

**National Alliance on Mental Illness of Minnesota  
2009 Minnesota Legislative Session  
Summary of Laws  
Affecting Children and Adults with Mental Illnesses and Their Families**

**Adult Mental Health**

**Adult Rehabilitation Mental Health Services**

A person can be a mental health rehabilitation worker if they have two years of full-time postsecondary education in one of the behavioral sciences or human services. The previous law did not allow two years of college, just an associate of arts degree. The number of hours for continuing education for these workers was changed from 40 in the first year to 15 every year. Chapter 167

**Clinical Trials**

An adult with a mental illness who is under a stay of commitment cannot participate in a clinical drug trial unless a) the treating psychiatrist testifies or submits an affidavit that the person would benefit from participating because other treatments that have been tried for a reasonable period are not effective; b) the treating psychiatrist is not the physician conducting the clinical trial; c) the court determines that the person is competent to choose to participate in the trial, is freely choosing to participate and is not being coerced; and d) a reasonable person would choose to participate in the clinical trial. Chapter 58

**Bordering State**

A physician, licensed psychologist (Ph.D.) or an advance practice nurse in a bordering state facility can initiate an emergency hold on a Minnesota resident if the person meets the criteria and if the facility is under contract with a Minnesota governmental entity. Chapter 167

**Intensive Rehabilitative Mental Health Services**

The DHS Mental Health policy bill includes a number of clarifications to match laws with current practice, particularly relating to rate-setting for Assertive Community Treatment (ACT) and Intensive Residential Treatment Services (IRTS). The new language relating to ACT and IRTS rate setting is effective for services provided during January 1, 2010 to December 31, 2011 and does not change contracts and agreements for services prior to January 2010. Chapter 167

**Peer Support Specialists**

Peer support specialists may provide crisis stabilization services. Chapter 167

**Children's Mental Health**

**ACT Teams**

Providing ACT teams for youth will again be delayed until November 2010. Chapter 79

**Adoption Assistance**

Changes are made to the adoption assistance program for people who adopt children with special needs, including those who have a mental illness. The benefits and payments are clearly laid out and there were some changes made to the agreement that is signed and negotiated between the adoptive parents and the placing agency. Chapter 163

### **Autism**

An Autism Spectrum Disorder Task Force is created with 15 people representing a broad spectrum of stakeholders. Their task is to make recommendations on a number of issues related to education, treatment, coordination, provider training, and funding. Chapter 79

### **Behavioral Health Aides**

To help create a “career ladder” any hours worked as a behavioral health aide I will be used to qualify for a behavioral health aide II which can be used towards the experience required to qualify as a mental health practitioner. Chapter 167

### **Children and Adolescent Behavioral Health Services (CABHS)**

The CABHS program in Willmar, a state operated program, received extra funding so that it could develop into a safety net program to serve children with high needs who aren't being served well elsewhere and who have specific needs related to trauma and other issues. Chapter 79

### **Children's Programs**

The commissioner of public safety will do resource mapping of all programs and funding used to support the health, safety, stability, growth, development and education of children. The purpose is to see if there are overlapping programs, gaps in service delivery and any inefficiencies. The report is due in January 2010. Chapter 132

### **Children's Therapeutic Services and Supports**

Some changes, mainly technical, were made to the law regarding providing skills training to children. Up to ten percent of the time the child doesn't need to be present in order to provide instruction for family members. There are staffing requirements for group skills services. The description of skills training is much more clear and tied to the child's disorder, treatment plan and teaching families the skills they need to help their child develop. CTSS providers will now be required to be certified only by the state and not by counties. Chapter 167

CTSS funds cannot pay for simultaneous treatment by multiple providers from the same agency. Chapter 79

### **Day Treatment Programs**

More flexibility was added to day treatment programs. Instead of requiring programs to operate at least 5 days a week, they can now operate up to 15 hours a week and psychotherapy and intensive therapeutic services are required for a minimum two-hour instead of a three-hour block of time. Therapeutic pre-schools must provide services five days a week, 52 weeks per year. Chapter 142 and Chapter 167

### **Delinquency**

Only if the court determines that a child is a danger to self or others can they be subject to the supervision of the court, and have legal custody transferred to a child-placing agency, local social services agency or another person, county probation officer or county home school. It didn't used to state that it was due to a child being in danger to self or others. Chapter 163

### **Fetal Alcohol Spectrum Disorder**

The definition of “related condition” under the definition of developmental disabilities is amended to include fetal alcohol spectrum disorder. Chapter 147 and Chapter 159

### **Mobile Crisis Services**

Mobile crisis teams for children do not need to be 24/7 if due to geography and other issues it isn’t feasible to do so. The commissioner must approve waiving this requirement and this flexibility must result in an increase access to mobile crisis services and the team must provide services in the evening, weekends and holidays. Chapter 79

### **New Inpatient Program**

PrairieCare (formerly known as Prairie St. John) received approval from the legislature to build a 20 bed inpatient free-standing psychiatric facility for adolescents and young adults (under 21) in Western Hennepin County. They also plan to add an additional partial hospitalization program and outpatient clinic service to that site. Chapter 51

### **Parental Fees**

While fees for parents under the TEFRA program were not reduced, they did clarify that if a county refunds some of the TEFRA fees, due to the fees exceeding the cost of the services, that amount may be taxable if the parents used money from their flex or cafeteria plan (section 125) to pay for the fees. Chapter 145

