

Community First Services and Supports Recommendations

Continuing Care Administration
Disability Services Division
November 2013



Minnesota Department of **Human Services**

Legislative Report

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Community First Services and Supports Recommendations

I. Legislation

Laws of Minnesota 2013, Chapter 108, Article 7, Section 49, subdivision 25:

Subd. 25. **Commissioner recommendations required.** In consultation with the Development and Implementation Council described in subdivision 21 and other stakeholders, the commissioner shall develop recommendations for revisions to subdivisions 12, 15, and 16, that promote self-direction in the following areas:

- (1) CFSS provider and support worker enrollment, qualification, and disqualification criteria;
- (2) documentation requirements that are consistent with state and federal requirements; and
- (3) provisions to maintain program integrity and assure fiscal accountability for goods and services purchased through CFSS.

The recommendations shall be provided to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance by November 15, 2013.

II. Introduction

The 2011 Minnesota Legislature directed the Department of Human Services (DHS) to [reform Medical Assistance](#). To carry out this mandate, DHS is developing sustainable Home and Community-Based Services to support Minnesotans into the future and Long-Term Services and Supports designed to assist people according to their goals and their priorities. The goals of Home and Community Based redesign, called [Reform 2020](#), include:

- Better outcomes
- Right service at the right time
- Ensuring the sustainability of long-term services and supports

Part of the reform project includes the development of a new service - Community First Services and Supports (CFSS). This new program will replace the current Personal Care Assistance (PCA) program.

The 2013 Minnesota Legislature passed legislation to establish Community First Services and Supports (M.S. §256B.85). Community First Services and Supports allows participants more choice and control over their services. Like PCA, Community First Services and Supports will allow participants to have support in activities of daily living, instrumental activities of daily living, and complex health-related needs. However, Community First Services and Supports also includes assisting the participant to acquire, maintain, or enhance the skills necessary to accomplish activities of daily living, instrumental activities of daily living, or health-related tasks; purchasing goods that replace the need for human assistance or increase the participant's independence; and paying for services and items necessary for transitioning from an institution. In Community First Services and Supports, participants will have a range of control over their services based on their choices. This includes the opportunity to either be the employer of their own support workers supported by an agent for Financial Management Services or to receive their services through a traditional agency provider who employs their support workers.

The 2013 Community First Services and Supports legislation requires DHS to develop recommendations, with stakeholder input, on three specific subdivisions within the legislation. This report details recommendations from these three areas:

- Requirements for enrollment of Community First Services and Supports provider agencies (Subdivision 12),
- Documentation of support services provided (Subdivision 15), and
- Support workers requirements (Subdivision 16).

This report is submitted to the Minnesota Legislature pursuant to Laws of Minnesota 2013, Chapter 108, Article 7, Section 49, Subd. 25 (M.S. §256B.85, subd. 25).

In preparing this report, the Department of Human Services, Continuing Care Administration met with the Community First Services and Supports Development and Implementation Council. The Council is made up of a majority of individuals with disabilities, elderly individuals, and their representatives. Other members of the council include representatives from managed care organizations, provider agency representatives, advocates, county representatives and other

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interested parties. A list of these individuals can be found in Appendix A. This council is a requirement of the federal regulations under which Community First Services and Supports will operate (42 CFR Part 441). In addition two sub-committees of the council were created to assist in the development of Community First Services and Supports; the Quality Assurance and Program Integrity Sub-Committee and the Legislative Language Sub-Committee. The DHS Office of Inspector General also participated in these meetings. These added perspectives enhance the Department's ability to create a program that increases participant choice and control and program integrity.

In total, six meetings were held and one survey, found in Appendix B, was conducted in regards to the development of this report. These groups continue to meet to develop the Community First Services and Supports program in advance of implementation and assist in evaluating the program. DHS will continue consult and collaborate with the council as Community First Service and Supports is developed.

III. Community First Services and Supports & PCA Policy Background

The Personal Care Assistance (PCA) program has been in existence in the State of Minnesota for over 40 years, and was initially developed as a program for adults with physical disabilities who could direct their own care. The program has grown to add new populations and change the way services are delivered. Over time, new perspectives and policy directions have emerged at the state and federal levels. Most recently, the passage of the Affordable Care Act allowed for the development of more flexible, self-directed state plan services to assist people with disabilities and the elderly in remaining in their homes and participating in their community. Through Reform 2020, the State is interested in taking advantage of these options which include 1915 (k) Community First Choice option to replace the current PCA program.

The State has elected to participate in Community First Choice, which will be known in Minnesota as Community First Services and Supports. This program offers flexibility to meet the needs of participants and over time will reduce pressure on more intensive services, thereby helping to keep the long term service and support system sustainable over time. The legislation authorized the creation of the Community First Services and Supports, effective April 1, 2014, or upon federal approval, whichever is later.

A. Personal Care Assistance

The existing Personal Care Assistance service offers participants a choice between two PCA provider types based on the amount of control the participant wishes to exercise over staffing decisions. In Traditional PCA, the participant chooses an agency to employ their worker. The agency is responsible to find, hire, train, supervise and pay the support worker. The agency is also responsible to maintain the care plan specific to the individual participant needs. The PCA Choice option gives the participant the responsibility to select their support worker. Although the agency is the employer, the participant is responsible to train and supervise the support worker. The participant creates their care plan; however, they may have assistance from the agency if they choose. Both types of PCA providers enroll with DHS and are Medical Assistance providers. Both types of agencies are responsible for the wages and benefits of the support worker and billing the State for the services provided. Personal Care Assistance will transition into Community First Services and Supports.

