

**2010 Legislative Changes for Disability and Mental Health**  
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**August 3, 2010**

**I. BUDGET CHANGES FOR DISABILITY AND MENTAL HEALTH SERVICES**

A. Adult Mental Health Funding

*First Special Session, Chapter 1, Article 25, Section 3, Subdivision 8(d) (HF 1) and*

*Chapter 215, Article 5, Section 3, Subdivision 5 (HF 1671) and*

*Chapter 200, Article 2, Section 1, Subdivision 6(a) (SF 460)*

*Rider Language*

*Effective July 1, 2010*

**1. Reductions**

Reduces:

- Adult mental health grants by \$5 million for FY 2010 and an additional \$7.7 million for FY 2011.
- Funding for housing support services by \$3.3 million for FY 2010.
- Mental health counseling to farm families by \$6,000 for State Fiscal Year 2011.
- Adult Mental Health Specialty Care Grant by \$800,000 for the FY 2010.

**2. Eliminations**

Eliminates:

- Grants for culturally-specific treatment for FY 2011, saving \$300,000.
- Funding for FY 2010 for crisis intervention team training for police officers, saving \$200,000. (Chapter 215).

B. Centers for Independent Living and State Services for the Blind

*Chapter 215, Article 7, Section 3, Subdivision 3(b) and 3(c) (HF 1671)*

*Amends Laws of 2009, Chapter 78, Article 1*

*Effective July 1, 2010*

Reduces funding for Centers for Independent Living by \$71,000 in FY 2010 and \$119,000 in FY 2011. Cuts State Services for the Blind by \$119,000 for FY 2011.

C. Children and Community Services (CCSA) Block Grant

*First Special Session, Chapter 1, Article 25, Section 3, Subdivision 4(d) (HF 1)*

*Rider Language*

*Effective July 1, 2010*

Reduces the CSSA block grants to counties by: (1) \$16.9 million in FY 2010; (2) \$18.2 million in FY 2011; and (3) \$6.4 million in the following biennium. (*Note: these grants fund child welfare, protective services for children and adults, mental health services, services for persons with disabilities and seniors.*)

D. Children's Mental Health Grant and Services

*First Special Session, Chapter 1, Article 25, Section 3, Subdivision 4(f) (HF 1) and*

*Chapter 200, Article 1, Section 7 (SF 460)*

*Amends Minn. Stat. § 256B.0947, subd. 1*

*Rider Language*

*Effective July 1, 2010*

Eliminates specialty grants for children's mental health for \$200,000 per year. Delays Youth Assertiveness Community Treatment Team (ACT) until November 2011, resulting in a cut of \$2.9 million.

E. Continuing Care Grants

*First Special Session, Chapter 1, Article 15, Section 3 (HF 1)*

*Rider Language*

*Effective July 1, 2010 and expires on June 30, 2012*

Reduces grants for aging, deaf and hard of hearing, and other disability services by \$2.5 million in FY 2011 and in 2012. Requires that the adjustments are one time and not to be applied to the base funding for these programs in the future. Ratifies the Governor's unallotment of these grants.

F. Developmental Disabilities (DD) Waiver Funding

*First Special Session, Chapter 1, Article 15, Section 3, Subdivision 6(c) (HF 1)*

*Rider Language*

*Effective January 1, 2010 and expires on June 30, 2011*

Ratifies the Governor's unallotment of the DD waiver one percent growth factor.

G. Disability Home And Community Waiver Funding Cuts

*First Special Session, Chapter 1, Article 25, Section 3, Subdivision 8(c) (HF 1)*

*Rider Language*

*Effective July 1, 2010*

- Imposes additional caseload limits for home and community waiver programs for: (1) persons eligible for nursing facility care (CADI); (2) those who have a traumatic brain injury (TBI); and (3) persons with developmental disabilities.

- Reduces: (1) the CADI waiver funding from serving 95 new persons per month to serving 60 per month (which translates to 720 per year); (2) the TBI waiver funding from serving 12.5 new persons per month to serving six new persons per month (which translates to 72 per year); and (3) the DD waiver from serving 15 persons per month to serving six persons per month (which translates to 72 per year). Results in a cut of \$13.7 million in state funding, and a total (state and federal Medicaid) funding cut of over \$27 million, for home and community waiver services over three years.
- Reduces the state's savings from the waiver cuts due to more people with disabilities likely to be institutionalized because of community services reduction.
- Increases funding for long-term care facilities by \$7 million in state and federal funding. Increases home care services which would substitute for home and community waived services by nearly \$4 million in state and federal funding.

H. Extended Employment for Persons with Serious Mental Illness  
*Chapter 215, Article 17, Section 3, Subdivision 3(d) (HF 1671)*  
*Amends Laws of 2009, Chapter 78, Article 1*  
*Effective July 1, 2010*

Reduces extended employment for the next two years. Reduces by a smaller amount the Extended Employment Program for persons with serious mental illness.

I. ICF/MR Occupancy Rate Adjustment  
*First Special Session, Chapter 1, Article 15, Section 3, Subdivision 6(b) and Article 25, Section 3, Subdivision 8(b) (HF 1)*  
*Rider Language*  
*Effective July 1, 2009 and expires on June 30, 2013*

Suspends new applications for occupancy rate adjustments for unoccupied short-term beds retroactively as part of the ratification of the Governor's unallotment. Extends the unallotment period one year beyond the Governor's original provision.