### **Post Adoption Assistance**

Federal funds used to provide adoption incentive grants can also be used by the commissioner to fund post adoptive services including support groups. Chapter 173

### **Residential Programs**

Children’s residential programs with ten or fewer beds that employ or contract with a certified food manager are exempt from the food, beverage and lodging establishment license. Chapter 142

### **Residential Placement**

There were some technical changes made to the child protection laws and the new voluntary placement law. Under the child protection laws it states that family reunification plans do not prevent out-of-home placement for treatment of a child when it is medically necessary and when the level of intensity or supervision and treatment can’t effectively and safely be provided in the child’s home or community and it’s the least restrictive setting appropriate to meeting the needs of the child. Foster care in the broad sense (any non-corrections out-of-home placement) is not to be used as a punishment or consequence of a child’s behavior. The out-of-home placement plan must also include efforts to ensure educational stability including trying to keep the child in the same school, and how health care issues will be addressed. The voluntary placement agreement law was changed to reference medically necessary care instead of that the child’s level of care requires placement in foster care (but this is tied to children with a developmental disability). Chapter 163

When county funds are used for out-of-home placement then they determine the appropriate level of care. When a child is in a pre-paid Medical Assistance health plan and referred for out-of-home placement (residential treatment) then the health plan determines the appropriate level

of care. When more than one is involved then they have to coordinate their level of care determination activities.

If a facility is in a border state, and it's closest to the child's home and provides appropriate treatment, then counties can claim reimbursement for the treatment expenses through the Medical Assistance fee for service funds can be used, but the facility must be inspected and certified as meeting Minnesota standards by the state. Chapter 174

### **Run Away Youth**

The law will allow a child who has run away to be taken into custody by police but only for the purpose of transporting the child home, to a relative's home or to some other safe place. A child may be released from detention to the social service agency provided that they have developed a safety plan for the family and child if needed. Chapter 163

Funding for homeless and runaway youth is at \$218,000 in the base and \$2.5 million of federal dollars should be targeted to agencies that provide homeless prevention and rapid rehousing services to youth. Chapter 79

### **Screening**

The mental health screening that is done on children in the foster care system can be done by participating tribes and they can access the state funds for this activity. Chapter 163

### **Treatment Foster Care**

The development of these services under the Medical Assistance program was delayed again until July 2011. Chapter 79

### **Youth Aging Out of Foster Care**

Young people who have been in foster care until age 18 or who were discharged while on runaway status after age 15 who return for help between the ages of 18 and 21 will have a specific plan developed that relates to his or her vocational, educational, social or maturational needs and, to the extent that funds are available, any foster care, housing or counseling benefits tied to the plan. Additionally the county must provide the young person with a name and phone number of someone that he or she can contact if they need help or information up until age 22. Chapter 106

### **Youth Violence**

The commissioner of health is to apply for funding to support prevention and intervention programs for at-risk youth. At risk youth includes those who are involved in gangs, use drugs or alcohol, drop out of school, have unsafe sex or are involved in violent or criminal activity. Programs serving these youth must be comprehensive and include mentors, work to strengthen families, include chemical dependency and mental health screening and services, provide job training, and more. Chapter 156

### **Challenge Incarceration Program (CIP)**

CIP is a voluntary, boot camp-style chemical dependency treatment program for inmates in Minnesota's Moose Lake/Willow River (men) and Togo (women) correctional facilities. The Department of Corrections (DOC) must try to fill all available CIP beds for men and women. If at least 90 percent of the available beds are not filled by December 1, the DOC must report what steps it has taken to fill the beds and why those steps failed. Chapter 83

### **Court Fees**

The state court administrator can develop uniform procedures to collect court fines including contracting with credit bureaus, collection agencies, etc. If you or a family member has court fees, assessments, restitution, damages or fines, beware. Chapter 83

### **DOC Spending Reduction**

The Department of Corrections (DOC) must reduce its spending on inmates by \$2.9 million each year. To do this, the DOC may do several things: collaborate with Wisconsin, increase Challenge Incarceration Program bed capacity, grant conditional release to more nonviolent drug offenders, increase the use of compassionate release or less costly detention alternatives for elderly and infirm offenders, implement corrections best practices and implement cost-saving measures used by other states and the federal government. The DOC may not cut correctional officer positions or take other steps that will jeopardize public safety to reduce its spending. Nor can DOC eliminate treatment beds to reduce costs or make reductions to inmate educational programs, chemical dependency programs or reentry programs. Chapter 83

### **Drug Court Bed Savings**

The Department of Corrections must consider the impact that drug courts may have in reducing the need for prison beds. Chapter 83

### **Drug Abuse**

Fines from controlled substance offenses can now be used – in addition to drug abuse prevention programs – drug abuse intervention programs. Additionally, they can be targeted to juvenile justice programs that provide intervention strategies to reduce drug abuse and criminal behaviors along with promoting drug abuse prevention efforts within the community. Chapter 83

### **Evidence-Based Practices to Reduce Recidivism**

The Minnesota Information and Supervision Services Committee's Evidence-Based Practices Policy Team, a committee within the Department of Corrections, must review, assess and make recommendations about implementing evidence-based practices to reduce recidivism. Examples of such evidence-based practices include mental health treatment, substance abuse treatment and release planning. Chapter 59