B. Community First Services and Supports

Community First Services and Supports allows the participant a range of control over their services, allows them to choose their support worker and have assistance to carry out the services specified in their service delivery plan. Community First Services and Supports will be offered through two different service models.

In the agency model, the participant and agency work together to ensure services are delivered as intended and the support worker carries out the duties as the plan describes. The agency is the employer of the support worker, however, the participant retains the ability to select and dismiss those support workers providing the participant's service with assistance from the agency.

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In the budget model, the participant is the employer of their support worker(s) and has more control over their services and the support worker they hire. The participant has support from the Financial Management Service provider for employer-related functions such as: support for necessary employee paper work, following State and Federal rules for employment, withholding State and Federal taxes, and filing State and Federal taxes.

IV. Report Recommendations

DHS needs to ensure a quality program in the design of Community First Services and Supports with measures and processes that support the participant in their home, the agency providing the service, and the service itself. The legislative language lays a framework for establishing quality assurance and program integrity.

In developing the program integrity component of Community First Services and Supports, DHS looked to the current PCA service and legislative language used for agency provider enrollment, support worker documentation, and support worker requirements. The existing PCA statutory language was used to create the three subdivisions of Community First Services and Supports statutory language this report requires to be addressed, Subdivision 12, Subdivision 15, and Subdivision 16 of 2013 Minnesota Statutes §256B.85. During the 2013 legislative session, with input from the council, it became clear there is opportunity to improve these three areas in the new program. These three subdivisions of statute are contained in Appendix C.

DHS, the Development and Implementation Council, and other interested parties met and discussed the opportunities to improve these three components of Community First Services and Supports.

In the course of working with the Development and Implementation Council the topics below were identified as areas to be considered for improvements. In this report, we describe the discussion points, recommendations by the Council, and how DHS plans to implement the change or that the specific item needs more discussion. The discussion and resulting DHS recommendations are detailed below.

A. Requirements for enrollment of CFSS provider agencies (Subdivision 12)

Minnesota Statutes §256B.85, Subdivision 12 addresses the requirements that agencies must fulfill in order to become enrolled with DHS as CFSS provider agencies. These requirements address topics such as insurance coverage, marketing practices, mandatory training and documentation. While there are many parts to the subdivision, the following three areas were identified through discussion with the Development and Implementation Council areas to be considered for change:

- Subdivision 12(a)(13): 72.5 percent of revenue from CFSS must be used for support worker wages and benefits
- Subdivision 12(a)(6): Documentation of affiliations of all staff
- Subdivision 12(c): Mandatory training for managers, supervisors, and billers

Requirement for 72.5 percent of CFSS revenue be used for worker wages and benefits

Members of the Development and Implementation Council discussed the provisions of Subdivision 12 as an opportunity to encourage the best practices currently employed by high-quality PCA providers through the setting of standards for Community First Services and Supports providers. The concern of some Council members is that many of the best practices

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employed by high-quality PCA providers are not currently reimbursable or required. Council members discussed possible mechanisms to incent or enforce best practices so as to create more consistency in the quality of Community First Services and Supports provider agencies. Council members discussed the role the Community First Services and Supports support specialist (Subdivision 17) might play in quality assurance and program integrity activities. DHS received the recommendation from Council members that when compared to the current role of the qualified professional in PCA services, more of the quality assurance activities of the support specialist should be made reimbursable.

PCA agencies have been able to balance their costs through the provision of both PCA Choice and PCA traditional services, so that they did not have high administrative costs for all of the participants they served. The administrative costs associated with PCA Choice participants are generally less than with traditional PCA participants due to the responsibilities fulfilled by PCA Choice participants. With the distinction between the agency model and the budget model in Community First Services and Supports, many PCA Choice participants may elect the budget model. In the agency provider model agencies are responsible for the recruitment of support workers for all the participants they serve. To try to assure that high-quality current PCA providers are retained as high-quality Community First Services and Supports providers, DHS may need to allow more of the quality assurance work that these agencies do to be reimbursable. Subdivision 12(a)(13) requires that provider agencies provide documentation that the agency will use at least 72.5 percent of revenue generated from the medical assistance rate paid for Community First Services and Supports for employee support worker wages and benefits. Altering the requirements of Subdivision 12(a)(13) was also discussed by the Council as an avenue to reimbursing more of the best practices used by current PCA providers.

While committed to preserving the intent of the 72.5 percent restriction to assure that the Medical Assistance reimbursement rate for support workers be primarily used to pay the wages and benefits of support workers, DHS and the Development and Implementation Council discussed changing this provision to ease the administrative costs for Community First Services and Supports provider agencies. One suggestion of some Council members was to decrease the percentage of revenue that is required to be used for support worker wages and benefits. Another suggestion was to expand the permissible expenditures that come out of the 72.5 percent to include more of the costs associated with connecting support workers with participants and achieving better service outcomes. Newly permissible expenditures of the 72.5 percent might include such things as: performance evaluations of support workers; time and activity verification activities; scheduling support workers for participants; recruitment and hiring of support workers qualified to meet the needs of participants.

