

Change Item Title: Implement New Fee Schedule for HCBS Providers

Fiscal Impact (\$000s)	FY 2014	FY 2015	FY 2016	FY 2017
State Government Special Rev. Fund				
Expenditures	500	2,700	2,700	2,700
Revenues	500	2,700	2,700	2,700
Net Fiscal Impact = (Expenditures – Revenues)	0	0	0	0

Recommendation:

The Governor recommends establishing a fee structure to recover the costs of licensing home and community based services (HCBS). The licensing standards were adopted during the 2012 Legislative Session with the fee structure to be adopted in 2013. The license fee charged to HCBS providers is set to fully recover the costs of licensing HCBS services. Because this is a fee-based proposal, it is budget neutral to the state’s general fund. Nine FTEs will be added in FY 2014 and a total of 12 FTEs for FY 2015 and thereafter.

Rationale/Background:

The proposal establishes a fee schedule for HCBS providers who will be licensed under Minnesota Statutes, Chapter 245D. The HCBS licensing standards were adopted, in part, to achieve compliance with a corrective action plan ordered by the federal Centers for Medicare and Medicaid Services (CMS).

Currently, many HCBS waiver providers are not required to be licensed and their service standards are managed through county contracts. CMS has deemed this unacceptable and the use of contracts must be discontinued by January 1, 2014, for Minnesota to continue to receive federal financial participation for those services.

The 245D standards are being expanded to include services previously licensed under Minnesota Statutes, Chapter 245B. When Chapter 245D is implemented, the 245B license requirements will be repealed. The 245D license to provide services will be statewide. When residential supports and services are provided in a community residential setting or day services are provided in a location that is controlled by a license holder, each location will receive a secondary license for basic physical plant standards. The cost recovery methodology is based, in part, on the size of the program (the number of persons receiving services).

Proposal:

Currently 1,600 Developmental Disabilities (DD) programs licensed under Chapter 245B pay approximately \$1.8 million a year in license fees. With implementation of 245D, the DD programs will be consolidated into approximately 650 245D licenses, and the 245D license fee schedule will replace the current license fees for the DD programs. The overall revenue generated among the DD providers will remain approximately the same. In addition, 950 HCBS providers currently providing services which do not require a license will now be licensed under Chapter 245D. The new HCBS providers will pay an initial license application fee of \$500 resulting in nearly \$500,000 in additional revenue in FY14.

All HCBS programs will pay an annual license fee that includes a base rate of \$1,125, plus \$92 times the number of persons served up to 200 people. However, programs serving nine or fewer persons will only pay the base rate. When fully implemented, HCBS licensing fees will generate \$4.5 million a year, which is a \$2.7 million more than the \$1.8 million currently collected from the DD provider under Chapter 245B. Some of the former DD service providers will pay a higher licensing fee under HCBS and others will pay a reduced fee, depending on the number and type of 245B licenses they currently hold.

- When residential supports and services are provided in a community residential setting or day services are provided in a location that is controlled by a license holder, each location will receive a secondary license for basic physical plant standards.
- The county licensing agency will inspect community residential settings and may charge a fee to recover the actual cost of inspections, not to exceed \$500 annually, as provided in Minnesota Statutes, section 245A.10, subdivision 2.

2014-15 Biennial Budget

Human Services

- For DHS to implement the standards, the costs directly related to the work must be covered.
- No General Fund dollars are appropriated to fund the cost of licensing HCBS.

Fees Estimate – 245D Licensing

	<u>Current 245B Licensed Programs Converted to 245D</u>	<u>New 245D Licensed Programs (New Fee Revenue)</u>	<u>Total 245 Licensed Programs</u>
FY 2014	\$1.8 million	\$500,000	\$2.3 million
FY 2015	\$1.8 million	\$2.7 million	\$4.5 million
FY 2016	\$1.8 million	\$2.7 million	\$4.5 million
FY 2017	\$1.8 million	\$2.7 million	\$4.5 million

- DHS costs are directly related to HCBS licensure and include the following five general areas: licensor costs; maltreatment investigation costs; due process and Licensing legal unit costs; Office of Administrative Hearing (OAH) costs for contested case hearings; and IT staff / programming costs.

A further breakdown of costs and costs assumptions is provided below.

