

2004 LEGISLATION SELECTED ITEMS SUMMARY

Disability Law

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Public Guardianship Terminology Changes

Chapter 146, Article 2, Section 14

Amends Minn. Stat. § 252A

Effective August 1, 2004

The public guardianship statute for persons with mental retardation was changed to conform with changes adopted in 2003 to the private guardianship statute. The term "guardian" now refers to full or limited guardianship of the person and the term "conservator" refers only to estates. There is no longer a public conservatorship of the person. Various reference changes were made to conform to the 2003 Private Guardianship Act.

Parent Fees for MA Services for Children with Significant Disabilities

Chapter 288, Article 3, Section 13

Amends Minn. Stat. § 252.27

Various effective dates

No overall reduction in parent fees was adopted. Three non-budget items were adopted: (1) allowing dependents of any age to count in family size, (2) clarifying that the fee is for the services provided and (3) excluding capital gains used for a home from income.

Annual Home and Community-Based Services (HCBS) Waiver Report Expanded

Chapter 288, Article 3, Section 25

Amends Minn. Stat. § 256B.49

Effective August 1, 2004

The content of the annual HCBS waiver report is expanded to include information on: the county of residence/financial responsibility, age and major diagnoses for persons eligible for the CADI (nursing facility level of care) and TBI (traumatic brain injury) waiver programs for those: 1) receiving services; 2) screened and waiting for waiver services; and 3) those residing in nursing facilities who are under age 65.

Stakeholder Consultation for Evaluation of Consumer-Directed Services In MR/RC Waiver

Chapter 288, Article 3, Section 32

Effective August 1, 2004

The Department of Human Services (DHS) is required to confer with interested parties during an independent evaluation of the consumer-directed community supports option, including a review of the funding reductions. A preliminary report to the Legislature is due February 15, 2005.

Disease Management Program Added To Medical Assistance

Chapter 288

Adds new Minn. Stat. § 256B.075

Effective August 1, 2004

DHS is to develop and implement a disease management program to improve care and reduce costs in both fee for service and prepaid Medical Assistance. A report with recommendations is due to the Legislature on January 15, 2005.

Release of Mental Health Data to Law Enforcement

Chapter 290, Section 9

Amends Minn. Stat. § 13.46, subd. 7

Effective August 1, 2004

A community mental health center, a county mental health division or a mental health provider must disclose mental health data to a law enforcement agency if the client or patient is involved in an emergency and the information is necessary to protect the client, patient or another person. If a patient provides consent, mental health providers must release mental health data to Hennepin County Criminal Mental Health Court personnel in advance of receiving a copy of the consent. The disclosure is limited to information necessary to assess eligibility for participation in the Criminal Mental Health Court.

Service Animal Injury a Misdemeanor

Chapter 159

Adds Minn. Stat. § 609.226, subd. 4

Effective August 1, 2004

A dog owner who negligently or intentionally allows a dog to run uncontrolled which results in injuries to a service animal is guilty of a misdemeanor and can be required to pay restitution, costs and expenses.

Extended Employment Pilot Project

Chapter 188, Section 1

Effective May 13, 2004

The Department of Employment and Economic Development (DEED) is to conduct a one-year extended employment pilot project on the "industrial model" in Thief River Falls for persons who are severely disabled. An evaluation on the pilot will be completed by October 5, 2005.

Centers for Independent Living (CIL)

Chapter 188, Section 2

Effective July 1, 2004

DEED may transfer the CIL appropriation to the Vocational Rehabilitation program and acquire federal matching funds. The resulting matching funds will be equally divided between Vocational Rehabilitation (VR) and the Centers for Independent Living. The maximum amount of additional federal VR funds that may be shared with the Coils is \$2,438,000.

Day Training & Habilitation (DT&H)

Chapter 288, Article 1, Sections 32-37, 73

Amends and adds to Minn. Stat. § 245B

Effective May 30, 2004

Licensed capacity will be based on the total number of persons receiving facility-based day training and habilitation services at the site at any one time. Licensed capacity does not apply to persons receiving community-based services or the temporary use of the facility-based service site for the limited purpose of providing transportation to persons receiving community-based services from the license holder. The license holder must comply at all times with all applicable fire and safety codes. Minimum required staffing ratios are moved from rules to Minn. Stat. § 245B. Clarifies requirements governing consumer health and safety plans when reporting and responding to incidents. Adds language allowing for anticipated growth or decline in the county redetermination of need, at least every four years, for day training and habilitation services.

Fetal Alcohol Spectrum Disorder Funding Transfer

Chapter 288, Article 6, Section 27

Effective July 1, 2004

Funding for Fetal Alcohol grants and administration is transferred from the Department of Health to the statewide organization focused solely on prevention and intervention. Annual reports must be made to the Commissioner of Health on the services and programs funded.