Recommendation: DHS is not making any changes to the language at this time as further discussion among DHS staff and the Development and Implementation Council is needed regarding the requirement in Subdivision 12(a)(13). The Development and Implementation Council members did not reach a consensus regarding the proposals to change Subdivision 12(a)(13). Some members expressed a need to better understand the implications of the proposals. DHS will continue the discussion on this issue in preparation for the 2015 legislative session.

Requirement of agency organization to identify the affiliations of staff

In consultation with the Development and Implementation Council there was a suggestion to minimize certain requirements specifically laid out in Subdivision 12(a)(6).

Language in Subdivision 12(a)(6) states that the agency shall provide “a description of the Community First Services and Supports provider agency’s organization identifying the names of all owners, managing employees, staff, board of directors and the affiliations of the directors, owners, or staff to other service providers.” The Development and Implementation Council suggested removing the requirement to document and report the affiliations of staff but retaining that requirement for directors and owners. Based upon the requirement that each agency document the names of their staff, including their provider enrollment identifying number, social security number, and date of birth, DHS can establish whether a support worker is working for more than one CFSS employer without relying on the agency’s report regarding staff affiliations. Doing away with this requirement would reduce the administrative burden on provider agencies without reducing the information available to the Department.

Recommendation: As the agency’s report regarding staff affiliations to other CFSS providers is of no added value to the information DHS otherwise collects, DHS will recommend removing the requirement to document the affiliation of staff to other service providers in the 2014 legislative session.

Mandatory Training

Language in Subdivision 12(c) mandates that “all Community First Services and Supports provider agencies shall require all employees in a management and supervisory positions and owners of the agency who are involved in the day-to-day management and operations complete mandatory training as determined by the commissioner.” The Development and Implementation Council expressed concern about the lack of detail in the language about the training itself. Without further parameters, there were worries that the training could be too onerous for providers to reasonably comply the requirements. In discussion with the Development and Implementation Council, DHS staff provided reassurance that the CFSS mandatory training would be akin to the current PCA Steps-for-Success training. The Steps-for-Success training would be reviewed in preparation for CFSS provider training development with input sought from the Council.

The Development and Implementation Council also recommended making training more accessible than quarterly in-person trainings. Suggestions included making the training available as a teleconference, a webinar, or an online training module. As the new program is implemented and DHS understands what training is necessary, it is important the trainings remain interactive and include formats such as teleconference or webinar. This will allow those participating to ask questions and make suggestions. It will also allow DHS to respond to those taking the training and make necessary changes.

Recommendation: DHS will review the current PCA Steps for Success Training and evaluate which elements are important to modify and carry over to CFSS provider training in consultation with the Development and Implementation Council. DHS will issue guidance to providers about any changes to the training requirements as necessary changes are identified.

B. Documentation of Support Services Provided (Subdivision 15)

Minnesota Statutes §256B.85, Subdivision 15 contains the requirements for the proper documentation of services provided by a CFSS support worker to a participant. This provision specifies the mode, frequency and content of the documentation. The Development and Implementation Council identified four areas of this provision to be considered for changes.:

- Subdivision 15(a) All documentation may be Web-based, electronic or paper documentation
- Subdivision 15(c) The time sheet must be on a form approved by the commissioner
- Subdivision 15(b) The activity documentation must correspond to the written service delivery plan
- New requirement to provide spending summary to participant

Support Worker Timesheet Documentation

Subdivision 15(a) states “Support services provided to a participant by a support worker employed by either an agency-provider or the participant acting as the employer must be documented daily by each support worker, on a timesheet form approved by the commissioner. All documentation may be Web-based, electronic or paper documentation. The completed form must be submitted on a monthly basis to the provider or the participant and the Fiscal Management Service contractor selected by the participant to provide assistance with meeting the participant’s employer obligations and kept in the recipient’s health record.”

During discussions with the Development and Implementation Council, some members expressed a desire to have electronic time verification required. The ability for participants to electronically verify the beginning and end of services provided in the home could be done telephonically, using a mobile device with location services, or alternative technology using a fixed location tracking device. Electronic time verification was discussed as providing advantages in detecting fraud and abuse. Agencies that currently use this option see the benefit in allowing another option for participants to record and verify time. Additionally, agencies use the reporting functionality of electronic time verification systems to monitor for discrepancies or inconsistencies that require their attention.

Members brought up how this technology creates a fear of invasive state surveillance including fears about where the collected location information goes and how it will be used. Another drawback to requiring electronic time verification are the costs associated with purchasing this technology that an agency or participant may not be able to afford or keep up with as the technology changes. The council discussed the accessibility of this type of service in the metro area as well as greater Minnesota; not all participants may have access. Other questions that were discussed include:

- Who will pay for the service plan
- Who pays for the device

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- What if there is no coverage in a particular area, how does the participant record and submit time
- Who is responsible to maintain the equipment

Recommendation: While electronic time verification offers program integrity benefits, further discussion is warranted as to how to make this method of record keeping accessible to all before it could be implemented as a requirement. DHS will retain the current legislative language that states documentation may be web-based, electronic, or paper documentation. The current language provides a range of choices so participants and support workers can document support services provided using the method that works best for them. DHS will continue to discuss how use of electronic time verification can be encouraged among participants and providers and include any necessary language changes in the 2015 legislative session.