- 950 providers will pay an initial application fee of \$500 which will cover the initial license period from January 1, 2014, to December 31, 2014; 650 providers will pay the 245D fee for calendar year 2014.
- In FY 14, there will be a transition period for existing 245B programs that will subsequently be licensed under chapter 245D. They will be licensed under chapter 245B until January 1, 2014, and converted to 245D on that date. Beginning July 1, 2013, regular licensing activities for 245B will cease as the current DD licensors convert these programs into the new 245D programs. However, licensing complaints and alleged maltreatment in 245B programs will continue to be investigated until completed.
- The providers who do not hold a 245B license at the time of application for a 245D license will receive an initial technical assistance (TA) visit after July 2014. The Technical assistance visit will provide information relating to regulatory compliance and its function in ensuring and protecting the health, safety, and rights of persons receiving services.
- The licensing standards in chapter 245D are not all new requirements. The majority are the same or similar to standards currently required under chapter 245B, in existing contract requirements county agencies enter into with the waiver service providers, or required by CMS as assurances in States' HCBS waiver plans.

Licensing functions

- DHS will perform all licensing compliance monitoring and enforcement functions of 245D licensed programs including: licensing inspections, licensing complaint investigations, evaluation of applications and issuance and re-issuance of licenses.
- DHS will delegate licensing inspections of community residential setting physical plants to the county adult foster care licensing agency. As currently provided under section 245A.10, subdivision 2, a county agency may charge a fee to a corporate applicant or corporate license holder to recover the actual cost of licensing inspections, not to exceed \$500 annually. Those fees would be used by the county to recover the cost of conducting the physical plant inspection.

Maltreatment investigations

- DHS will conduct Vulnerable Adult maltreatment investigations. A maltreatment investigator is expected to complete 40 maltreatment field investigations per year.

2014-15 Biennial Budget

Human Services

- The conversion from 245B to 245D is not expected to change existing maltreatment investigation requirements. Alleged maltreatment in 245B programs will continue to be investigated after January 1, 2014, until the investigations are completed. The number of maltreatment investigations is based on a two-year average for programs licensed under chapter 245B programs plus an estimate for the number of new maltreatment investigations that DHS will be required to investigate from the new group of providers who have not been previously licensed.

License applications

An online application system is under development and is being funded by the Disability Service Division, not by licensing fees. It will be ready for implementation by July 1, 2013.

FY 2014 and beyond: The cost of ongoing maintenance and upgrades (i.e. \$60,000/year) will be funded through licensing fees.

License application process

Additional DHS licensors will be required during the first six months of FY14 to receive and evaluate the license applications, to make recommendations regarding approval or denial of those applications, and to provide technical assistance to applicants. The 245D license applications will require evaluation of materials required in addition to the information from the application itself, and the provision of technical assistance to applicants. More time will be required for applicants who have not previously held a 245B license; this will include the majority of providers applying only for a basic support services license.

DD service providers currently licensed under 245B will not be required to submit additional materials with the application form and the application fee will be waived. There will be no evaluation of these applications by a DHS licensor. The online application will require these license holders to complete all sections of the application and to attest that the provider will comply with any requirements under chapter 245D that are different from chapter 245B. The DHS licensor will monitor for compliance with the additional 245D requirements at the time of the program's next regularly scheduled licensing review.

Performance Measures:

As a result of this change, program integrity will be enhanced through sanctions. Performance measures will identify the number of programs licensed, the extent and type of monitoring activities, and enforcement actions taken.

245D licensure will include programs that have not been previously licensed. It is estimated that 1,600 providers will be licensed and 950 of those providers will be licensed for the first time. Unregulated services pose risks to consumers and program integrity. To reduce exposure to these risks, this proposal establishes minimum licensure standards. Consumer protections will be enhanced through the licensing process. Applicants will be required to demonstrate that they have the ability to provide the services for which they will receive public funding. Oversight of these programs will occur through ongoing monitoring of compliance with licensing standards and investigation of alleged maltreatment and licensing violations. Appropriate licensing actions will be taken when necessary to protect individuals being served. Program integrity will be enhanced through the ongoing monitoring of these programs. Performance measures will identify the number of programs licensed, extent and type of monitoring activities, and enforcement actions taken. Program integrity will be enhanced through sanctions and recovery of payments for services not provided

Statutory Change: 245A.10 and 245B (repealer)

Net Impact by Fund (000's)	FY 2014	FY 2015	FY 14-15	FY 2016	FY 2017	FY 16-17
General Fund	0	0	0	0	0	0
SGSR Fund	0	0	0	0	0	0
Total All Funds	0	0	0	0	0	0