J. ICF/MR Variable Rates  
*First Special Session, Chapter 1, Article 15, Section 3, Subdivision 6(b) (HF 1)*  
*Rider Language*  
*Effective retroactively to July 1, 2009*

Suspends for one year ICF/MR variable rates under Minn. Stat. § 256B.5013, subd. 1. Ratifies the Governor's unallotment of this provision.

K. Medical Supplies Payment

*First Special Session, Chapter 1, Article 16, Section 14 (HF 1)*  
*Amends Minn. Stat. § 256B.0625, subd. 31*  
*Effective July 1, 2010*

Allows the Department of Human Services to pay less for medical supplies than the Medicare payment rate.

L. PCA Monthly Work Hour Limit

*First Special Session, Chapter 1, Article 15, Section 7, Subdivision 11(a)(10) (HF 1)*  
*Amends Minn. Stat. § 256B.0659, subd. 11*  
*Effective July 1, 2010*

Makes permanent the Governor's unallotment of personal care assistant (PCA) staff work hours from 310 hours of work per month to a limit of 275 hours. Cuts PCA service availability, projected to save \$2.1 million in state funds for the current biennium (over \$4 million in PCA services) and \$3.2 million in the 2012-2013 biennium (\$6.5 million in PCA services).

M. Private Duty Nursing Services Coverage

*First Special Session, Chapter 1, Article 19, Section 1 (HF 1)*  
*Amends Minn. Stat. § 256B.0625, subd. 7*  
*Effective July 1, 2010*

Requires health plans regulated by the state (as opposed to self-insured, federally regulated plans) to cover private duty nursing services if hospital care is covered for a person's specific conditions and the person also has Medical Assistance. Saves Medical Assistance \$818,000 in state funding for this biennium and \$8.6 million in the next biennium because some current MA recipients will get private duty nursing coverage from their private insurance.

N. Quality Assurance

*First Special Session, Chapter 1, Article 25, Section 3, Subdivision 8(g) (HF 1)*  
*Rider Language*  
*Effective July 1, 2010*

Funds quality assurance for \$100,000 on a one-time basis in order to continue efforts to expand on the Region 10 quality assurance model across the state to improve the quality of long-term and community support services for persons with disabilities through the Quality Commission.

O. State-Operated Services

*First Special Session, Chapter 1, Article 19, Sections 4, 5, 6, and 7, and Article 25, Section 3, subd. 10(a) (HF 1)*  
*Adds Minn. Stat. §§ 246.125; 246.128; 246.129; and 246.18*  
*Effective July 1, 2010*

Maintains the six state-operated dental clinics and state-operated services (SOS) facilities, and appropriates \$7.18 million dollars for this biennium for SOS. Establishes a task force in order to redesign SOS to better meet the needs of persons currently served.

## II. COMMUNITY SERVICES POLICY CHANGES

### A. Certified Assessors

*Chapter 352, Article 1, Section 17 (SF 2933)*

*Amends Minn. Stat. § 256B.0911, subd. 2b*

*Effective August 1, 2010*

Allows lead agencies (e.g., counties, health plans and tribes) to contract with certified assessors to complete assessments on behalf of the lead agency if in compliance with Department of Human Services policies.

### B. Children's Residential Treatment Facilities License Requirement

*Chapter 329, Section 10 (SF 2935)*

*Amends Minn. Stat. § 245A.30*

*Effective August 1, 2010*

Provides that, in order to obtain a state license for services, a residential treatment facility that accepts children from other states will not be licensed in Minnesota without an agreement that the other state pay for educational and medical expenses.

### C. Class F Home Care Provider

*Chapter 246, Section 2 (SF 2923)*

*Amends Minn. Stat. § 144A.45, subd. 4*

*Effective August 1, 2010*

Clarifies that Class F home care providers can receive Medicaid reimbursement without being Medicare certified.

### D. Consumer-Directed Community Support Services

*Chapter 352, Article 1, Sections 18, 19, and 20 (SF 2933)*

*Amends Minn. Stat. § 256B.0911, subds. 3a, 3b, and 4d*

*Effective August 1, 2010*

Requires written recommendations for consumers in the assessment and support planning process to include consumer-directed options. Adds referrals to home and community-based waiver services and consumer-directed options to referrals required as part of the long-term care consultation for transition assistance to

persons residing in a nursing facility, hospital, regional treatment center, or intermediate care facility who request assistance.

E. Family License Holder

*Chapter 352, Article 1, Section 5, and Article 2, Section 15 (SF 2933)  
Amends Minn. Stat. §§ 245A.03 and 256B.092, subd. 4d  
Repeals Minn. Stat. § 256B.0919, subd. 4  
Effective May 16, 2010*

Permits a family member to be licensed to provide services through the Home and Community Waiver for Persons with Developmental Disabilities under limited circumstances, including that the license holder: (1) maintain a license under both Chapter 245B and the Adult Foster Care Licensure rule; and (2) not be the guardian of the person receiving supported living services.

F. Foster Care Audio And Video Data Retention Policy

*Chapter 352, Article 1, Section 6 (SF 2933)  
Amends Minn. Stat. § 245A.11, subd. 7b  
Effective August 1, 2010*

Provides an exception to the five-day data retention requirement of video and audio recordings in lieu of supervision in adult foster homes under specific circumstances related to alleged maltreatment or maltreatment investigations.