Health Law

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Adverse Health Care Events Reporting System Modifications

Chapter 186

Amends Minn. Stat. § 144; 147; 147A; 148; 151; and 153

Effective August 1, 2004

(1) Requires health licensing boards that regulate physicians, physician assistants, nurses, pharmacists and podiatrists to report to the Minnesota Department of Health events that come to their attention that may qualify as adverse health care events (medical errors). (2) Provides that the requirement to report medical errors includes children under the Maltreatment of Minors Act. (3) Classifies data reported and created as part of the reporting system as nonpublic and confidential except as necessary to communicate with facilities and to publish an annual report. (4) Grants the Boards of Medical Practice and Nursing and its employees civil and criminal immunity for their actions relative to the reporting system with regard to licensing physicians, physician assistants and nurses. (5) Clarifies the types of maltreatment of vulnerable adult incidents to be reported to the local Common Entry Point (CEP) for health care facilities. (6) Identifies the responsibility of licensed facilities to record and file incidents with the Department of Health that do not rise to the level of a maltreatment investigation.

Nursing Homes Planned Closures, Rate Adjustments and New Reimbursement System

Chapter 194

Amends Minn. Stat. § 256B.431 and .437

Varying Effective Dates

Authorizes the Department of Human Services (DHS) to negotiate planned closures for nursing facilities

provided proposals are budget neutral. Provides process for property rate adjustments. Requires that DHS present to the legislature by January 15, 2005 recommendations for establishing a new nursing facility reimbursement system.

Outpatient Surgical and Diagnostic Imaging Centers

Chapter 198

Amends Minn. Stat. § 144; 147; 256B; and 256L

Varying Effective Dates

Requires that physicians disclose to patients their ownership interest when making referrals to outpatient surgical centers or imaging facilities. Imaging facilities and outpatient surgery centers must: (1) report new financial and utilization information, including all ownership interests, payer mix, and utilization numbers by payer; (2) follow quality and patient safety standards, including reporting medical errors and providing appropriate nursing care; and, (3) effective 5/16/04, the centers must serve patients enrolled in Medical Assistance, General Assistance Medical Care and MinnesotaCare if the centers serve state health plan and worker's compensation patients.

Medical Assistance Asset Transfers

Chapter 266

Amends Minn. Stat. § 256B.0595, subd. 1b

Effective upon publication of State Register Notice of receipt of federal approval

Specifies conditions under which a charitable contribution to a non-profit organization is not considered a prohibited transfer of assets for persons applying for Medical Assistance.

MCHA and Other Health Plan Requirements

Chapter 268

Amends Minn. Stat. § 62A; 62E; 62L; 62Q; 62T; 72A; and 256B.69

Varying Effective Dates

A. Minnesota Comprehensive Health Association (MCHA)

MCHA provides coverage for hard to insure individuals. The legislation (1) authorizes MCHA enrollee incentive for participation in disease management program; (2) phases out MCHA coverage for extended basic Medicare supplement plans by January 1, 2006; and (3) requires analysis of eligibility standards used for MCHA enrollment, comparing MCHA's practices with other states. The study and recommendations must be presented to the legislature by January 15, 2005.

B. Other Health Plans

The bill also: (1) provides for high deductible health plans effective January 1, 2004; (2) authorizes health care purchasing alliances to include seasonal employees; (3) provides for electronic submission of health care information by health plans; and (4) requires automatic enrollment in the mother's health plan for an infant born to a Medical Assistance eligible mother.

Public Health Data Study

Chapter 279

Effective August 1, 2004

The commissioner of health must prepare a plan for development of a statewide public health data management system which includes a cost-effective way for collecting and utilizing public health data. The plan must be completed and presented to the legislature by January 15, 2005.

Pharmaceutical Manufacturer Rebate Program

Chapter 280

Amends Minn. Stat. § 62J.23

Effective July 1, 2004

Clarifies that individuals may participate in pharmaceutical manufacturer's rebate programs. Individuals may receive discounts or other price reductions, samples or limited-time free supplies offered by manufacturers.

Department of Human Services Miscellaneous Policy Legislation

Chapter 288

Amends Minn. Stat. § 13.43; 62A; 62H; 62C; 62J; 144; 241; 245; 245A; 245B; 245C; 246; 246B; 252; 253; 253B; 256; 256B; and 256D

Varying Effective Dates

Makes various substantive and technical amendments to the Human Services Licensing, Background Studies, Maltreatment of Minors and Vulnerable Adults Acts, including:

A. Health Care Services Changes

- (1) Provides case management services for individuals with serious emotional disturbance over age 18.
- (2) Allows DHS to establish a mechanism by which counties, DHS, hospitals, health plans, consumers, and others may enter into agreements to develop effective, efficient and accessible provision of mental health services.
- (3) Requires county boards to provide children's mental health screening to certain children within the limits of legislative appropriations.
- (4) Requires DHS to create a savings account for each patient receiving treatment in a secure treatment facility. The funds come from the patient's share of the cost of care to be used for housing and other personal needs when the patient returns to the community.
- (5) Expands allowable medical assistance payments to include staff travel time to provide rehabilitative services and nonresidential crisis stabilization services.
- (6) Requires individual family policies of indemnity insurers, HMOs and nonprofit health service plans to cover medical and dental expenses for treatment of cleft palate up to age 19 and certain students up to age 25. Currently, coverage is limited to dependents up to age 18.
- (7) Establishes an additional priority category for the Mentally Retarded/ Related Condition waiver based on the need to serve persons whose consumer support grant exception amount was eliminated in 2003.
- (8) Specifies that medical assistance covers nursing facility services for persons eligible for Medicare who have waived the Medicare nursing facility benefit and enrolled in the Medicare hospice program.
- (9) Requires DHS to issue requests for proposals for collaborative service models between counties and managed care organizations, to integrate elderly waiver services and additional nursing services into managed care. Prohibits state-wide managed care coverage of elderly waiver services before 7/1/06.
- (10) Requires health plans to cover ovarian cancer surveillance tests.
- (11) Requires DHS to develop and implement a disease management program to improve patient care and health outcomes and reduce health care costs. Requires DHS to report to the Legislature the status of disease management initiatives and recommendations by 01/15/05.
- (12) Repeals the requirement that state-regulated health coverage must include autologous bone marrow transplants for breast cancer patients.

B. Newborn Enrollment in Mother's Health Plan

Requires DHS to enroll infants born to a Medical Assistance eligible mother into the mother's managed care plan.

C. Prescription Drugs

Requires pharmacies to provide to purchasers information about co-payment amount and the usual and customary price of the prescription. Also provides exemptions from anti-kickback laws for receipt by individuals of prescription drug and medical supply discounts and trinkets and mementos of insignificant value offered by pharmaceutical manufacturers and others as long as specified conditions are met.

D. Lead Paint Study

Requires the Commissioner of Health, in consultation with others, to develop and evaluate the best strategies to reduce the number of children endangered by lead paint.

E. Birth Defects Information System

Requires the Commissioner of Health to establish a birth defects information system with protections under the Data Practices Act.

Reminder That The Following Changes From Last Year Take Effect July 1, 2004:

MA-EPD: Two changes in Medical Assistance for Employed Persons with Disabilities: (1) a new requirement that monthly earnings must be over \$65 per month; and (2) taxes must be withheld from wages or for the self-employed, estimated taxes must be paid on a quarterly basis.

Pregnant Women: The law requires a reduction in the Medical Assistance eligibility standard for pregnant women from 275% of the federal poverty level (FPL) to 200% FPL. Although the law requires this change, DHS has delayed the change and informed the Legislature that enacting the change would jeopardize federal funding.

Children: A reduction in the Medical Assistance eligibility standard for children from 170% FPL to 150% FPL.

Housing Law

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Housing Discrimination

Chapter 263

Adds Minn. Stat. § 469.018, subd. 3

Effective July 1, 2004.

Prohibits common ownership communities from prohibiting or limiting the ability of a public housing or redevelopment authority to lease units the authority has purchased to low- or moderate-income families.

Assisted Living Facilities

Chapter 185

Amends Minn. Stat. § 144D

Effective August 1, 2004

Provides that for purposes of consistency with long term care insurance policies, a housing with services establishment that holds a home care license or other license or approval required for delivery of services constitutes an "assisted living facility or residence."

Supportive Housing and Managed Care Pilot Project

Chapter 204

Amends Minn. Stat. § 256K

Effective July 1, 2004

Extends to 06/30/07, the supportive housing and managed care pilot project to determine whether the integrated delivery of employment services, supportive services, housing and health care into a single flexible program will reduce public expenditures on homeless families and individuals.

Education Law

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Mental Health Screening

Chapter 294, Article 2, Section 8

Amends Minn. Stat. § 121A.45, subd. 3

Effective August 1, 2004

Adds language to the current statute regarding the parent notification and meeting that applies when a pupil's total days of removal from school exceeds ten cumulative days in a school year. The new language provides that as part of the meeting the school district shall, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of the meeting, in part, is to determine whether the parent or guardian should have the pupil assessed or diagnosed to see whether the pupil needs treatment for a mental health disorder.

Improving Graduation Rates for Students with Emotional or Behavioral Disorders

Chapter 295, Article 5, Section 2

Adds a new subdivision to Minn. Stat. § 120B.35

Effective August 1, 2004

Requires districts to develop strategies in conjunction with parents of students with emotional or behavioral disorders and the county board responsible for implementing §§ 245.487 to 245.4887 to keep students with emotional or behavioral disorders in school, when the district has a drop-out rate for students with an emotional or behavioral disorder in grades 9 through 12 exceeding 25 percent.

Community Transition Interagency Committee

Chapter 166

Amends Minn. Stat. § 125A.22

Effective April 27, 2004

Provides that members of community transition interagency committees for individuals with disabilities must include mental health representatives. The committee identifies services and programs, facilitates the development of multi-agency teams, develops

A district must develop a plan in conjunction with parents of students with EBD and the local mental health authority to increase the graduation rates of students with EBD. A district with a drop-out rate for children with an emotional or behavioral disturbance in grades 9-12 that is in the top 25 percent of all districts shall submit a plan for review and oversight to the commissioner.