### **Federal Grants for Reentry Programs**

The Department of Corrections must apply for all available grants for federal funds under the American Recovery and Reinvestment Act of 2009 and the Second Chance Act that the department is eligible to receive to continue and expand reentry and restorative justice programs. Chapter 83

### **Federal Stimulus Funds**

The Supreme Court is encouraged to apply for all available grants for federal stimulus funds to continue drug court programs that have lost state funding under the new budget. Also, the Office of Justice Programs must consider awarding grants for federal stimulus funds for programs that seek to develop and increase juvenile detention alternatives, re-entry programs for offenders and restorative justice programs. Chapter 83

### **Funding for Courts and Legal System**

The court system funding was reduced by nearly \$1.5 million a year, which is a smaller cut than was proposed by the Governor. Cuts were also made to Legal Aid of about \$700,000. The Public Defender's Office budget was reduced \$2 million (less though than what was recommended by the Governor). Additionally, the co-payment for public defender's service was raised from \$28 to \$75, although the fee can still be waived by the court. There may be an additional charge of up to \$75 on each licensed attorney registration fee to help pay for public defenders. Chapter 83

### **Juvenile Justice**

The use of restorative justice programs are encouraged for youth who have not previously been delinquent or a petty offender, who have not participated in a diversion program or been placed on probation and who agrees to the program. Chapter 83.

### **Juvenile Justice Data**

This bill is a first step in addressing the racial and ethnic disparities in the juvenile justice system. It requires a study to determine the feasibility of collecting and reporting summary data relating to the decisions that affect a child's status within the juvenile justice system. This would include data on race, age, gender, ethnicity, criminal charge, county of offense and county of residence and when that data would be collected. The report is due in February 2010 and requires consultation with stakeholders such as criminal justice agencies, juvenile justice advocates, etc. Chapter 132

### **Notification of Possible Impact of Criminal Records on Hiring**

A criminal record often automatically disqualifies someone from certain positions. This is especially true for government jobs that require security clearances, military jobs, positions involving money (e.g., insurance or banking) and jobs working with children. Colleges, universities and vocational schools must tell newly admitted students that arrests, charges or convictions of criminal offenses may limit their ability to work in certain fields or obtain financial aid. Chapter 95

### **Office of Justice Programs**

Funds for these programs were reduced by over \$5 million. Any federal stimulus dollars that are received are to be focused on mentoring for children of incarcerated parents, youth intervention programs (especially early intervention), re-entry programs, juvenile detention alternatives, and restorative justice programs. Chapter 83

### **Revocation Centers**

Several counties (and multi-county collaboratives) are allowed to develop pilot projects that provide secure residential centers to supervise people facing revocation of their supervised release or execution of their stayed prison sentence. The proposal must address the care, custody and programming for offenders assigned to the centers. This includes how they will provide

mental health care and chemical dependency services, and educational and employment readiness opportunities. Chapter 83

### **Safe Hiring**

Many employers will not hire people with criminal records, partly because they fear getting sued if the person were to somehow expose other workers to danger. This makes it much harder for people trying to re-enter their communities from jail or prison to get a job. To reduce employers' risk of getting sued, now someone can only use an employee's criminal record against the employer if: (1) hiring the ex-offender for a particular job exposes other people to increased risk, (2) the person was convicted, or (3) the person's full criminal case is on the public record. Chapter 59

### **Short Term Offenders**

In Minnesota, county jails house all short term offenders, which are felony offenders who have a sentence of one year or less. Starting July 1, new short term offenders will be housed in state prisons instead of county jails. Most short term offenders currently in local jails will likely complete their sentences in the jails, and counties will receive \$1.6 million in FY 2010 to help pay for their housing and care. Ten percent of this money can be used for their medical care. Chapter 83

### **Treatment Alternatives Report**

By December 15, the Department of Corrections (DOC) must report on best practices for chemical dependency treatment for offenders. The report must suggest ways to reduce the length of time between incarceration and graduation from chemical dependency treatment. The report also must identify any possible ways to reduce the cost of treatment, expand the number of treatment beds, improve treatment outcomes and lower the rate of substance abuse relapse and recidivism. Chapter 83

## **Education and Special Education**

### **Area Learning Centers**

Area Learning Centers will now be just one option under a state-approved alternative program. The others will be called an alternative learning program or a contract alternative (which is an alternative learning program operated by a private organization). Chapter 96

### **Care and Treatment**

There were some changes about what to do when a child is placed by a school district for care and treatment. If it's not the child's district that does it then the placing district must let the home district know right away and provide an opportunity for the home district to participate in the decision making. If it's an emergency placement then they need to notify the home district within 15 days. This provision primarily relates to placement for day treatment services. The home district can establish reasonable restrictions on transportation except they have to provide it no matter what if the court orders the treatment. Chapter 96

### **Charter Schools**

A number of changes were made to the law governing charter schools. Instead of sponsors there will be "authorizers" for charter schools. There will be more transparency in terms of meeting minutes, conflict of interest, annual reports and financial statements. Chapter 96