Timesheet requirements established by the commissioner

Language in Subdivision 15(c) requires the time sheet “to be on a form approved by the commissioner documenting time the support worker provides services in the home.”

The Council conveyed the current timesheet form is not user friendly. It is limiting in that it does not work well for multipurpose documentation such as time and activity documentation. Some members expressed having the time and activity documentation on one form connects the assessed need of the participant to the job performed by the support worker.

For support workers who live with participants, recording their time worked as shifts with specific time in and time out entries requires separating their role as support worker and household member. For such support workers, some members of the Council expressed that documenting intermittent time would be less onerous. However, recording the support worker’s time in and time out upon each shift connects the work performed to the assessed need, assists in assuring quality assurance and program integrity, and supports the need for documentation should workers’ compensation issues arise. Overall it was concluded that recording time in and time out upon each shift is a necessary documentation requirement.

Recommendation: DHS will maintain the requirement that support workers document the beginning and end of each shift. DHS will improve the timesheet form in consultation with the Development and Implementation Council. If improving the time sheet form requires any legislative language changes, DHS will include those language changes in the 2015 legislative session.

Documenting changes to the individual service delivery plan

Subdivision 15(b) requires that the activity documentation correspond to the written service delivery plan and be reviewed by the agency provider or the participant and the FMS contractor when the participant is acting as the employer of the support worker. Council members expressed that it is important for the participant to have the ability to direct the support worker as needs change. The participant or participants along with the agency should have the ability to direct the support worker as needs change in relation to the assessed activities of daily living, instrumental activities of daily living, or health condition without formally modifying the service delivery plan. The council members expressed having a formal approval process in order to address a change for

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an already assessed need is not necessary. In opposition, there was discussion of the benefit to both the participant and the support worker of having service expectations clearly written in the service delivery plan. There was also concern that without an approval process for adding tasks to the service delivery plan a support worker may provide assistance to the participant for a health related task they are not properly trained to perform. The Community Support Plan, completed by the Certified Assessor, would identify health related tasks and the professional required to perform them. The covered and non-covered statutory language also identifies what is covered and not covered under Community First Services and Supports.

Recommendation: DHS will not make any legislative changes to the current language. DHS will maintain the current language and provide education and training for providers and participants on implementation of this practice. The participant or participant along with the agency should have the ability to direct the support worker as needs change in relation to the assessed activities of daily living, instrumental activities of daily living, or health condition without formally modifying the service delivery plan. After a review of the language and current policies, it was determined that this is allowable with the current legislative language.

Requirement for agency-providers to send a spending summary to the participant

Current legislative statute does not require agency-providers to provide the participant with a monthly written summary of hours or units billed. Council members expressed that having this information would be beneficial to participants and allows them to understand how many hours have been used and how many hours remain in their service year. This also adds a quality assurance and monitoring mechanism that enables participants to review for accuracy in billing, hours used and the specific support worker paid. There were varying suggestions of how often and at what point the summary should be made available based on a need to balance timely, convenient information for participants with feasibility and administrative ease for providers. The council also recommended that participants should be able to request a summary at any time during their service plan year. While there is value in allowing participants to request the summary at any time, it would be too onerous to require the provider agencies to create spending summaries on a separate cycle from their normal billing cycle. Based on what services provided have already been billed, summaries may not yet reflect all of the services used at the time of the participant's request. However, summaries will be accurate as of a point in time and provider-agencies will need to communicate to the participant the specific limitations of the summary.

Recommendation: DHS will require provider-agencies to provide the participant, case manager, and care coordinator, if applicable, with a monthly summary of the hours billed against the hours authorized. DHS recommends that participants be allowed to request a summary at any time and providers provide the most recent, accurate summary available based on their billing cycle. DHS will include language changes for the 2014 legislative session to institute this requirement. DHS will continue to work with the Development and Implementation Council to develop the format of the summary report.

C. Support Workers Requirements (Subdivision 16)

Minnesota Statutes §256B.85, Subdivision 16 details the standards and requirements for individual support workers to be qualified providers of Community First Services and Supports.

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These requirements include having a successful background check, enrolling with Department, and completion of standardized training. The Development and Implementation Council identified four areas of this Subdivision 16 to be considered for changes:

- Subdivision 16(b) The commissioner may deny or terminate a support worker's provider enrollment and provider enrollment number
- Subdivision 16(a)(5) Support workers shall complete standardized training as determined by the commissioner before completing enrollment
- Subdivision 16(a)(4) Support workers shall not be a participant of CFSS, unless the support services by the support worker differ from those provided to the support worker

Authority for the commissioner to deny or terminate support workers

Language in Subdivision 16 grants the commissioner the authority "to deny or terminate a support worker's provider enrollment and provider number if the support worker: (1) lacks the skills, knowledge, or ability to adequately or safely perform the required work; (2) fails to provide the authorized services required by the participant employer; (3) has been intoxicated by alcohol or drugs while providing authorized services to the participant or while in the participant's home; (4) has manufactured or distributed drugs while providing authorized services or while in the participant's home; or has been excluded as a provider by the commissioner of human services, or the United States Department of Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, or any other federal health care program. A support worker may appeal in writing to the commissioner to contest the decision to terminate the support worker's provider enrollment and provider number."

