

HOUSE RESEARCH

Bill Summary

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Overview

This bill contains provisions to implement the recommendations of the long-term care imperative, a collaborative effort of the two nursing facility trade organizations.

Section

Article 1 - Community Access and Supports for Seniors

- 1 **Income.** Amends § 256B.056, subd. 4. Increases the MA income standard for persons who are aged, blind, or disabled from 133 and 1/3 percent of the AFDC standard to 100 percent of the federal poverty guidelines.
- 2 **Special needs.** Amends § 256D.44, subd. 5. Increases the MSA standard of assistance by the maximum allotment authorized by the Food Stamp program for a single individual, for applicants and current recipients of the alternative care program or elderly waiver, who are shelter needy (shelter costs exceed 40 percent of gross income).
- 3 **Community services development grants program.** Adds § 256M.01. Requires the commissioner of human services to establish and administer a grant program for providers of older adult services.
 - Subd. 1. Definitions.** Defines community, older adult services, and older adult.
 - Subd. 2. Creation.** Establishes the community services development grants program within DHS.
 - Subd. 3. Purpose.** Makes grants for capital costs, establishment of new services, training, renovation, transportation, and other specified purposes available to communities, providers of older adult services, and consortiums of providers.
 - Subd. 4. Eligibility.** Requires a local match of 50 percent of project costs.
 - Subd. 5. Grant preference.** Allows the commissioner to award grants of up to \$750,000 to the extent grants funds are available and applications approved. States that denial in one year does

not preclude applications in a subsequent year.

4 **Transition planning grants.** Adds § 256M.02. Requires the commissioner of human services to establish and administer a transition planning grant program for nursing facilities.

Subd. 1. Definitions. Defines eligible nursing home as a home licensed by MDH and participating in MA.

Subd. 2. Grants authorized. Requires the commissioner to establish a grant program to assist facilities in developing strategic plans and implementing transition projects, including capital improvements or elimination of financial barriers.

Subd. 3. Allocation of grants. Establishes the grant allocation procedure, lists factors the commissioner must consider in awarding grants, and limits each grant to \$100,000.

Subd. 4. Evaluation. Requires the commissioner to evaluate the program, and allows the commissioner to collect from homes information necessary for the evaluation.

5 **Establishment and purpose of medical assistance pilot project on senior services.** Adds § 256M.03. Requires the commissioner of human services to establish a voucher program for senior services.

Subd. 1. Establishment and purpose. Requires the commissioner of human services to establish an MA pilot project on senior services to determine how to convert the delivery of housing, supportive services, and health care into a voucher program.

Subd. 2. Federal waiver authority. Directs the commissioner to apply for any necessary federal waivers or approvals by April 15, 2002, and to implement the project by January 1, 2003, or upon federal approval.

Subd. 3. Report. Requires the commissioner and participating communities to issue annual reports beginning December, 2003, to appropriate legislative committee chairs.

Subd. 4. Sunset. Provides a June 30, 2008 sunset.

6 **Senior information source program established.** Adds § 256M.04. Requires the board on aging to contract for the development and management of a senior information source.

Subd. 1. Program established. Requires the Minnesota board on aging to develop a senior information source to provide a free telephone and internet information and assistance service to seniors and their families, using in part Older Americans Act funding. Requires the board to contract with an individual, entity, or qualified consortium for this purpose by January, 2002.

Subd. 2. Requests for proposals. Sets requirements for the request for proposals process.

Subd. 3. Qualified consortium. Defines qualified consortium as an entity that may include a public or private institution, health care provider, county, association, or one or more employers.

Subd. 4. Fiscal requirements. Requires respondents to specify how they will maximize use of available federal and state funds, and to designate a lead agency as fiscal agent.

Subd. 5. Information source targets. Requires respondents to describe how they will meet information needs and increase program awareness and use.

Subd. 6. Local match requirements. Requires a 50 percent local match.

Subd. 7. Evaluation. Requires the board to evaluate the program and report to the legislature annually.

7 **Expansion of bed distribution study and creation of critical access sites.** Adds § 256M.05. Requires the commissioner of health to report on the distribution of older adult services, and with the commissioner of human services, to identify and designate critical access service sites.

Subd. 1. Older adult services distribution study. Requires the commissioner of health to

monitor and analyze the distribution of older adult services, and report annually to the legislature on the geographic distribution of services.

Subd. 2. Critical access service site. Defines critical access service site as a nursing home, senior housing, or community-based service that is certified by the state as a necessary health care service to a geographic area. A necessary provider is one that is at least 20 miles from the next nearest long-term health care provider, the sole long-term health care provider in a county, or located in a medically underserved area or health professional shortage area.

Subd. 3. Identification of critical access service sites. Requires the commissioners of health and human services to identify and designate critical access service sites.