### **Due Process**

All the due process sections of state law – notice requirements, conciliation conferences, due process hearings, expedited due process hearings – were streamlined so that the language reflects federal law. There are some additional requirements for prior written notice such as requiring districts to inform parents that they will proceed with a placement unless the parent objects in writing within 14 days and that if parents object they can ask for a conciliation conference or alternative dispute resolution procedure. Districts must send out the conciliation conference memorandum within 5 days after the conference. Hearing officers can't be otherwise contracted by the department or school district and must have knowledge of special education laws and rules. The burden of proof is on the party seeking relief. Chapter 96

### **Excused Absences**

A note from a physician or a licensed mental health professional stating that a child cannot attend school due to their physical or mental health, including that the child has a condition that requires ongoing treatment for a mental health diagnosis, is a valid excuse. Some schools were not viewing this as a valid excuse and children were being referred for truancy. Chapter 96

### **Online Learning**

Some changes were made to online learning programs. They will be required to provide a syllabus to the Department of Education which includes course content, state standards addressed, expectations for teacher contact time, etc. Online providers will have to provide reports on student progress to the student, parent and enrolling district. Chapter 96

### **Seclusion and Restraints**

There is a new law that governs the use of seclusion and restraints on special education students in the schools. It will go into effect on August 1, 2011. Every school will have to develop a plan that includes the list of procedures that they plan to use, how they will be monitored and reviewed (including an oversight committee and debriefings), and documentation of staff training.

These procedures can only be used by licensed personnel (teachers, psychologists, social workers, behavior analysts, mental health professionals) who have also received specialized training. The specialized training must include positive behavioral interventions, communicative intent of behaviors, relationship building, alternatives to restrictive procedures, de-escalation procedures, standards for using restrictive procedures, obtaining emergency medical assistance, physiological and psychological impact of these procedures, monitoring and responding to physical signs of distress, and recognizing the symptoms of and interventions that may cause positional asphyxia. The Department of Education, in consultation with the Department of Human Services, will create a list of training programs that meet these requirements. Districts can also collaborate with community mental health programs for children.

The new law defines restrictive procedures as seclusion and physical holding. It's clear that physical holding doesn't include helping a child complete a task or physical escort when a child isn't resisting. Seclusion is defined as confining a child alone in a room from which egress is barred. Seclusion is used instead of "locked time-out" to make sure that we differentiate between time-out and seclusion. Physical holding and seclusion can only be used in an emergency. An emergency means a situation where immediate intervention is necessary to protect a child or other individual from physical injury or to prevent serious property damage.

There are additional restrictions on the use of seclusion and restraints:

- Be the least intrusive intervention to respond to the emergency,
- End when the threat of harm ends,
- Directly observe the child
- Document each time they are used

Documentation must include what led to their use, why less intrusive methods failed, the time it began and ended, and the child's behavioral and physical status. There are standards for the room that is used for seclusion including that it has to be at least six feet by five feet; be well lit, well ventilated, adequately heated, clean; have a window that allows staff to directly observe the child; have tamperproof fixtures, secure ceilings, switches located outside the room; have doors that open out and keyless locks with immediate release mechanisms or locks connected to fire and emergency systems; not contain objects that a child could use to injure themselves or others; be registered with the commissioner of education and meet all building, fire and safety codes.

Schools must notify parents on the same day a procedure is used and if they aren't able to contact them then they must send a notice within two days. The IEP team can plan for an emergency by including these procedures in the IEP and the parents can state how they would like to be notified. If the procedures are used twice in 30 days or when a pattern emerges, and the procedures are not in the IEP, then the IEP team must meet to review the IEP, conduct or review the functional behavior analysis, review data, consider developing or revising positive behavioral interventions and modify the IEP as necessary. The IEP team must also review any known medical or psychological limitations that contraindicate the use of these procedures and then document the decision.

There is a list of prohibited procedures that are very similar to prohibitions contained in other laws and rules covering other types of programs. It includes things like withholding food, not allowing a child to use the bathroom, physical holding that restricts a child's ability to breathe, assuming a position that would be painful, etc.

Finally, all districts are encouraged to establish effective school-wide systems of positive behavior interventions and supports. Chapter 96

### **Special Education Changes**

A lot of work was done this session to streamline special education laws to match federal laws and to eliminate duplicative language and where possible, follow federal law. One change was to clarify that special education students can stay in school until age 21 (although if they turn 21 during the school year they can finish out the year) if they have not received a regular high school diploma. Chapter 96

### **Support Personnel**

The safe schools levy was changed so that instead of requiring districts to continue to spend the same amount of money on counselors, nurses, social workers, psychologists, and CD counselors, schools must ensure that they have the same number of full-time equivalent positions. Chapter 96

### **Suspension and Expulsion**

Several changes were made to this area. Students who are in the graduation incentive program and who have been expelled due to possessing a dangerous weapon, illegal drugs, selling or soliciting the sale of a controlled substance or committing a third-degree assault will have to obtain approval from the nonresident district to attend their alternative program.

Special education students can be suspended. The federal law talks about what happens at 10 cumulative and 10 consecutive days. Minnesota law will align with the federal law in terms of dealing with five consecutive days and ten cumulative days the same way. If a child is suspended for more than five consecutive days or 10 cumulative days (and isn't a change of placement under Federal law) the child's IEP team (including at least one of the child's teachers) must meet and see if other services are needed in order for the child to progress toward meeting their IEP goals. The meeting must be held as soon as possible but no more than 10 days after the sixth consecutive day of suspension or the 10<sup>th</sup> cumulative day of suspension. A dismissal for one school day or less is counted only if the child did not receive any education during that time. Alternative educational services have to be provided when the suspension exceeds five days.