G. Home Care License Enforcement

*Chapter 246, Section 5 (SF 2923)  
Amends Minn. Stat. § 144A.46, subd. 3  
Effective August 1, 2010*

Adds specific actions for the Department of Health to use in enforcement actions involving home care license holders.

**III. HEALTH CARE AND MENTAL HEALTH CHANGES**

*(NOTE: Substantial changes were made to state health coverage programs, including the significant changes and budget cuts for the General Assistance Medical Care program. Information on these changes is found in the Health Care section of the LSAP Summary [ADD LINK HERE](#))*

A. Children's Psychiatric Hospital for Hennepin County

*Chapter 198 (SF 2743)  
Amends Minn. Stat. § 144.551, subd. 1  
Effective March 27, 2010*

Changes a 2009 provision to allow the establishment of a 20-bed inpatient psychiatric hospital for children and adolescents in the western two-thirds of Hennepin County.

B. Community Health Workers

*Chapter 303, Section 4 (SF 2912)*

*Amends Minn. Stat. § 256B.0625, subd. 49*

*Effective August 1, 2010*

Adds all licensed mental health professionals, including professional clinical counselors, to those qualified to supervise community health workers.

C Dental Benefits/Services

*Chapter 310, Article 7, Section 1 (SF 3027)*

*Amends Minn. Stat. 2009 Supplement § 256B.0625, subd. 9*

*Effective July 1, 2010*

Expands coverage for use of panoramic x-rays in some circumstances, including for those who need the procedure due to developmental disability or medical condition. Clarifies that MA covers medically necessary dental services for pregnant women as well as children. Specifies that application of sealants are covered once every five years per permanent molar and orthodontia is eligible for coverage for children only.

D. Dental Critical Access Providers

*First Special Session, Chapter 1, Article 16, Section 27 (HF 1)*

*Amends Minn. Stat. § 256B.76, subd. 4*

*Effective July 1, 2010*

Modifies the criteria the commissioner must use to determine which dentists and dental clinics are critical access dental providers.

Requires DHS to designate the following as critical access providers:

- (1) Certain nonprofit community clinics
- (2) Federally qualified health centers, rural health clinics
- (3) County owned and operated hospital-based dental clinics
- (4) A dental clinic or dental group owned and operated by a nonprofit operation with more than 10,000 patient encounters per year with patients who are uninsured or covered by MA, GAMC, or MinnesotaCare
- (5) A dental clinic associated with an oral health or dental education program operated by the University of Minnesota or an institution within the MnSCU system.

E. Dental Diagnostic, Screening, and Preventive Services for Children

*Chapter 307, Section 1 (SF 633)*

*Amends Minn. Stat. § 256B.0625, subd. 14 by adding (d) and (e)*  
*Effective August 1, 2010*

Requires DHS to encourage a primary care health care provider to perform primary caries preventive services as part of a child or teen checkup or during an episodic care visit. Primary caries preventive services must include: (1) a general visual examination of the child's mouth; (2) a risk assessment; and (3) the application of a fluoride varnish beginning at age 1 to those children who are assessed as being high risk. Parental consent is required prior to administering a fluoride treatment. The provider should provide the child's parent or legal guardian with information regarding caries etiology and prevention and dental homes.

- F.. Epilepsy Drugs  
*Chapter 289, Section 1 (HF 1320)*  
*Amends Minn. Stat. § 151.06, subd. 1*  
*Effective August 1, 2010*

Requires the Board of Pharmacy to adopt United States Food and Drug Administration (FDA) standards if the FDA determines that substitution of epilepsy and seizure medication would be harmful to patients. Provides that the Board must report to appropriate legislative committees if the change would increase states costs.

- G. Indian Health Service Involvement in Children's Mental Health  
*Chapter 303, Section 1 (SF 2912)*  
*Amends Minn. Stat. § 245.4885, subd. 1*  
*Effective date August 1, 2010*

Provides for Indian Health Service or Tribal Health Service facility involvement in determining the appropriate level of care when tribal money is used to pay for children's mental health treatment.

- H. Medical Assistance For Employed Persons With Disabilities (MA-EPD)  
*First Special Session, Chapter 1, Article 17, Section 9 (HF 1)*  
*Amends Minn. Stat. § 256B.057, subd. 9*  
*Effective January 1, 2011*

Requires, beginning two years before a person's 65<sup>th</sup> birthday, annual notice of the change in income and asset rules that will take place for a Medical Assistance for Employed Persons with Disability (MA-EPD) recipient when the recipient reaches age 65.

- I. Medical Assistance Rehabilitative Services  
*First Special Session, Chapter 1, Article 16, Sections 8, 9, and 10 (HF 1)*

*Amends Minn. Stat. § 256B.0625, subs. 8, 8a, 8b*  
*Effective July 1, 2010 for fee-for-service and January 1, 2011 for managed care*

Tightens the limit on the number of therapy visits allowed before prior authorization is required for occupational therapy (OT), physical therapy (PT), and speech and language services. (*Note: These cuts were made instead of eliminating adult rehabilitative therapies in the MA program as proposed by the Governor.*)

J. Mental Health Emergencies at Colleges

*Chapter 230 (SF 2425)*

*Amends Minn. Stat. § 13.32, subd. 3*

*Effective August 1, 2010*

Clarifies that the parents of a student experiencing a mental health crisis while attending college can be notified just as if the student experienced any other type of medical emergency.