Subd. 4. Critical access service sites. Requires the commissioner of health to implement waivers for sites, give sites priority in grant requests, and identify and make recommendations related to payment barriers for these sites.

Article 2 - Caregiver Support

- 1 **Employees of licensed nursing facilities.** Amends § 43A.24, by adding subd. 2a. Allows employees of nursing facilities to be eligible for state employee health insurance programs, but does not obligate the state to pay for the benefits.
- 2 **Eligibility; annual income; calculation.** Amends § 119B.09, subd. 4. Excludes wage increases provided to long-term care workers by direct mandate of the legislature from annual income for purposes of determining eligibility for child care assistance.
- 3 **Background studies on licensees and temporary pool agency personnel.** Amends § 144.057. Requires the commissioner of human services to conduct background studies of individuals employed by temporary employment agencies who provide services in health care facilities and controlling persons of temporary employment agencies. Requires temporary employment agencies to maintain records that verify compliance with background study requirements.
- 4 **Assistance with eating and drinking.** Amends § 144A.62, subd. 1. Requires the commissioner of health to submit a new federal waiver request to establish the resident attendant worker category, by July 15, 2001.
- 5 **Definition.** Amends § 144A.62, subd. 2. Expands the definition of resident attendant to include persons who transport residents.
- 6 **Requirements.** Amends § 144A.62, subd. 3. Makes conforming changes related to resident attendants.
- 7 **Evaluation.** Amends § 144A.62, subd. 4. Makes conforming changes related to resident attendants.
- 8 **Background study of the applicant; definitions.** Amends § 245A.04, subd. 3. Requires the commissioner of human services to conduct all background studies initiated by temporary employment agencies registered under chapter 144F by August 1, 2001. Requires the commissioner to recover costs through a fee charged to the temporary employment agency. Makes conforming changes.
- 9 **Notification of subject and license holder of study results; determination of risk of harm.** Amends § 245A.04, subd. 3a. Makes conforming changes related to registration of temporary employment agencies.
- 10 **Reconsideration of disqualification.** Amends § 245A.04, subd. 3b. Makes conforming changes related to registration of temporary employment agencies.
- 11 **Disqualification.** Amends § 245A.04, subd. 3d. Makes conforming changes related to

registration of temporary employment agencies.

- 12 **Registration of temporary employment agencies serving health care industry.** Adds § 256M.20. Defines terms.
- 13 **Registration required.** Adds § 256M.21. Requires temporary employment agencies providing services to health care settings to be registered with the commissioner of health, effective January 1, 2001.
- 14 **Enforcement.** Adds § 256M.22. Gives the commissioner of health enforcement power related to laws and rules governing temporary employment agencies. This includes authority to:
- refuse to grant or renew a registration, or to suspend or revoke a registration
 - suspend registration or prohibit delivery of services for up to 60 days in cases of imminent danger
 - not grant an agency registration for five years following the effective date of nonrenewal or revocation of a registration
- 15 **Injunctive relief.** Adds § 256M.23. Allows the commissioner to bring an action in district court to enjoin operation of a temporary employment agency.
- 16 **Subpoena.** Adds § 256M.24. Allows the commissioner, in regulating temporary employment agencies, to issue subpoenas and compel the attendance of witnesses and production of necessary materials.
- 17 **Prior criminal convictions.** Adds § 256M.25. Requires owners, managerial officials, employees, and contractors of temporary employment agencies to complete a background study, and disqualifies these individuals from involvement with an agency, if the individual is disqualified as a result of a background study.
- 18 **Registration.** Adds § 256M.26. Establishes policies and procedures related to the registration of temporary employment agencies.
- 19 **Temporary employment agency contracts.** Adds § 256M.27. Prohibits a temporary employment agency from operating in the state without a contract between the agency and each facility. Specifies contents of the contract and contract retention requirements.
- 20 **Authority of commissioner.** Adds § 256M.28. Requires the commissioner to make appropriate referrals of regulatory issues involving temporary employment agencies to other public and private agencies, and allows the commissioner to bring actions in district court for injunctive relief.
- 21 **Temporary agency charges.** Adds § 256M.29. Requires the department of human services to establish maximum rates of payment for temporary employment agency services, to be effective July 1, 2001. Specifies that agencies that do not comply with the rate maximum are subject to actions for civil damages.
- 22 **Loan forgiveness program for licensed professional staff.** Adds § 256M.30. Directs the commissioner of health to coordinate all loan forgiveness, grant, tuition waiver, and training programs for health care workers who work or pledge to work in long-term care health care settings, and to disseminate information on these programs. Requires the commissioner to establish a health care worker tuition payback program that provides grants to health care facilities to reimburse employees for tuition costs.