Before expelling a student, the district must bring the IEP team together and determine if the behavior was caused by or had a direct and substantial relationship to the child's disability (a manifestation determination) and whether the conduct was a direct result of a failure to implement the child's IEP. Chapter 96

### **Transition**

Instead of transition planning beginning by age 14, transition planning will take place during Grade 9. This doesn't preclude IEP teams from talking about it sooner, but the real planning will take place during 9<sup>th</sup> grade. Chapter 96

## **Employment**

### **Hiring Background Checks**

All Minnesota government employers must wait until a job applicant has been selected for an interview before asking about criminal records or conducting a criminal background check. Positions that already require a background check will still require background checks. Additionally, the commissioner of administration, Board of the Minnesota State Colleges and Universities, Regents of the U of M and cities may adopt policies in order to improve the employment of local residents or former criminal offenders. Knowing how difficult it is for ex-offenders to obtain employment, this may help. Chapter 59

### **Voc Rehab**

There is \$8.8 million for the State's vocational rehabilitation program. This is about \$442,000 less than the previous biennium. Chapter 78

### **Employment**

Twin Cities RISE! received \$455,000 each year for their program to provide training for hard-to-train individuals. Chapter 78

### **Centers for Independent Living**

These centers had their overall budget reduced by \$120,000 for the biennium. Chapter 78

## **Training**

Advocating Change Together received \$150,000 for training, technical assistance and resource materials for people with developmental disabilities and mental illness. Chapter 78

## **Extended Employment**

Extended Employment for people with serious disabilities was cut roughly \$180,000. Roughly 2000 people with mental illness received services under this program. Chapter 78

## **Extended Employment for People with a Serious Mental Illness**

This program received an \$80,000 cut for the biennium. Additionally, funding can be used for special projects to help young people transitioning from school to work and people receiving services through a mental health or civil commitment court. Projects must demonstrate interagency collaboration. Chapter 78

## **Health Care**

### **Applications**

Everyone knows how difficult it is to apply for Medical Assistance and MinnesotaCare. The legislature has directed the department to develop a streamlined system.

Additionally, the State Medical Review Team, which certifies people as “disabled” so that they can receive Medical Assistance (while waiting for the Social Security Administration) will now be required to be more aggressive in obtaining information and evidence on the person’s disability, and must assist applicants in obtaining the information. People who aren’t aged or blind and haven’t yet been determined disabled by the Social Security Administration will automatically be referred to this team. Chapter 79

### **CADI Waivers**

CADI waivers growth is limited to 95 per month. Beginning in January 2010 there will be priorities for who can have a waiver such as those people who have: unstable living situations, need to move out because the facility is closing or their living arrangement ended, require protection from abuse or neglect, or experience a sudden change in need that can’t be met through regular services. A moratorium on new corporate foster care homes is now in place. The legislature also is asking for a common set of standards and services for all waivers. Chapter 79

### **Cafeteria Plans**

A tax credit is created under specific circumstances for people who haven’t had health insurance for one year. It only applies to people who have a cafeteria plan (Section 125 plans). Chapter 3

### **Chemical Dependency Services**

There was a lot of discussion on how to change how these services are funded. The commissioner will develop recommendations for the legislature on a new method for setting rates. There will also be a state county chemical health care home pilot project to try and redesign chemical health services that ensures timely access to services and creates better results. Chapter 79

### **COBRA**

State law is amended so that it complies with the federal American Recovery and Investment Act which provides a subsidy to people to continue their health insurance after they are laid off. Chapter 33

There is also a provision that provides a 35% subsidy for continuing health care coverage if the person would be eligible under the American Recovery and Reinvestment Act, or eligible for Medical Assistance or MinnesotaCare. For MinnesotaCare the four month period when you are required not to have coverage would be waived. Chapter 79

### **Community Health Care Workers**

Community health care workers are often used to coordinate care and provide patient education to specific cultural communities or people living in poverty and are paid for under Medical Assistance. These workers are required to be supervised by nurses, physicians or dentists. However, now they can also be supervised by a mental health professional. This may provide an additional way to reach out to culturally specific communities and to increase the amount of patient education provided to people with mental illnesses. Chapter 167

### **Dental Care**

In order to increase access to dental services, there will be dental therapists and advanced dental therapists. They will be licensed, will work under the supervision of a dentist under an agreement, and will serve low income, uninsured, and underserved patients. These new professionals will be able to provide preventive care, oral evaluation and assessment, educational, palliative, therapeutic, and restorative services. Chapter 95

A dental care pilot project can be set up to reduce the use of emergency rooms for preventable and non-emergency dental services. The Health Services Policy Committee will establish a subcommittee on dental services to look at access, quality and best practices.