Members of the Development and Implementation Council expressed concern about the commissioner's role and responsibility for determining that a support worker is unable to meet the requirements of the job. It is important to Council members that participants retain the responsibility for determining whether their support worker is adequately trained and able to meet their needs. Through discussion, it became clear that this provision of Subdivision 16 doesn't pertain to an individual determination that a support worker cannot meet the needs of a particular participant. Rather, this provision of law enables the DHS to determine that a support worker is not qualified to work for any participant; they are unable to safely meet any participant's needs. Based on the Department's obligations regarding participant health and safety and as a steward of public funds, DHS requires the authority to deny or disenroll a Community First Services and Supports support worker from provider enrollment under certain intolerable circumstances.

Recommendation: DHS will retain the authority to deny or terminate a support worker from being an enrolled provider based on the existing provisions of Subdivision 16(b). Participants will have the ability to select and dismiss support workers enrolled with the DHS from providing their services.

Support workers completion of standardized training

Subdivision 16 requires that support workers "complete the basic standardized training as determined by the commissioner before completing enrollment. The training must be available in

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languages other than English and to those who need accommodations due to disabilities. Support worker training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of support workers including information about basic body mechanics, emergency preparedness, orientation to positive behavioral practices, orientation to responding to a mental health crisis, fraud issues, time cards and documentation, and an overview of person-centered planning and self-direction. Upon completion of the training components, the support worker must pass the certification test to provide assistance to participants.”

Discussion among Development and Implementation Council members and DHS staff focused on the importance of the participant’s role in assuring adequate training of support workers especially in the budget model where the participant is the employer of the support worker and responsible for hiring, training, and supervising the support worker. Through discussion, a distinction was drawn between the general training required by the DHS and the participant-specific training that a support worker would need to perform their work. Consensus was achieved among Council members that the required training was of such a general nature as to be applicable to everyone and that it would not interfere with the training a participant may offer or require of their support worker to learn the participant’s individual needs and preferences. Requiring training on a support worker’s roles and responsibilities at the onset of employment was discussed as a strategy for improving service outcomes and avoiding issues with fraud or non-compliance.

Recommendation: DHS will retain current legislative language related to this topic. Completion of basic standardized training by support workers should continue to be required according to the provisions of Subdivision 16.

Exclusion of participant from also providing services as a support worker

Subdivision 16(a)(4) excludes participants of Community First Services and Supports from being Community First Services and Supports support workers “unless the support services provided by the support worker differ from those provided to the support worker.” The exclusion of participants in a service from also being a provider of that service was a long-standing policy in Personal Care Assistance. When this provision was incorporated into Community First Services and Supports during the 2013 legislative session, members of the Council objected that a support worker’s use of Community First Services and Supports may not have any bearing on whether the support worker could perform the functions of the support worker job for which they are being considered. Members of the Council participated in the legislative session and negotiated the current language with Minnesota state legislators.

The Department’s enforcement of this provision as it is now written would be difficult without encountering difficulties in maintaining data privacy requirements. Implementation of this provision may lead to questions during the hiring process of a support worker about a potential employee’s health condition or disability and use of health services that are legally prohibited. Assuring that a Community First Services and Supports participant has the ability to meet the needs of another Community First Services and Supports participant as a support worker could be satisfied through interview questions that go directly to the ability of the potential support worker to perform the essential functions of the job. A detailed list of the job functions, tasks and duties

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could help determine if a potential support worker will be able to meet the needs of the participant without asking disability or health specific questions.

Recommendation: As the current language of Subdivision 16(a)(4) was written and negotiated by members of the Development and Implementation Council and Minnesota State legislators, DHS will retain the current language.

V. Conclusion

Implementation of Community First Services and Supports is an important step in the reform of Medical Assistance. The legislation that required this report affords the Department with an opportunity to review and improve upon the program integrity components of the service in collaboration with the Development and Implementation Council. The Department strives to build upon what has been learned through the administration of the Personal Care Assistance program, keeping what has been effective, jettisoning what is unnecessary, and creating improvements with the suggestions and insights offered by internal and external stakeholders to the development process. The recommendations contained in this report represent the current state of an evolving development and design process. The Department will continue its work to implement Community First Services and Supports with the benefit of the discussion and guidance offered by the Development and Implementation Council.

