, education, the Minnesota Housing Finance Agency, employment and economic development, and information technology, in consultation with stakeholders, to collaborate and develop an action plan to increase community integration of people with disabilities. Requires recommendations to be provided to the legislature by January 1, 2017.

13 **Housing support services.**

Subd. 1. Comprehensive housing support services. Instructs the commissioner to design comprehensive housing support services.

Subd. 2. Goals. Lists the goals to be achieved.

Subd. 3. Housing support services benefit set proposal. Paragraph (a) requires the commissioner to develop a proposal that includes housing transition services, and housing and tenancy sustaining services.

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Paragraph (b) instructs the commissioner to seek federal authority and funding necessary to implement the proposal.

Paragraph (c) provides that implementation is contingent upon legislative approval.

Subd. 4. Legislative update. Requires the commissioner to present an update to the legislature by February 1, 2017.

Subd. 5. Stakeholder input. Requires the commissioner to consult with stakeholders when developing the proposal.

Article 4: Minnesota Eligibility System Executive Steering Committee

Overview

This article establishes in statute an executive steering committee to make recommendations to govern the Minnesota eligibility system, which is used to determine eligibility for and enroll certain individuals in qualified health plans and public health care programs.

1 **Application of other law.** Amends § 62V.03, subd. 2. Makes the Minnesota Eligibility System Executive Steering Committee subject to the open meeting law.

2 **Minnesota Eligibility System Executive Steering Committee.** Adds § 62V.055. Establishes an executive steering committee to make recommendations to govern and administer the Minnesota eligibility system.

Subd. 1. Definition; Minnesota eligibility system. Defines Minnesota eligibility system as the system that supports eligibility determinations using the modified adjusted gross income (MAGI) methodology for certain medical assistance applicants and enrollees (mainly children, parents, pregnant women, and adults without children); for MinnesotaCare applicants and enrollees; and for people applying for or enrolled in a qualified health plan.

Subd. 2. Establishment; committee membership; costs. Establishes the Minnesota Eligibility System Executive Steering Committee and specifies committee membership: two members appointed by the commissioner of human services, two members appointed by the MNsure board, two members representing counties, and two nonvoting member representing MN.IT. Designates two members as co-chairs. Requires steering committee costs to be paid from the budgets of DHS, MNsure, and MN.IT.

Subd. 3. Duties. Directs the steering committee to provide recommendations for a governance structure for the Minnesota eligibility system and its ongoing administration and business operations. Requires quarterly reports to the Legislative Oversight Committee.

Subd. 4. Meetings. Requires steering committee meetings to be held in the State Office Building, the Minnesota Senate Building, or another public location approved by the Legislative Oversight Committee, and to be available for viewing over the Internet. Requires the steering committee to provide opportunities for public

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testimony at every meeting and to post meeting documents to the legislature's Web site. Requires steering committee votes to be recorded, with each member's vote identified.

Subd. 5. Administrative structure. Lists duties of the Office of MN.IT Services for the Minnesota eligibility system.

3 **Review of Minnesota eligibility system funding and expenditures.** Adds subd. 5 to § 62V.11. Requires the Legislative Oversight Committee to review quarterly reports submitted by the steering committee related to Minnesota eligibility system funding and expenditures.