Dental care was kept under Medical Assistance but the types of services are limited. It does cover basic services such as yearly exams, x-rays, fillings, root canals, extractions, etc. But even within these procedures there are limits on frequency. Be sure to check with your dentist first. These go into effect in January 2010. Chapter 79

### **Drug Utilization Review Board**

A Drug Utilization Review Board is established with three or four physicians, three pharmacists, one or two health professionals and one consumer. Their duties are to review drug utilization, develop educational interventions, and receive public comments. Chapter 173

### **General Assistance Medical Care**

This program was vetoed and funding was eliminated by the Governor for the fiscal year that begins July 1, 2010. Roughly 70% of the people on this program either have a mental illness, chemical dependency or both. Chapter 79

### **Health Care Agent**

If someone has a health care agent in their health care directive, that person is allowed access to information and notifications as provided to next of kin, etc. Chapter 108

### **Hospital Care**

Hospitals did receive a 1% cut in the amount the government pays for hospital care. Hospitals with a high percentage of people on medical assistance (greater than 25%) will receive a little bit of help financially. Chapter 79

### **Medication Therapy Management**

Pharmacy benefit managers that provide prescription drug services must make available medication therapy management for enrollees taking four or more prescriptions to treat two or more chronic medical conditions. Medication therapy management helps by providing education on medications, trying to resolve medication-related problems and communicating information to the person's primary care provider. Additionally, there will be a pilot project for intensive medication therapy management for people with multiple chronic conditions who are on a high number of medications and who are at high-risk for hospitalization or emergency room use. The service can be provided in a person's home or other community setting. Chapter 79

### **Medical Transportation**

The state can no longer use a broker or coordinator for medical transportation. Chapter 79

### **MinnesotaCare**

The requirement that you be without health insurance for four months before being eligible for MinnesotaCare was removed for children whose family's gross income is below 200% of the federal poverty guidelines. Any child who was residing in foster care or a juvenile residential correctional facility on their 18<sup>th</sup> birthday is automatically eligible for MinnesotaCare at discharge until he or she reaches the age of 21. They won't have to fill out extensive renewal forms, but simply verify when contacted that they are still living in the state and want to be on MinnesotaCare. Chapter 79

### **Personal Care Assistance Services**

This program was greatly changed and over \$24 million was cut from this program. Most of the 600 or so people who will be kicked off the program will be children and adults with mental illnesses. People who are on this program should read very carefully any information they receive from the state or county.

Eligibility for the program changed. Beginning January 2010 a person must be dependent in at least one activity of daily living or have a level I behavior and beginning in July 2011 a person must be dependent in at least two activities of daily living (not instrumental activities of daily living). Activities of daily living include grooming, dressing, bathing, transferring, mobility, positioning, eating and toileting. Level I behavior includes physical aggression towards self, others or destruction of property that requires the immediate response of another person. When assessing behavioral issues they will also look at the person needing assistance at least four times a week due to physical aggression, increased vulnerability due to cognitive deficits or inappropriate behavior, or verbally aggressive and resistive to care. For someone who qualifies for the program due to their mental illness or behaviors, they will be referred for a mental health diagnostic and functional assessment and a referral must be made for other specific mental health services.

Effective January 2010 a PCA may redirect due to behavioral issues and any training of the PCA must be based on the needs of the person and their care plan. People can get help with instrumental activities of daily living (used more than likely by people with mental illnesses)

such as meal planning and preparation, assistance with paying bills, shopping for food and clothing, phone calls, traveling, etc.

The number of hours a person receives will also change. The department will take the median number of hours provided to everyone in 2007 with 30 additional minutes added related to complex health, dependency and behavioral issues. Many people will see a reduction in their hours of about 2 hours per day. There is a limit of 96 units of qualified professional supervision. There will be some flexibility with the hours, but you cannot use more than 75% of the total authorized hours in a six month span.

The only change in who can be paid as a PCA is that step parents can no longer be paid to be the PCA for minor children. Legally responsible relatives are prohibited from being paid as a PCA and those only include the parents (and newly stepparents) of minors and spouses. Since parent of adults aren't obligated to provide financial support, they can continue to be the PCA as can adult children, aunts, grandparents, siblings, etc. Parents of children including stepparents, and a recipient's spouse can not be paid as a PCA, but all other relatives can continue to be paid including an unpaid guardian or conservator of an adult recipient if they are not the responsible party and not the PCA provider organization and they meet the qualifications for being a PCA.

People affected by the changes will receive information by the end of October. They will also be provided with information about other resources, and how to get additional information. People will be given at least a 30 day notice of changes that will affect them personally.

The commissioner of human services, in consultation with advocates, consumers and legislators, will develop alternative services for people with mental illnesses and behavioral challenges who will no longer be eligible for PCA services and who could benefit from other services that would more appropriately meet their needs. They are to look at alternatives that would qualify for federal funds including a particular program (called a 1915(i) state plan option) and report back to the legislature by January 15, 2011. About \$8 million was appropriated for this purpose.

Additionally, the commissioner will consult with stakeholders on the implementation of all of these changes and must report back to the legislature with data on who was impacted and what happened to them.