VI. Appendix

Appendix A

Development and Implementation Council Members:

Last Name	First	Organization affiliation
Aldrich	Jane	Hennepin County Human Services and Public Health Department
Bender	Jean	Participant or parent/family member of participant
Buckley	Lynn	Caring Connection Adult Day
Cardenas	Rick	Advocating Change Together Participant or parent/family member of participant
Christiansen	Barbara	Participant or parent/family member of participant
Crumley	Andrea	Caring Professionals
Giovanni	Antonietta	Participant or parent/family member of participant
Grisim	Shelia	Frasier
Hegland	Lance	Participant or parent/family member of participant
Hendricks	Charity	Participant or parent/family member of participant
Henry	Anne	Minnesota Disability Law Center
Holtz	Debra	Ombudsman Office
Jaszczak	Shantel	Consumer Directions Inc.
Jirik	Barbara	Participant or parent/family member of participant
Johnson	Tom	Mental Health Assoc.
Knutson-Kaske	Jill	MN Homecare Assoc.
Lackey	Shari	Participant or parent/family member of participant
Lowe	Janet	St. Paul Schools
Marrin	Maureen	Ombudsman MH/DD, State of MN
McCormack	Jacki	The Arc
McGeehan	Susan	Medica
Murrens	Jody	Participant or parent/family member of participant
Nelson	Jon	Residential Services, Inc.
Page	Justin	Minnesota Disability Law Center

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Last Name	First	Organization affiliation
Pathre	Rijuta	Participant or parent/family member of participant
Price	Scott	Participant or parent/family member of participant
Sams	David	Participant or parent/family member of participant
Smith	Galen	Participant or parent/family member of participant
Stensland	Barb	Lutheran Social Services
Thorne-Birt	Debra	Participant or parent/family member of participant
Tyler	Kim	Participant or parent/family member of participant
Velner	Teri	Participant or parent/family member of participant
Versailles-Hester	Esther	U Care
Vlasak	Karen	Participant or parent/family member of participant
Vogele	Stacey	Participant or parent/family member of participant
Ward	Tamara	Participant or parent/family member of participant

Appendix B

Survey Results

Motion 1

Time sheet form

Rationale: It is easier to track data by provider, between providers, and across the state if all providers use the same form, including terms, placement, explanations, etc.

View 1: Timesheet should be a form approved by the DHS commissioner.

View 2: Timesheet should meet requirements of the DHS commissioner.

View 3: Submit timesheet in a format approved by the Commissioner.

View 1, 0 Votes

View 2, 9 Votes

View 3, 7 Votes

Motion 2

Signing in and out

Rational: There were different views on whether a support worker should need to sign in and out more than once per day.

View 1: The support worker should just need to sign in and out once per day, even if their work is intermittent and they come in and out several times per day.

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View 2: The support worker should sign in and out every time she/he starts work, even if their work is intermittent throughout the day.

View 1, 0 Votes

View 2, 14 Votes

Motion 3

Frequency of time record

There was a difference of opinion on how frequently a timesheet or time record should be filled out.

View 1: Fill out timesheet or time record daily

View 2: Fill out timesheet weekly.

View 3: Document daily and turn in at the end of pay period or less than 15 days.

View 1, 0 Votes

View 2, 1 Vote

View 3, 15 Votes

Motion 4

Conversion to electronic time & record management

View 1: Permit providers to reduce the required percentage paid as wages and benefits, currently 72.5%, in order to fund a conversion to electronic time and record management systems.

Vote in support

14 Votes in opposition

Motion 5

Termination of Support Worker for lack of skills

There were differences of opinion about who (commissioner or participant) may decide to terminate a support worker's enrollment for lack of skills.

View 1: Strike this provision.

View 2: Keep the provision

View 3: Keep the provision, but make the termination time limited, not permanent.

View 1, 11 Votes

View 2, 3 Votes

View 3, 0 Votes

Motion 6

Limit on participant's ability to be a Support Worker

There were differing views on a participant's ability to be a support worker when the participant receives the same help as she/he provides (Subd. 16(a)(4))

View 1: Strike this provision

View 2: Keep this provision, but provide an exception process

View 3: Keep this provision.

View 1, 12 Votes

View 2, 3 Votes

View 3, 0 Votes

Motion 7

Changing the required percentage of revenue required for wages and benefits

Rationale in support of motion 7: PCA Choice will no longer be an option for agency providers under Community First Services and Supports. For each participant they serve the provider

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agency will have costs that include advertising and recruitment costs, scheduling staff, on call support, training and supervision of staff. In this situation the 72.5% requirement is too high for agency providers.

Rationale in opposition to motion 7: This provision was inserted into the PCA statute because the legislature was concerned that owners of provider agencies were benefitting from cost of living adjustments (COLAS), but low-wage workers were not. This percentage should not be adjusted downward. Reducing this provision weakens the safeguard.

Motion 7: Reduce the required percentage of revenue generated from the medical assistance rate paid for Community First Services and Supports services to employees of an agency who are CFSS support workers from 72.5 percent to some lower percentage, to be determined.

Do you support motion 7?

3 (11.5%)	Yes
19 (73.1%)	No
4 (15.4%)	Abstain

Motion 8

Redefine language for the 72.5 percent to include more than wages and benefits

Rationale in support of motion 8: Expanding the language would permit provider agencies to include newly allowable costs which may include the wages and benefits of scheduling staff, cost of advertising for new staff, and training costs. Allowable costs would need to be determined.

Rationale in opposition to motion 8: Expanding the language will minimize direct payment to support workers.

Motion 8: Redefine this provision to permit additional items to be defined in the 72.5 percent.

Do you support motion 8?

11 (42.3%)	Yes
14 (53.8%)	No
1 (3.8%)	Abstain

Motion 9

Providing a spending summary to participants

Rationale in support of motion 9: Participant may need to get information quickly to adjust schedule or to notify agency or FMS of potential fraud.