K. Mental Health Urgent Care and Consultation

*Chapter 200, Article 1, Section 1 (SF 460)*

*Adds Minn. Stat. § 245.4862*

*Effective July 1, 2010*

Establishes a new mental health urgent care service and psychiatric consultation to provide rapid access for individuals who are at risk of being hospitalized or unable to receive timely services. Allows the service to be provided by interactive video if access is problem. Phases in the new service beginning with adults in Hennepin and Ramsey Counties and children statewide.

L. Minnesota Comprehensive Health Association Coverage of Mental Health Residential Treatment

*Chapter 363 (SF 2879)*

*Amends Minn. Stat. § 62E.12*

*Effective August 1, 2010*

Limits coverage of mental health services in an out-of-state residential treatment program to treatment which is: (1) medically necessary; (2) unavailable in Minnesota; and (3) based on a referral by a medical practitioner licensed in Minnesota.

M. Minnesota Disability Health Option

*First Special Session, Chapter 1, Article 25, Section 3, subd. 8(g) (HF 1)*

*Rider Language*

*Effective January 1, 2011*

Terminates the Minnesota Disability Health Option (MNDHO) integrated managed care plan on January 1, 2011 and reduces associated funding, projected to save \$2.3 million in state funds for this biennium and \$3.6 million for the next. Provides \$250,000 for counties involved with transition of approximately 900 enrollees from MNDHO to county managed home and community waiver services. *(Note: the termination of MNDHO results in loss of federal Medicaid match used to fund MNDHO services and affects nearly 2,000 persons with disabilities in the seven-county metro area, about 1,000 of whom will have to transfer to county-managed home and community-based services.)*

- N Parent Fees for Children with Significant Disabilities  
*First Special Session, Chapter 1, Article 17, Section 6 (HF 1)*  
*Amends Minn. Stat. § 252.27, subd. 2a*  
*Effective July 1, 2010*

Increases parent fees for approximately 4,000 families over the next 12 months. Raises fees on a sliding scale basis beginning at \$50,000 per year for a family of four (\$4 per month increase), rising to 13.5 percent of adjusted gross income for families at 900% of the federal poverty level. Requires parents to pay approximately \$3.9 million over three years, which saves the state \$1.755 million with the rest going to the federal government.

- O. Reimbursement for Mental Health Assessment  
*Chapter 303, Section 6 (SF 2912)*  
*Amends Minn. Stat. § 256B.761*  
*Effective August 1, 2010*

Directs the Department of Human Services to establish three levels of payment for mental health diagnostic assessment, based on three levels of complexity. The new rate structure is effective January 1, 2011, or upon federal approval, whichever is later.

- P. State Medical Review Teams (SMRT)  
*Chapter 261, Section 1 (HF 3405)*  
*Amends Minn. Stat. § 256.01, subd. 29*  
*Effective August 1, 2010*

Establishes a time limit of 90 days for appeals of a disability determination by the State Medical Review Team. Requires the Department of Human Services to report to the Legislature annually, including information on the length of time between appeal requests and decisions issued.

- Q. Use of Anti-Psychotic and Attention Deficit Hyperactive Disorder (ADHD) Medications for Children  
*Chapter 200, Article 1, Section 5 (HF 460)*  
*Amends Minn. Stat. § 256B.0625, subd. 13j*

*Effective April 1, 2010*

Authorizes the appointment of an interdisciplinary work group to guide consultation and provide advice on the use of anti-psychotic and ADHD medications for children and when collaborative psychiatric consultation ought to be required. Requires prior authorization and consultation beginning July 1, 2011 when prescriptions of these medications are outside recommended dosages, with certain exceptions for children in crisis.

#### **IV. HOUSING**

- A. Group Residential Housing (GRH) Reduction  
*First Special Session, Chapter 1, Article 15, Section 13 (HF 1)*  
*Rider Language*  
*Effective retroactively from November 1, 2009*

Reduces the supplemental service rate for group residential housing by 5%, except for GRH facilities also licensed as nursing homes. Ratifies Governor's unallotment.

- B. Special Needs Housing Subsidy  
*Chapter 352, Article 1, Section 22 (SF 2933)*  
*Amends Minn. Stat. § 256D.44, subd. 5*  
*Effective August 1, 2010 and expires on June 30, 2012*

Qualifies provider-owned housing to receive special needs payments under Minnesota Supplemental Assistance (MSA). Limits special needs housing payments in multifamily buildings to those in which recipients occupy no more than 50% of the apartments.

- C. State Building Code Accessibility Standards Enforcement  
*Chapter 347, Article 3, Section 18*  
*Amends Minn. Stat. § 326B.16*  
*Effective July 1, 2010*

Applies the State Building Code requirements for persons with disabilities across the state. Requires municipalities which have not adopted the State Building Code to enforce the requirements for persons with disabilities. Authorizes the Department of Labor and Industry to enforce the State Building Code in a municipality not properly administering the code provisions applying to persons with disabilities.

#### **V. PERSONAL CARE ASSISTANCE (PCA) SERVICES AND HOME CARE POLICY CHANGES**

A. Personal Care Assistance

**1. Background Study Requirements**

*Chapter 352, Article 1, Section 12 (SF 2933)*

*Amends Minn. Stat. § 256B.0659, subd. 11*

*Effective retroactively from July 1, 2009*

Provides an exception to the requirement that a personal care assistant must initiate a new background study when: (1) the PCA changes employers under circumstances related to home care services provider termination; (2) there exists a need to protect a recipient's health and safety; and (3) other specific conditions are met.