Standards for providers and increased accountability and transparency were included. PCAs cannot work more than 310 hours a month, they must receive training, there will be a minimum wages for PCAs and there will be more supervision. Chapter 79

## **Housing**

### **Bridges Housing Program**

The Bridges housing program will receive the same amount of money, \$2.638 million per year. The program is needed more than ever and has long waiting lists. Chapter 78

### **Housing for High Risk Adults**

Funding is continued to provide housing for high risk adults. High risk adults are those who have a history of substance abuse, mental illness, chronic unemployment, incarceration or homelessness. Chapter 78

## **Safe Haven**

The funding for People, Inc.'s Safe Haven program was not cut. Chapter 79

## **Legal**

### **Guardians and Conservators**

This bill provides oversight and restriction of professional guardians and conservators. The Ombudsman's Office and the Protection and Advocacy Program are included in the definition of "interested person" so that they can contact the court if they have a case involving the person who is or will be under guardianship. A professional guardian/conservator is defined as someone who is the guardian/conservator for three or more persons who are not related by blood, marriage or adoption. By July 2013 the Supreme Court will establish a statewide registration system for everyone who is a guardian/conservator. Fees can be charged and the Supreme Court will decide what information will be available to the public.

A bill of rights is established for people under guardianship or conservatorship. In addition to being treated with dignity and respect and exercising control over those areas not delegated to the guardian/conservator by the court the person should have their personal preferences carried out, receive timely treatment, have care and comfort including social needs, be able to communicate and visit with anyone of their choosing, etc. Their health care directive or health care agent cannot be revoked by the guardian without a court order or under very limited circumstances. An annual report on the condition of the person has to be made to the court and made available to interested persons that are on record with the court. New items added to the report include any restrictions that were placed on the person to communicate and visit with people. The person under guardianship and interested persons can submit to the court a written statement disagreeing with information that is contained in the annual report.

When the court is appointing a guardian, they are to give preference to a relative over a professional guardian or conservator. The judge will also look at any conflict of interest for the attorney representing the individual, such as if the attorney is representing the guardian in other cases. Initially, and every year thereafter, the guardian/conservator must file an informational statement with the court that includes their contact information, whether they've ever been removed for cause, and amount of money they were reimbursed. Chapter 150

### **Guardianship**

The Minnesota guardianship law is amended to allow communication with other states regarding guardianship issues. This includes dealing with a person who is in another state but Minnesota is truly their "home" state, taking testimony from out-of-state, and transferring guardianship from another state to Minnesota. Chapter 46

### **Special Needs Trusts**

Anyone applying for or renewing their Medical Assistance must file an annual report with the commissioner regarding their special needs trust. This includes a copy of the trust, an inventory of assets, and an accounting of the trust. Chapter 79

## **Mental Health Care**

### **Adult Foster Care**

Adult foster care rates are limited to 95% of current rates. Some homes could serve five people instead of four and their rates would be adjusted. Additionally homes will be allowed, under certain circumstances, to use technology to provide overnight supervision. There are a host of requirements including who will be served, their characteristics, type of technology that will be used and protocols. It also clarifies that these providers must follow data privacy laws. Chapter 79

### **Anoka Metro Regional Treatment Center**

The commissioner of human services, in consultation with stakeholders, will work to transform the current Anoka RTC into an array of community-based programs that have 16 or fewer beds. The planning must be completed by October 1, 2009 with a report to the legislature by November 30, 2009. No layoffs will result as a part of this transition and people will be provided the appropriate level of care. Chapter 79

### **Commitment Law**

Physician assistants will be allowed to provide medical authorization for emergency care and treatment under an emergency hold. Chapter 159

### **County Funding – Maintenance of Effort**

Back in 2006 the legislature required counties to “maintain” their funding levels at the same amount as they did in 2004 and 2005. Due to the economic crisis, counties were trying to create some flexibility under these Maintenance of Effort (MOE) provisions. An agreement was reached between the advocates, state and counties. The state will now make it a little easier for counties to predict how much they will have to spend each year and what will count towards that spending. The base funding can be decreased due to major changes in funding from the state and federal governments but it has to be done on a proportional basis. Also, counties can have their base reduced if a county experiences a substantial decline in population and their mental health expenditures were substantially higher than the state average and the commissioner must determine that mental health services in the county won’t be hurt. If counties don’t follow the MOE, the commissioner can require that they develop a corrective action plan. The commissioner will look at a number of factors to approve the plan including if the county is maximizing revenues from noncounty sources; how many alternative services are being provided to both children and adults with mental illnesses, if they are tied in to individual treatment plans, and if the services are being supervised by mental health professionals; and what additional expenditures will be made to make up for underspending. Chapter 167

### **Group Residential Housing**

People in this program can no longer deduct \$20 from their SSI income, meaning that they have \$20 less to spend on personal needs. Chapter 79

### **Infrastructure Grants**

All the mental health infrastructure grants that were first obtained in the 2007 legislative session were all refunded. This includes crisis services, housing, school-based, culturally specific, evidence-based, etc. Chapter 79

### **Licensed Professional Clinical Counselors**

Licensed Professional Clinical Counselors services are considered a mental health professional and their services are covered under Medical Assistance and MinnesotaCare. Chapter 79

### **Mental Health Care for Farmers**

\$200,000 is appropriated for mental health counseling to farm families and business operators through the farm business management programs at Central Lakes College and Ridgewater College. Chapter 94

### **Mental Health Providers**

While other health care providers received a 3% cut in their rates, mental health care providers, including IRTS, ARMHS and CTSS were spared. Providers receiving a 2.58% cut included waived services, personal care assistance services, and home care. Providers previously covered by COLA requirements regarding how the money is passed on are relieved of those requirements. Chapter 79

### **911 and Crisis Teams**

The 911 system may now include a referral to mental health crisis teams (adult and children) where available. Chapter 128 and Chapter 159