Rationale in opposition of motion 9: The request could be an administrative burden for provider agencies or the FMS. Depending on when the request is made during the pay period, the information on the report may not always reflect all hours provide at the point of the request (there may be time cards that have not been submitted or due to the agencies timing for processing payroll, the request may not reflect all the hours worked.)

Motion 9: A Community First Services and Supports participant who uses either the agency or budget model may request service utilization and spending report at any time during the month showing:

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- A summary of hours used through the most recent payroll period
- Hours remaining in the current authorization
- A projection of when the remaining hours will run out based on the current usage rate.

Do you support motion 9?

22 (88%)	Yes
3 (12%)	No
0 (0%)	Abstain

Motion 10 & 11 are related. Please refer to Subd. 12 (c).

Motion 10

Define training required by the commissioner

This motion was added by a Council member who shared concern over language that training is to be determined by the commissioner. It was also brought up that training is not always accessible.

Rationale in support of motion 10: Defining training, all agencies would know what to expect to be trained on.

Rationale in opposition of motion 10: Prescribed training may not allow for change as Community First Services and Supports evolves.

Motion 10: Define what training is mandatory for owners, supervisors and employees in management.

Do you support Motion 10?

19 (76%)	Yes
4 (16%)	No
2 (8%)	Abstain

Motion 11

Availability of training required by the commissioner

Rationale in support of motion 11: Making the training available online would increase the ability of providers to access the training as they need.

Rationale in opposition of motion 11: DHS training resources have offered training in the past as follows: current PCA Provider Agency Billing Lab is available once per month via Webinar or in person at DHS offices. The current training for PCA Provider Agencies-PCA Steps for Success is provided quarterly in person at DHS offices or via webinar in the past. Making trainings more accessible than what is currently available will divert resources from other implementation tasks.

Motion 11: Make trainings available in a format that is accessible.

Do you support Motion 13?

19 (76%)	Yes
5 (20%)	No
1 (4%)	Abstain

Motion 12

Changing the service delivery plan

Rationale in support of motion 12: Adding language would increase the ability of the participant or the participant along with the agency to direct the worker in situations where the service delivery plan did not originally address the task or need.

Rationale in opposition to motion 12: Changing language in Subd. 15 (b) weakens the assurance that services in the plan are covered services and are based on assessed need. The service delivery plan gives the support worker and the participant a document to begin discussions of adjustments in the daily plan. Having the participant document their decisions in the plan ensures communication is consistent among those responsible for implementing the plan.

Motion 12: To add language that permits the participant (or the participant along with the agency) to direct the worker as needs change in relation to the assessed Activities of Daily Living or Instrumental Activities of Daily Living without modifying the service delivery plan.

Do you support Motion 12?

16 (64%)	Yes
9 (36%)	No
0 (0%)	Abstain

Motion 13: Please refer to Subd. 12 (a) (6)

Requiring agency-providers to report staff names upon enrollment, reenrollment or revalidation

Rationale in support of motion 13: Deleting this language would simplify information required to be listed as part of the enrollment, reenrollment, or revalidation process. Keeping the term staff in the requirement for agencies has labor intensive work attached to it

Rationale in opposition of motion 13: This motion does not allow DHS to verify individuals working for the agency. DHS is not able to cross reference staff that work for more than one agency.

Motion 18: Delete the word “staff” in this provision.

Do you support Motion 13?

12 (48%)	Yes
11 (44%)	No
2 (8%)	Abstain

Summary of Comments:

Council member expressed interest in finding a way to hear from Implementation Council members between meetings.

Council member expressed questions could have been asked in a clearer way especially for council members who have not been able to attend most of the meetings.

Council member expressed concern that there is no way to know people participating in the survey are actual council members if they are not required to log-in or report their name.

Council member expressed the following: Whatever the language is added or changed should reflect the intent of the law and the idea of Community First Services and Supports. It should not

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be so rigid that it loses its essence. Flexibility should be basis for any such language. It is true there should not be loopholes so it will be abused but it should not be so rigid that consumers need to jump through hoops to utilize this service. It will definitely fail and you will hear nothing but complains.

Council member expressed the need for more discussion on motion 7 & 8.

Council member expressed to give more control to consumers.

Appendix C

Subd. 12. Requirements for enrollment of CFSS provider agencies. (a) All CFSS provider agencies must provide, at the time of enrollment, reenrollment, and revalidation as a CFSS provider agency in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

(1) the CFSS provider agency's current contact information including address, telephone number, and e-mail address;

(2) proof of surety bond coverage. Upon new enrollment, or if the provider agency's Medicaid revenue in the previous calendar year is less than or equal to \$300,000, the provider agency must purchase a performance bond of \$50,000. If the provider agency's Medicaid revenue in the previous calendar year is greater than \$300,000, the provider agency must purchase a performance bond of \$100,000. The performance bond must be in a form approved by the commissioner, must be renewed annually, and must allow for recovery of costs and fees in pursuing a claim on the bond;

(3) proof of fidelity bond coverage in the amount of \$20,000;

(4) proof of workers' compensation insurance coverage;