**2. Definitions**

a. Wages and Benefits

*Chapter 352, Article 2, Section 2 (SF 2933)*

*Adds Minn. Stat. § 256B.0659, subd. 1(r)*

*Effective August 1, 2010*

Adds a definition of wages and benefits to clarify PCA agency responsibilities to provide 72.5% of Medicaid revenue in wages and benefits to PCA staff.

b. Extended Personal Care Services

*Chapter 352, Article 2, Section 2 (SF 2933)*

*Adds Minn. Stat. § 256B.0659, subd. 1(g)*

*Effective August 1, 2010*

Allows, under the disability and elderly home and community-based waivers, provision of PCA services beyond the amount, duration, and frequency of state plan PCA services for participants who need assistance periodically during the week but less than daily and those who need PCA hours beyond the amount authorized under the state plan assessment under certain circumstances.

c. Dependency

*Chapter 352, Article 2, Section 4 (SF 2933)*

*Amends Minn. Stat. § 256B.0659, subd. 4*

*Effective August 1, 2010*

Expands the definition of dependency for PCA assessment to include a person's need for assistance intermittently during the week on the days the activity is completed (rather than requiring a need for assistance daily).

**3. Instrumental Activities of Daily Living for Children**

*Chapter 352, Article 2, Section 3 (SF 2933)*

*Amends Minn. Stat. § 256B.0659, subd. 3*  
*Effective August 1, 2010*

Provides an exception to the exclusion of payment for instrumental activities of daily living (IADLs) for children when immediate attention is needed for health or hygiene reasons integral to personal care services and the need is identified in the service plan.

**4. PCA Choice Option Changes**

*Chapter 352, Article 2, Sections 8, 9 and 10 (SF 2933)*  
*Amends Minn. Stat. §256B.0659, subds. 18, 19, and 20*  
*Effective August 1, 2010*

Requires that a recipient's responsibility to hire, train, schedule, and terminate a PCA be governed by the terms of the written agreement with the PCA choice agency. Removes the authority to recruit, hire, schedule, and terminate a qualified professional from the PCA Choice Option. Clarifies that: (1) the PCA Choice Option written agreement is between the provider agency and the recipient or the responsible party; and (2) the agreement must be: (i) completed annually; and (ii) provided to the recipient or responsible party, each personal care assistant, and the qualified professional.

**5. PCA Supervision by Qualified Professionals**

*Chapter 352, Article 2, Section 7 (SF 2933)*  
*Amends Minn. Stat. §256B.0659, subd. 14*  
*Effective August 1, 2010*

Clarifies that the initial evaluation of a PCA – but not subsequent evaluations – must be conducted by direct observation of each PCA. Allows supervision after the first 180 days of a recipient's PCA service to alternate between unscheduled phone or Internet technology and in-person visits, unless in-person visits are required in the care plan.

**6. Provider Agencies Requirements**

a. Initial Enrollment

*Chapter 352, Article 1, Section 15 (SF 2933)*  
*Amends Minn. Stat. § 256B.0659, subd. 21*  
*Effective August 1, 2010*

Adds a new requirement of proof of liability insurance for initial enrollment in the Medical Assistance program as a PCA agency.

b. Marketing

*Chapter 352, Article 2, Section 12 (SF 2933)*  
*Amends Minn. Stat. §256B.0659, subd. 24*  
*August 1, 2010*

Deletes language on marketing restrictions to clarify that agencies are not allowed to engage in agency-initiated direct contact or in-person marketing, either by phone or other electronic means, to potential recipients, guardians, or family members.

c. No Limitation of Future Employment of PCA Staff

*Chapter 352, Article 2, Section 11 (SF 2933)*

*Amends Minn. Stat. §256B.0569, subd. 21*

*Effective May 15, 2010*

Adds a new condition of enrollment for PCA providers requiring agencies to assure that future employment of PCA employees with PCA recipient or other PCA agencies will not be impeded or restricted. Requires an agency not to take action on any existing agreements, regardless of the date signed, that restricts the right of an employee to obtain employment with other providers.

d. Serving Persons Using Ventilators

*Chapter 352, Article 2, Section 13 (SF 2933)*

*Amends Minn. Stat. §256B.0659, subd. 27*

*Effective August 1, 2010*

Requires training and documentation demonstrating the agency's ability to supervise the PCA, the recipient, and the responsible party in the care of a person who is ventilator-dependent. Prohibits a PCA from providing, and requires licensed or registered health care professional to provide, the following services for a person who uses a ventilator: (1) clinical services; (2) assessment; (3) evaluation; or (4) clinical education. Limits a PCA to tasks associated with ventilator maintenance that are approved by the Board of Medical Practice, in consultation with respiratory care practitioner advisory counsel and the Department of Human Services.

**7. Provision of Service During Pendency of Appeals**

*Chapter 352, Article 2, Section 14 (SF 2933)*

*Amends Minn. Stat. §256B.0659, subd. 30*

*Effective August 1, 2010*

Requires the Department of Human Services, upon a recipient request, to provide a service agreement authorizing PCA hours of service at the previous level during the pendency of appeal.