Article 3 - Payment and Quality System Reform

- 1 **Quality and payment review commission.** Adds § 256M.40. Establishes a quality and payment review commission to review long-term care payment policies and submit financial and quality assurance recommendations and reports to the legislature. Specifies members, duties, and operating procedures.

- 2 **Determination of payment system for nursing facilities.** Adds § 256M.41. Requires the quality and payment review commission to present to the legislature, by February 15, 2002, recommendations for a new operating payment system for nursing facilities, that is effective July 1, 2002.
- 3 **Rate adjustments effective July 1, 2001.** Adds § 256M.42. Makes various adjustments to nursing facility rates.
- Subd. 1. Nursing facility rates.** Requires the commissioner, for rate years beginning after June 30, 2001, to provide nursing facilities with a rate adjustment based on the DRI forecast of the nursing home market basket index plus three percent, plus an additional increase equal to \$1.00 times all compensated hours. Requires the increase based on compensated hours to be used only for employee compensation or to hire additional employees. Allows the commissioner to request reports on how facilities use the funds provided and specifies that the rate increases continue each rate year until the new payment system is established.
- Subd. 2. Additional increases for low rate facilities.** Provides rate floors for nursing facilities for each case mix category. Sets the floor for nursing homes at 98 percent of the median of the state development region in which the facility is located and the floor for certified boarding care homes at 90 percent of the region median.
- Subd. 3. Contracts for services for ventilator dependent persons.** Modifies payment procedures for persons who are ventilator dependent. Allows the commissioner to issue a request for proposals to serve persons who are ventilator dependent, and to negotiate payments set at a minimum of 200 percent of the most recent highest multiple bedroom payment rate for the facility. Eliminates the prior hospitalization requirement.
- Subd. 4. Property costs after July 1, 1998.** Reinstates language related to property costs that is repealed elsewhere and provides a higher inflation adjustment for replacement-cost-new per bed limits.
- Subd. 5. Alternate rates for nursing facilities.** Reinstates language establishing payment rates under the alternative payment system that is repealed elsewhere.
- Subd. 6. Other provider increases.** Requires the commissioner to increase reimbursement rates by 12 percent each year of the next biennium for specified direct care and community-based providers.
- 4 **Establishment of long-term care revolving fund.** Adds § 256M.43. At the end of each fiscal year, requires any unspent and unencumbered state general fund appropriations for long-term care for the elderly to be deposited in a long-term care enhancement fund. Allows this money to be used only to enhance long-term care services through capital or other one-time investment projects or through provider increases that are greater than the rate of inflation. Gives the quality and payment review commission authority to designate use of funds.
- 5 **Regulatory impact review.** Adds § 256M.44. Requires state agencies proposing new regulations or new interpretations of existing regulations in the area of housing and service delivery for older adults to submit proposed changes to the quality and payment review commission for a regulatory financial impact statement and approval. Requires the commission to provide recommendations on how to fund new mandates.

Article 4 - Infrastructure Conversion

- 1 **Findings.** Amends § 144A.071, subd. 1. Modifies a statement of legislative intent to conform with the increase in the dollar threshold for moratorium exceptions.
- 2 **Definitions.** Amends § 144A.071, subd. 1a. Specifies that construction costs for purposes of the moratorium includes the cost of new technology implemented as part of the construction project and includes a definition of technology.

- 3 **Moratorium.** Amends § 144A.071, subd. 2. Increases the dollar threshold above which nursing facilities need to obtain a moratorium exception, to the greater of \$1,000,000 or 25 percent of the facility's appraised value (current law specifies \$750,000; this figure is indexed and is now \$821,049.)
- 4 **Exceptions for replacement beds.** Amends § 144A.071, subd. 4a. Makes conforming changes related to the increase in the dollar threshold for moratorium exceptions.
- 5 **Request for proposals.** Amends § 144A.073, subd. 2. Strikes language prohibiting authorization for expenditures under the competitive moratorium exception process from being carried forward into the next biennium and adds a reference to technology costs.
- 6 **Criteria for review.** Amends § 144A.073, subd. 4. Includes the extent to which a project increases the number of private or single bed rooms to the list of criteria the interagency long-term care planning committee must consider when evaluating moratorium exception proposals. Also eliminates an obsolete cross-reference.
- 7 **Carry forward.** Amends § 144A.073, by adding subd. 9a. Allows funds appropriated for the moratorium exception process that are not authorized, have expired, or are unused at the end of a biennium to be carried forward to the next biennium.
- 8 **Special provisions for moratorium exceptions.** Amends § 256B.431, subd. 17. Eliminates the requirement that a project be authorized through the competitive moratorium exceptions process in order to receive higher investment-per-bed limits.
- 9 **Exemptions.** Amends § 256B.434, subd. 10. Eliminates language that exempts certain construction projects undertaken by facilities in the alternative payment system from the moratorium exception process, but which also prohibits contract rates from being increased to reflect these costs.
- 10 **Construction projects for alternative payment system nursing facilities.** Adds § 256M.50. Effective July 1, 2001, provides facilities reimbursed under the alternative payment system that have completed a major construction project or a project approved under the competitive moratorium exception process with an add-on to their total payment rates. Provides a higher inflation adjustment for the replacement-cost-new per bed limit.
- 11 **Private rooms.** Adds § 256M.60. Requires the commissioner to apply for any necessary federal waivers or state plan changes to allow MA payment for a private or single bed room, regardless of the medical necessity status of the recipient. If a waiver is required, directs the commissioner to allow residents or family members to supplement the MA payment rate to pay for a private or single bed room, when the recipient does not meet the medical necessity threshold. Modifies the calculation of capacity days.
- 12 **Nursing home facility conversion program.** Adds § 256M.70. Establishes a nursing home facility conversion program administered by the commissioner of the Minnesota housing finance agency, and a nursing home facility conversion account. Allows the commissioner to make funds available for capital and other costs related to the conversion of a nursing home facility to an assisted living facility or other affordable housing for seniors. Sets program requirements.

