

CHANGES TO PCA SERVICES 2009 LEGISLATIVE SESSION AND GOVERNOR'S UNALLOTMENT

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Personal Care Assistant (PCA) Program

The changes and cuts significantly restructure the PCA program to achieve a 10 percent budget cut of over \$88 million in state and federal Medicaid for the biennium for PCA services. Some new funding provided for alternative services, and some home and community waiver slots, discussed below:

Chapter 79, Article 8, Sections 7, 18-28, 31, 74, 75, 77 and 80 (HF 1362)

Adds Minn. Stat. § 256B.0659, Repeals Minn. Stat. § 256B.0655 and

Amends Minn. Stat. § 256B.0625, subds. 19(a) and 19(c), § 256B.0651, § 256B.0652, § 256B.0653, § 256B.0654.

Various effective dates

A. BUDGET RELATED PCA CHANGES

1. PCA Staff Hours Of Work Limited

Limits PCA staff work hours to 310 hours per month, which cuts \$12.9 million in state and federal Medicaid dollars from PCA services and staff wages. Savings based on inability to fill authorized hours of care.

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subd. 11(a)(10)

Effective July 1, 2009

NOTE: Unallotment by Governor. The legislative PCA work limit was further reduced through the Governor's unallotment to 275 hours per month, cutting an additional \$5.2 million in Medicaid funds.

2. Changes In Authorization Of PCA Service Time

Reduces PCA service hours for about 6,500 recipients, collapses current home care ratings from 21 to 10 categories and restricts PCA service time to a base amount for each of the new 10 home care ratings plus 30-minute increments based upon the total number of:

- Critical activities of daily living;
- Complex health-related functions;

- Qualifying behavioral issues;
- Cuts a total of \$36 million in state and federal Medicaid funding.

Chapter 79, Article 8, Section 28 (HF 1362)
Amends Minn. Stat. § 256B.0655, subd. 4 (to be renumbered as 256B.0652, subd. 6)
Effective January 1, 2010

3. Eligibility For PCA Services Tightened

- a. **Dependency in 1 Activity of Daily Living or Level One Behavior.** *Effective January 1, 2010*
 Eliminates eligibility for over 500 current recipients with disabilities under age 65 and an unknown number of current recipients over age 65 by establishing new eligibility criteria, beginning January 1, 2010. In order to qualify for PCA services, effective January 1, 2010, a person must be dependent (needs hands-on assistance or cuing and constant supervision) in at least one activity of daily living or qualify as having Level I behavior. Cuts a total of \$10.8 million in state and federal Medicaid funds for the biennium.
- b. **Dependencies in 2 Activities of Daily Living.**
Effective July 1, 2011
 Beginning July 1, 2011, eligibility criteria are further tightened to require a dependency in at least two activities of daily living. Behavioral issues will no longer qualify for PCA eligibility, though PCA time may be given for behavioral needs, including observation and redirection, if the person qualifies as being dependent in two activities of daily living. Over 1,600 children and adults are expected to be terminated under the 2 ADLs eligibility criteria on July 1, 2011.

Chapter 79, Article 8, Section 20 (HF 1362)
Amends Minn. Stat. § 256B.0625, subd. 19(a)

4. PCA Provider Rate Cut

Imposes a 2.58 percent provider rate cut beginning July 1, 2009 from \$16.24 per hour to \$15.82 per hour. Cuts \$23 million in state and federal Medicaid funds for the biennium.

Chapter 79, Article 8, Section 79 (HF 1362)
Uncodified language

Effective July 1, 2009

5. Alternative Services For Persons Ineligible For PCA Services
Appropriates \$8 million in state funds for 2012 and 2013 to implement alternative services which may include a family support federal waiver program. Provides for a report to the Legislature by January 15, 2011, with plans for implementation of alternative services by July 1, 2011.

*Chapter 79, Article 8, Section 76 and Article 13, Section 3,
Subdivision 8(d) (HF 1362)
Uncodified language
Effective July 1, 2009*

6. PCA Notice Of Termination Or Reduction Required
Requires the Commissioner of DHS to inform PCA recipients of changes which may affect their PCA services by October 31, 2009. Directs that recipients affected by changes to the Personal Care Assistant (PCA) program be given a 30-day advance notice of action by the Commissioner. Allows recipients to request services pending appeal within 30 days of the notice notwithstanding the general limit of 10 days for such requests.