**8. Recipient Protection**

*Chapter 352, Article 1, Section 9 (SF 2933)*

*Amends Minn. Stat. § 256B.0651, subd. 17*

*Effective August 1, 2010*

Requires home care services providers to take steps to assist recipients when services are terminated due to provider sanctions, suspension, or termination. Authorizes the Department of Human Services to assist affected and assure transition to other services.

## **9. Training Requirements**

### a. For Owners, Managers, and Supervisors

*Chapter 352, Article 2, Section 11 (SF 2933)*

*Amends Minn. Stat. §256B.0659, subd. 21*

*Effective August 1, 2010*

#### **1) Mandatory Training**

Requires new owners, managers, and supervisors involved in day-to-day operations of a PCA agency (except those in Medicare certified home health agencies) to complete mandatory Department of Human Services training before beginning work for the agency.

#### **2) Exemption for Staff Transferring to Another Agency**

Clarifies that owners, managers, and supervisors who have completed the training and moved to another agency do not have to undergo the training for three years.

#### **3) Training in Other Languages**

Requires the Department of Human Services, by September 1, 2010, to provide the required training for owners, managers, and supervisors in languages other than English, with accommodations needed for those with disabilities, to be provided online or by electronic remote connection and allow for competency testing.

### b. For PCA's

*Chapter 352, Article 2, Section 5 (SF 2933)*

*Amends Minn. Stat. § 256B.0659, subd. 11*

*Effective August 1, 2010*

Requires PCA training to be available in languages other than English and to those who need accommodations due to disability. Prohibits the Department of Human Services from disallowing the number of hours a PCA works unless the PCA violates the law.

### c. For Qualified Professional

*Chapter 352, Article 2, Section 6 (SF 2933)*

*Amends Minn. Stat. §256B.0659, subd. 13*

*Effective August 1, 2010*

Requires training for qualified professionals to be available: (1) in languages other than English; (2) for those who need accommodations due to disability; and (3) online or by electronic remote connection. Provides for competency testing to demonstrate an understanding of PCA training without in-person attendance. Allows a qualified professional to be employed without meeting the training requirements until the training is offered online or through a remote electronic connection. Exempts a qualified professional employed by a Medicare certified agency. Requires the Department of Human Services to verify the identity of persons who complete competency testing electronically.

**10. Unemployment Exclusion for Family Member Employed as PCA**  
*Chapter 347, Article 2, Sections 1 and 2 (SF 2933)*  
*Amends Minn. Stat. § 268.035, subs. 19 and 20*  
*Effective July 1, 2010*

Adds family members employed as a PCA to the list of those excluded from unemployment insurance coverage. Defines immediate family member as an individual's spouse, parent, stepparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

**B. Home Care Policy**

**1. Home Health Aides**  
*Chapter 352, Article 2, Section 1 (SF 2933)*  
*Amends Minn. Stat. § 256B.0653, subd. 3*  
*Effective August 1, 2010*

Requires that Medical Assistance-covered home health aides assure that a recipient gets to medical appointments if the Care Plan so identifies.

**VI. RIGHTS AND PROTECTIONS**

**A. Accessibility**

**1. Continuing Education**  
*Chapter 271, Section 3 (SF 1246)*  
*Adds Minn. Stat. § 263A.43*  
*Effective January 1, 2013*  
*and*  
*Chapter 347, Article 1, Section 23 (SF 2510)*  
*Amends Minn. Stat. § 263A.43 as added by Laws 2010, Chapter 271, Section 3*  
*Effective August 1, 2010*

Requires the following to be made accessible within a reasonable period of time to persons with disabilities, including the availability of reasonable modifications, upon request, any continuing education or professional development course or activity approved or administered by: (1) the state; (2) political subdivisions; (3) the University of Minnesota; or (4) the Minnesota state colleges and universities. Provides a private right of action and relief in the form of: (1) a penalty of \$500 per violation with a cap of \$15,000; (2) reasonable attorneys fees (and caps attorneys fees for a class action at \$15,000); (3) costs; and (4) a statute of limitations of one year from the occurrence of the violation

**2. Public Records**

*Chapter 271, Section 2 (SF 1246)*

*Adds Minn. Stat. § 363A.42*

*Effective January 1, 2013*

*and*

*Chapter 347, Article 1, Section 22 (SF 2510)*

*Amends Minn. Stat. § 363A.42 as added by Laws 2010, Chapter 271, Section 3*

*Effective August 1, 2010*

Requires public records to be available within a reasonable time period for persons with disabilities, upon request, consistent with state and federal laws requiring reasonable modifications. Provides a private right of action and relief in the form of: (1) a penalty of \$500 per violation with a cap of \$15,000; (2) reasonable attorneys fees (and caps attorneys fees for a class action at \$15,000); (3) costs; and (4) a statute of limitations of one year from the occurrence of the violation.

**B. Apology For Institutionalization**

*Resolution 4 (HF 1680)*

*Effective August 1, 2010*

Issues an apology by the State of Minnesota to persons with mental illness and developmental and other disabilities for harmful practices and wrongful institutionalization which resulted in segregation and isolation from families, communities and society. Makes Minnesota the sixth state to issue such an apology.