Article 5 - Quality Improvement

- 1 **Alternative nursing home survey schedules.** Adds § 256M.80. Establishes an alternative process for nursing home surveys.
- Subd. 1. Alternative nursing home survey schedules.** Requires the commissioner of health to implement alternative procedures for the nursing home survey process, to be effective January 1, 2002 or upon federal approval. Requires the commissioner to pursue any necessary federal law changes or waivers.

Subd. 2. Survey intervals. Requires the commissioner to extend the time period between standard surveys up to 30 months, and provides that the requirement that the statewide average not exceed 12 months does not apply to the alternative survey schedule.

Subd. 3. Compliance history. Requires the commissioner to develop a process to identify survey cycles for facilities based upon their compliance history. Provides criteria for this process and states that a facility with a finding of substandard care or immediate jeopardy cannot have a survey interval of greater than 12 months.

Subd. 4. Criteria for survey interval classification. Sets requirements for public notice, modification of intervals, and obtaining information from residents and others in setting intervals.

Subd. 5. Required monitoring. Sets criteria for monitoring visits. Requires at least one monitoring visit a year for each facility selected for a survey cycle of greater than 12 months.

Subd. 6. Survey requirements for facilities not approved for extended survey intervals. Requires the commissioner to develop a process for surveying and monitoring facilities which require a survey interval of less than 15 months.

Subd. 7. Impact on survey agency's budget. States that the alternative survey process must not result in any reduction in funding for the state survey agency.

Subd. 8. Educational activities. Requires the commissioner to expand the state survey agency's ability to provide training and education for facilities, residents, and other entities.

Subd. 9. Evaluation. Requires the commissioner to develop a process to evaluate the effectiveness of the alternative survey process.

- 2 **Innovations in quality demonstration grants.** Adds § 256M.85. Requires the commissioner of health to establish a long-term care grant program that demonstrates best practices and innovation for long-term care service delivery and housing. Sets criteria for the program and limits grants to \$100,000 each.

Article 6 - Personal Responsibility

- 1 **Definitions.** Amends § 43A.318, subd. 1. Expands the state employee long-term care insurance program to include retirees.
- 2 **Long-term care partnership.** Adds § 256M.90. Requires the commissioner of human services and the commissioner of commerce to establish the Minnesota partnership for long-term care program to provide financing for long-term care by exempting from the MA asset limit assets equal to the value of long-term care insurance coverage. Requires the commissioner of human services to seek appropriate state plan amendments and federal waivers. Sets eligibility requirements and policy standards.
- 3 **Credit.** Amends § 290.0672, subd. 2. Increases the tax credit for long-term care insurance from \$100 to \$250 for each qualified beneficiary.

Article 7 - Miscellaneous Provisions

- 1 **State licensure conflicts with federal regulations.** Extends from July 1, 2001 to July 1, 2003 the sunset for a provision allowing physicians to authorize longer intervals for checking incontinent residents.
- 2 **Repealer.** Repeals § 256B.435, which requires a performance-based contracting system to be implemented July 1, 2001, and § 256B.69, subd. 6a (requirement that PMAP plans cover 90 days of nursing facility services for enrollees who were not in a nursing home at the time of PMAP enrollment). Also repeals the following provisions: 256B.431, subd. 2e (payment rates for ventilator dependent) and 3f (property cost provisions); and 256B.434, subd. 4 (payments rates under the alternative payment system).

Article 8 - Appropriations

Appropriates money for specified provisions in the bill.