*Chapter 79, Article 8, Section 31, Subdivision 30 (HF 1362)
Uncodified Language
Effective July 1, 2009*

B. POLICY-RELATED PCA CHANGES

1. Separation Of Housing Ownership And PCA Provider
Prohibits a PCA provider agency from also providing licensed or unlicensed housing to a PCA recipient.

*Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 3(b)
Effective January 1, 2010*

2. PCA Services Prohibited In Foster Homes With Licensed Capacity Over Four Persons
Prohibits personal care assistant and private duty nursing services in foster care residences with a licensed capacity of greater than four, regardless of the number of current residents.

*Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 9
Effective July 1, 2009*

3. Stepparents Prohibited From Acting As PCA For Minor Stepchild
Adds stepparents of minors to those who do not qualify to be paid as a PCA. No definition of a stepparent is provided.

Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 11(c)
Effective January 1, 2010

4. Qualified Professional Supervision Required
Establishes a new requirement that all PCA services must be supervised by a qualified professional. Provides separate requirements for frequency of supervision depending upon whether PCA services are provided through an agency or through the PCA Choice Option.

Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 14(a)
Effective January 1, 2010

5. Qualified Professional Qualifications Added
Adds a qualified developmental disability specialist under section 256B.07, subdivision 4 to those eligible to act as a qualified professional for purposes of supervising personal care assistant services.

Chapter 79, Article 8, Section 21 (HF 1362)
Amends Minn. Stat. § 256B.0625, subd. 19(c)
Effective July 1, 2009

6. Provider Enrollment and Reenrollment Requirements
Establishes extensive new provider enrollment requirements and an annual requirement for re-enrollment. Prohibits direct marketing by providers to potential recipients. Requires that agencies use 72.5% of Medical Assistance revenue for employee personal care assistant wages and benefits. Prohibits disenrolled provider agency and all named individuals and affiliates from re-enrolling for two years. Establishes probationary period for previously disenrolled providers.

Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subs. 21 through 28
Effective July 1, 2009 except subdivisions 22 and 27 effective January 1, 2010

7. Training Required For PCA Agency Staff
Requires completion of training developed by DHS for all staff providing PCA services, qualified professionals, and agency owners, billing staff, and managers, including specific requirements for PCA's who provide services to persons who use a ventilator.

8. Home Care Bill Of Rights Required
Requires all home care services and unlicensed personal care assistant services, including Medical Assistance-covered personal care assistant services, to provide notice of the home care bill of rights which apply to persons receiving home care services.

Chapter 79, Article 8, Section 7 (HF 1362)
Amends Minn. Stat. § 144A.44, subd. 2
Effective July 1, 2009

9. Maltreatment Investigations For Children And Adults Receiving PCA Services
Clarifies that counties are the lead agency for investigation of reports involving maltreatment of children and vulnerable adults receiving services from personal care provider organizations not required to be licensed.

Chapter 79, Article 8, Sections 74 and 75 (HF 1362)
Amends Minn. Stat. § 626.556, subd. 3(c) and § 626.5572, subd. 13
Chapter 173, Article 1, Section 39 (HF 1988)
Amends Minn. Stat. § 626.556, subd. 3(c) as amended by Laws 2009, Chapter 79, Article 8, Section 75
Effective July 1, 2009

10. Transition Assistance for PCA Recipients
Requires the Commissioner of Human Services to work with counties, health plans, tribes, and personal care assistant providers to assist recipients and families to comply with new requirements which may require a change in living arrangements no later than August 10, 2010.

Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 29
Chapter 173, Article 1, Section 27 (HF 1988)
Amends Minn. Stat. § 256B.0659, subd. 29 as added by Laws 2009, Chapter 79, Article 8, Section 31
Effective July 1, 2009, until August 10, 2010

11. Managed Care Plans Use Of DHS Processes For PCA Services
Requires managed care health plans to use the assessment and other processes, forms, time lines, documentation and data reporting requirements consistent with the Medical Assistance (MA) fee-for-service or DHS contract requirements for all PCA services provided by managed care health plans.