**C. Federal Match For Advocating Change Together (ACT)**

*First Special Session, Chapter 1, Article 17, Section 16 (HF 1)*

*Uncodified Language*

*Effective July 1, 2010*

Requires the Department of Human Services to seek a federal financial match for grants to Advocating Change Together (ACT) to establish a statewide advocacy network for persons with developmental disabilities. Requires a report to relevant

legislative chairs of budget committees by December 15, 2010 describing the results of the application for federal matching funds.

D. Guardianship And Health Care Agents

*Chapter 254 (HF 3128)*

*Amends Minn. Stat. § 145C.09 and multiple sections of Chapter 524.5-101 - .5-502 Effective August 1, 2010*

Changes a number of provisions regarding guardianship and health care directives, including: (1) permitting a court to declare a person's health care directive unenforceable if the health care directive was executed through fraud or coercion; (2) allowing protected persons under guardianship to execute a health care directive if that power has not been delegated to a guardian or health care agent as part of the guardianship; and (3) establishing that a court-ordered guardianship with the power to make medical decisions supersedes a prior health care directive.

E. Housing With Services

1. **Consumer Information**

*First Special Session, Chapter 1, Article 17, Sections 1-3, 5 and 8 (HF 1)*

*Amends Minn. Stat. §§ 144D.03, subd. 2; 144D.04, subd. 2; 144G.06; and 256.975, subd. 7*

*Adds Minn. Stat. § 144D.08*

*Effective July 1, 2010*

Requires housing with services establishments to provide specific additional information to the Department of Health through the registration process and in the form of a uniform consumer information guide. Specifies that information provided will allow price comparisons and separate charges for rent and charges for services to allow comparison of long-term care options.

2. **Information Upon Lease Termination**

*First Special Session, Chapter 1, Article 17, Section 4 (HF 1)*

*Adds Minn. Stat. § 144D.09*

*Effective July 1, 2010*

Requires housing with services providers to include with notice of termination of lease information on how to contact the Ombudsman for Long-Term Care.

F. Maltreatment of Children in Schools

*Chapter 276 (HF 3157)*

*Amends Minn. Stat. § 626.556, subds. 7 and 10d*

*Effective August 1, 2010*

Requires the Department of Education to inform a child's parents within 10 days of child becoming the subject of an investigation into allegations of maltreatment at school. Allows schools to inform parents of children who are witnesses in maltreatment investigations.

- G. Rehabilitation Counselors for the Blind Certification and Qualifications Requirements  
*Chapter 271, Section 1 (SF 1246)*  
*Adds Minn. Stat. § 248.07, subd. 14b*  
*Effective for persons hired January 1, 2011*

Establishes new requirements for certification as a rehabilitation counselor for the blind, including: (1) completion of a minimum of six weeks intensive training; (2) additional training required by the Director for the State Services for the Blind; and (3) continuing education requirements.

- H. Service Animals  
*Chapter 292, Section 3 (SF 2990)*  
*Amends Minn. Stat. § 343.21*  
*Effective August 1, 2010*

Provides a cause of action against a person who harms a service animal, permitting the victim to recover restitution, lost wages, and other related costs (including replacement of the service animal and retraining).

- I. Vulnerable Adult Reports  
*Chapter 352, Article 1, Section 23 (SF 2933)*  
*Amends Minn. Stat. § 626.557, subd. 9a*  
*Effective August 1, 2010*

Requires common entry points (CEPs) to refer all reports of alleged or suspected maltreatment to the appropriate lead agency as soon as possible for a determination on whether to initiate an investigation.

## **VII. SENIORS**

- A. Customized Living Rate  
*First Special Session, Chapter 1, Article 17, Section 11 (HF 1)*  
*Adds Minn. Stat. § 256B.0915 subd.3i*  
*Effective July 1, 2010*

Reduces rate limits by 5% for: (1) customized living services; (2) 24-hour customized living services. Modifies customized living under the Elderly Waiver, resulting in savings of \$3.7 million for this biennium and \$10 million for the next biennium. Reduces services by approximately \$8 million in state and federal funding because it is assumed some of the people affected will remain in nursing

facilities because they cannot live in housing with services settings given the cuts. (Note: As with the disability home and community waiver cuts, these funds are matched by federal Medicaid funds and thus the funding reduction for services is over twice the amount of the state savings.)

- B. Elderly Waiver Conversions Due PCA Changes  
*Chapter 352, Article 1, Section 25 (SF 2933)*  
*Uncodified Language*  
*Effective January 1, 2010*

Clarifies that recipients of PCA service with an MT home care rating are eligible to convert to the Elderly Waiver using the monthly spending under the PCA program as of January 1, 2010.

- C. Essential Community Supports Delay  
*First Special Session, Chapter 1, Article 17, Section 14 (HF 1)*  
*Amends Minn. Stat. § 256B.0917, subd. 14*  
*Effective July 1, 2010*

Delays implementation of the Essential Community Supports Program associated with the tightening of nursing facility level of care for six months, until July 1, 2011.

- D. Nursing Facility Level of Care (LOC)

- 1. Clarification**  
*Chapter 352, Article 1, Section 1 (SF 2933)*  
*Amends Minn. Stat. § 144.0724, subd. 11*  
*Effective August 1, 2010*

Adds language clarifying that clinical monitoring at least once per day is one of the criteria to be used to determine nursing facility LOC. Covers circumstances in which the data first quarterly assessment for nursing facility LOC extends beyond the first 90 days of a resident's nursing facility stay. Provides that the LOC criteria are determined 90 days after admission or on the first quarterly assessment, whichever is later.