### **Prior Authorization**

The commissioner of health will work with others to identify how to create a standard electronic drug prior authorization form to simplify this process. Chapter 79

### **Psychologists**

A psychologist will be included on the Health Care Reform Review Council. Chapter 159

### **State Operated Services**

The state will have to figure out what portion of the cost of a state operated program (including community based care) a client can pay and if he or she can't pay what amount a relative can pay. Parents aren't liable for the cost of care for adults, those over age 18. For people who have health insurance the state can't bill for the portion that is not paid, the person is only responsible for the co-payment required by his or her insurance. Chapter 79

### **Suicide Prevention**

The suicide prevention plan put together by the Minnesota Department of Health must address this issue across the life span and focus on both awareness and prevention. In addition, they will collaborate with two additional entities, the U of M and the other public state colleges and universities. Suicide prevention grants may also now be used at Minnesota colleges and universities. Chapter 159

## **Veterans**

### **Veterans Homes**

The Hastings Veterans Home received \$220,000 each year for its mental health care program. Chapter 94

### **Health Insurance Coverage**

Health insurance for state employees must now provide coverage for dependents who are at least 19 years old but under age 25 who are not full-time students and who 1) were a full-time student prior to being ordered into active military service, 2) have been separated or discharged from active military service or 3) would be eligible to enroll as a dependant of an eligible employee, except that he or she is not a full-time student. This is effective immediately. Chapter 94

### **Assessments**

Members of the National Guard who have been deployed outside the state will receive comprehensive health and wellness assessments. One must be done about six months and not later than one year after the end of the member's deployment. Chapter 94

### **Sick Leave**

A state employee who is a veteran and who has no more sick leave, may apply for an additional 40 hours in order to receive treatment for a service related disability. Chapter 101

<b>Other</b>
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### **Missing Persons**

The Missing Children's Program is expanded to "endangered" adults. This includes adults who are missing and who are at risk of physical injury or death because he or she: 1) is thought to have been abducted; 2) is missing under known dangerous circumstances; 3) is missing more than 30 days; 4) is under the age of 21 and meets at least one other criteria; 5) is in need of medical attention or prescription medication that will have a serious adverse effect on the person; 6) does not have a pattern of running away or disappearing; 7) is mentally impaired; 8) may have been abducted by a noncustodial parent; 9) has been the subject of past threats or acts of violence; 10) is lost in the wilderness; 11) may be at risk of injury or death as determined by law enforcement. A big change is that law enforcement must accept the report of a missing person and can't refuse to accept it simply because the person is an adult, there's no evidence of foul play, it's been a short time or a long time, that the disappearance may be voluntary, or the person doesn't have all the facts or information needed. The Bureau of Criminal Apprehension will develop a model form by September. Many families have expressed frustration with being unable to file a missing person's report on their adult loved one when they feared that he or she was suicidal or psychotic. This new law, called Brandon's Law, should help change that. Chapter 38

### **Nonprofit Providers**

Nonprofits that are exempt from federal taxes and meet specific criteria are exempt from paying property taxes. Criteria include recipients of the organization receive services at a reduced or no cost; the organization alleviates the burden or responsibility of government; and the income is not distributed to individuals. Chapter 88

### **Reforming Human Services**

In an effort to eliminate all maintenance of effort requirements and to provide a more equalized way of funding and providing human services, the legislature is requiring the commissioner of human services to develop a proposal and submit it to the legislature by February 2010. The proposal will create a new consolidated county property tax contribution across all mandated health and human services programs – think of this as an equalized levy. The commissioner must

consult with county representatives, advocacy and provider organizations and the commissioner of the department of revenue.

In developing the new system, the following criteria will be used:

- The funding mechanism is easy and predictable
- Current services are maintained but the mechanism allows for fluctuations
- The impact of funding decisions on property taxes are clear
- Equal access to mandated services is assured
- County staff time will be able to be focused on service delivery

Efforts to control costs and service utilization rates must focus on eligibility, level of difficulty and other programmatic priorities. Any new system must ensure that counties have the resources to continue to serve clients at the current level, continue to be able to use federal funds, provide stability in overall property tax demands, and provide increased transparency on tax increases but try to not raise them. Chapter 88

Another effort to reform human services was contained in another bill. A State-County Results, Accountability, and Service Delivery Redesign Council will be established with representatives of counties, legislators and unions (note, no advocacy groups). The council will review and certify the formation of service delivery authorities (SDA) either in a large county or a group of counties. These SDAs would be able to come together to provide specific services and use performance measures and outcome goals. They could obtain waivers from current laws in order to carry out this “new” way of providing human services. There would be an accountability process and penalties for not making progress. The council does have to have a process to take public input.

There would be a steering committee on performance and outcome reforms that will review performance and outcome standards for all essential human services and will develop appropriate reporting measures and uniform accountability process for counties that don’t make adequate progress. The steering committee can form work groups that includes people who provide, receive or advocate for essential services. Members of the steering committee include county representatives, clients or client advocates and state agency staff. Chapter 79

### **Vulnerable Adults**

The commissioner of human services is to seek federal funds to design and implement a common entry point to report suspected maltreatment of a vulnerable adult. This includes a statewide toll-free number and web site system. This same bill clarifies access to records, etc when investigating financial exploitation. Chapter 119

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