Chapter 79, Article 8, Section 72 (HF 1362)
Amends Minn. Stat. § 256B.69, subd. 5a
Effective January 1, 2010

12. PCA Assessment Follows Person To Managed Care
Establishes that PCA assessments remain effective when recipients move to managed care or disenroll from managed care back to fee for service.

Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 7
Effective July 1, 2009

13. Notice Requirement for PCA Service Changes
Requires the Commissioner of Human Services to ensure that the recipient has a copy of the most recent service plan containing an explanation of PCA tasks or services proposed for change including the amount of time reduced and the reasons for the denial, termination, or reduction.

Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 7
Effective July 1, 2009

C. *Advisory Work Groups/Reports*

1. PCA Services Alternatives Development Consultation
Requires the Commissioner of Human Services to consult with advocates, consumers and legislators on developing alternative services for persons with mental health and other behavioral challenges who can benefit from alternatives to PCA services to more appropriately meet their needs. Requires the Commissioner to report to the Legislature by January 15, 2011 with plans to implement alternative services by July 1, 2011.

Chapter 79, Article 8, Section 76 (HF 1362)
Uncodified Language
Effective July 1, 2009

2. Personal Care Assistant Services Changes Stakeholder Recommendations

Directs the Commissioner of Human Services to consult with stakeholder representatives convened as part of the Home and Community Services Expert Panel, beginning in August 2009, on the implementation of changes to the PCA program, assistance for recipients whose services or housing must change, alternative services for those who are terminated or reduced, cost of services for those who change and data on the effects of change for public reporting. Requires a report to the Legislature by January 15, 2010 and again on January 15, 2011 regarding PCA changes and results.

Chapter 79, Article 8, Section 80 (HF 1362)

Uncodified

Effective July 1, 2009

D. Issues

1. A transfer of funding from PCA services to Home and Community Waiver Services was included to allow recipients with home care ratings of “CS,” or “MT” or “HL” to obtain waiver services because the PCA cuts would threaten their continued community living. Implications?
2. Funding for alternative services for those with mental health or other behavioral challenges is about \$8 million in state funds, compared to a cut (state savings) of over \$32 million for the 2012-2013 biennium, 25 percent of the amount of service eliminated.
3. PCA staff work hour limit may eliminate most 24-hour staff coverage for a person in their home when intermittent care is needed 24 hours per day. In the past, , a PCA may have been willing to act as a 24-hour live staff if paid for 10-14 or more hours per day, but the reduction to 9 hours per day of pay will be too little for long-term staff to cover 24 hours. Should folks who have been living independently with 24-hour staff coverage for 10-14 hours of PCA time move to 24-hour staffed group homes?
4. Impact on the Consumer Support Grant Program (CSG). The PCA hours and eligibility cut eliminates about \$5.3 million from the CSG program for the 2010-2011 biennium. Alternatives? Impact?

5. Housing related changes:
 - a. Separate services (home care provider) and housing provider. How many affected? What type of settings? Where?
 - b. Adult foster homes licensed for five, including home and community waiver funded by TBI and CADI. Alternatives? Do the waivers have other staffing options which match PCA services? Will costs increase?

6. Tightened Nursing Facility Level of Care Eligibility Criteria Eligibility for PCA is more stringent than Nursing Facility criteria. Implications? Impacts? Reasons for such a shift?

New Home Care Rating Information from DHS March, 2009

Rating explanations:

The Base Home Care Ratings are based on the number of dependencies individuals have in Activities of Daily Living.

P -----2-3 ADLs, no complex, no behavior

Q -----2-3 ADLs, no complex, behavior

R -----2-3 ADLs, complex health

S -----4-6 ADLs, no complex, no behavior

T -----4-6 ADLs, no complex, behavior

U -----4-6 ADLs, complex

V -----7-8 ADLs, no complex, no behavior

W-----7-8ADLs, no complex, behavior

Z -----7-8 ADLs, complex

Home Care Ratings in Hours:

Home Care Rating	Base Hours (2007 median)	Maximum Hours Critical	30 min each Maximum Hours Complex	Maximum Hours Behavior
P	1.25	1.5		
Q	1.5	1.5		1.5
R	1.75	1.5	*	1.5
S	2.5	2		
T	2.75	2		1.5
U	3.5	2	*	1.5
V	4.25	2		
W	4.75	2		1.5
Z	7.5	2	*	1.5