- 2. Delay**  
*First Special Session, Chapter 1, Article 24, Section 12 (HF 1)*  
*Amends Minn. Stat. § 144.0724, subd. 11*  
*Effective July 1, 2010*

Delays the implementation of the tightening of nursing facility LOC criteria for six months until July 1, 2011.

- E. Program of All Inclusive Care For The Elderly (PACE)

*First Special Session, Chapter 1, Article 17, Section 13 and Article 25, Section 3,  
Subdivision 9 (HF 1)  
Amends Minn. Stat. § 256B.69, subd. 23  
Effective July 1, 2010*

Provides for the development of PACE in Minnesota by appropriating funding to the Department of Human Services for actuary and administrative work. Requires the department to work with stakeholders to develop financing mechanisms for state fiscal year 2013 and beyond, and report to legislators by January 15, 2011 on progress to develop financing.

## **VIII. TASK FORCES AND REPORTS**

### **A. Case Management Recommendations**

*Chapter 352, Article 1, Section 27 (SF 2933)  
Uncodified Language  
Effective May 16, 2010*

Requires the Department of Human Services to: (1) provide recommendations and language for proposed legislation; (2) consult with existing stakeholder groups in developing recommendations.

### **B. Consultation on Individualized Budgets for Consumer Directed Community Supports**

*Chapter 352, Article 1, Section 26 (SF 2933)  
Uncodified Language  
Effective May 16, 2010*

Requires the Department Human Services to consult with stakeholders on the development of individualized budgets for home and community based services consumer directed community supports.

### **C. Consumers Satisfaction Data**

*Chapter 329, Sections 21 and 22 (SF 2935)  
Uncodified Language  
Effective January 1, 2012*

Requires the Departments of Human Services and Commerce to submit, by February 15 each year, a memorandum annually to the Governor and relevant legislative committees on: (1) the number of calls to each Department's Help Lines by consumers and citizens; (2) problems identified, resolved, referred to counties and elsewhere; (3) unresolved calls; and (4) calls without merit. Requires the agencies to publish the results on their respective websites no later than March 1 each year.

### **D. Evaluation of Ongoing Studies and Reports**

*First Special Session, Chapter 1, Article 16, Section 1 (HF 1)*  
*Adds Minn. Stat. § 256.01, subd. 30*  
*Effective July 1, 2010*

Directs the Department of Human Services to review all ongoing studies, reports, and program evaluations completed for FY 2006 through FY 2010. Requires recommendations to the Legislature every five years concerning duplicative, unnecessary, or obsolete reports.

- E. License Moratorium for Adult Foster Care Study  
*Chapter 352, Article 1, Section 4 (SF 2933)*  
*Amends Minn. Stat. § 245A.03, subd. 7*  
*Effective August 1, 2010*

Requires the Department of Human Services to include specific information in a study on the effects of the license moratorium.

- F. Report Regarding Programs and Services for People with Disabilities  
*First Special Session, Chapter 1, Article 17, Section 7 (HF 1)*  
*Adds Minn. Stat. § 256.4825*  
*Effective July 1, 2010*

Allows the Minnesota Council on Disability, the Consortium for Citizens with Disabilities, and ARC of Minnesota to submit an annual report to the Legislature reviewing the goals of programs and services for persons with disabilities, beginning January 15, 2012. Requires various state agencies to provide existing public information and reports to assist in the preparation of the review of services and funding.

- G. Single Set of Standards for Services for Persons with Disabilities  
*Chapter 352, Article 1, Section 24 (SF 2933)*  
*Amends Laws of Minnesota 2009, Chapter 79, Article 8, Section 81*  
*Effective August 1, 2010*

Changes the name of the report from a single set of standards to “quality outcome standards” governing services for persons with disabilities under home and community waivers. Requires submission of the report and plans to the appropriate legislative committees by January 15, 2012.

## **IX. TRANSPORTATION**

- A. Complete Streets  
*Chapter 351, Sections 52 and 72 (SF 2540)*  
*Adds Minn. Stat. § 174.75 and Uncodified Language*  
*Effective August 1, 2010*

Establishes the “complete streets” standard for planning, design implementation, and operation of roads in Minnesota to promote safety and accessibility for all users of all ages and abilities. Requires three reports to relevant legislative committees, to be submitted between January 15, 2011 and January 15, 2014, to summarize implementation steps and improvements as well as barriers to the complete streets policy.

- B. Minnesota Council on Transportation Access  
*Chapter 351, Section 51 (SF 2540)*  
*Adds Minn. Stat. § 174.285*  
*Effective July 1, 2010 and expires June 30, 2014*

Establishes the Minnesota Council on Transportation Access to evaluate and make recommendations to improve transportation for the “transit public,” including: (1) persons with mental or physical disabilities; and (2) low income persons who are seniors or are dependent upon others for transportation services. Provides broad stakeholder membership and requires a report to the Governor and relevant legislative committees by January 15 of each year, beginning in 2012.

- C. Special Medical Transportation Frequency of Level of Need Determination  
*First Special Session, Chapter 1, Article 16, Section 4 (HF 1)*  
*Amends Minn. Stat. § 256B.04, subd. 14a*  
*Effective July 1, 2010*

Changes frequency of level-of-need eligibility determinations for special transportation from semi-annual to annual, unless there is a change in condition.