(5) proof of liability insurance;

(6) a description of the CFSS provider agency's organization identifying the names or all owners, managing employees, staff, board of directors, and the affiliations of the directors, owners, or staff to other service providers;

(7) a copy of the CFSS provider agency's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety including process for notification and resolution of consumer grievances, identification and prevention of communicable diseases, and employee misconduct;

(8) copies of all other forms the CFSS provider agency uses in the course of daily business including, but not limited to: for CFSS services approved by the commissioner, and a letter requesting approval of the CFSS provider agency's nonstandard time sheet; and

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- (ii) the CFSS provider agency's template for the CFSS care plan;
 - (9) a list of all training and classes that the CFSS provider agency requires of its staff providing CFSS services;
 - (10) documentation that the CFSS provider agency and staff have successfully completed all the training required by this section;
 - (11) documentation of the agency's marketing practices;
 - (12) disclosure of ownership, leasing, or management of all residential properties that are used or could be used for providing home care services;
 - (13) documentation that the agency will use at least the following percentages of revenue generated from the medical assistance rate paid for CFSS services for employee personal care assistant wages and benefits: 72.5 percent of revenue from CFSS providers. The revenue generated by the support specialist and the reasonable costs associated with the support specialist shall not be used in making this calculation; and
 - (14) documentation that the agency does not burden recipients' free exercise of their right to choose service providers by requiring personal care assistants to sign an agreement not to work with any particular CFSS recipient or for another CFSS provider agency after leaving the agency and that the agency is not taking action on any such agreements or requirements regardless of the date signed.
- (b) CFSS provider agencies shall provide to the commissioner the information specified in paragraph (a).
- (c) All CFSS provider agencies shall require all employees in management and supervisory positions and owners of the agency who are active in the day-to-day management and operations of the agency to complete mandatory training as determined by the commissioner. Employees in management and supervisory positions and owners who are active in the day-to-day operations of an agency who have completed the required training as an employee with a CFSS provider agency do not need to repeat the required training if they are hired by another agency, if they have completed the training within the past three years. CFSS provider agency billing staff shall complete training about CFSS program financial management. Any new owners or employees in management and supervisory positions involved in the day-to-day operations are required to complete mandatory training as a requisite of working for the agency. CFSS provider agencies certified for participation in Medicare as home health agencies are exempt from the training required in this subdivision.

Subd. 15. Documentation of support services provided. (a) Support services provided to a participant by a support worker employed by either an agency-provider or the participant acting as the employer must be documented daily by each support worker, on a time sheet form approved by the commissioner. All documentation may be Web-based, electronic, or paper

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documentation. The completed form must be submitted on a monthly basis to the provider or the participant and the FMS contractor selected by the participant to provide assistance with meeting the participant's employer obligations and kept in the recipient's health record.

(b) The activity documentation must correspond to the written service delivery plan and be reviewed by the agency provider or the participant and the FMS contractor when the participant is acting as the employer of the support worker.

(c) The time sheet must be on a form approved by the commissioner documenting time the support worker provides services in the home. The following criteria must be included in the time sheet:

- (1) full name of the support worker and individual provider number;
- (2) provider name and telephone numbers, if an agency-provider is responsible for delivery services under the written service plan;
- (3) full name of the participant;
- (4) consecutive dates, including month, day, and year, and arrival and departure times with a.m. or p.m. notations;
- (5) signatures of the participant or the participant's representative;
- (6) personal signature of the support worker;
- (7) any shared care provided, if applicable;
- (8) a statement that it is a federal crime to provide false information on CFSS billings for medical assistance payments; and
- (9) dates and location of recipient stays in a hospital, care facility, or incarceration.

Subd. 16. **Support workers requirements.** (a) Support workers shall:

(1) enroll with the department as a support worker after a background study under chapter 245C has been completed and the support worker has received a notice from the commissioner that:

- (i) the support worker is not disqualified under section 245C.14; or
- (ii) is disqualified, but the support worker has received a set-aside of the disqualification under section 245C.22;

(2) have the ability to effectively communicate with the participant or the participant's representative;

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(3) have the skills and ability to provide the services and supports according to the person's CFSS service delivery plan and respond appropriately to the participant's needs;

(4) not be a participant of CFSS, unless the support services provided by the support worker differ from those provided to the support worker;

(5) complete the basic standardized training as determined by the commissioner before completing enrollment. The training must be available in languages other than English and to those who need accommodations due to disabilities. Support worker training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of support workers including information about basic body mechanics, emergency preparedness, orientation to positive behavioral practices, orientation to responding to a mental health crisis, fraud issues, time cards and documentation, and an overview of person-centered planning and self-direction. Upon completion of the training components, the support worker must pass the certification test to provide assistance to participants;

(6) complete training and orientation on the participant's individual needs; and

(7) maintain the privacy and confidentiality of the participant, and not independently determine the medication dose or time for medications for the participant.

(b) The commissioner may deny or terminate a support worker's provider enrollment and provider number if the support worker:

(1) lacks the skills, knowledge, or ability to adequately or safely perform the required work;

(2) fails to provide the authorized services required by the participant employer;

(3) has been intoxicated by alcohol or drugs while providing authorized services to the participant or while in the participant's home;

(4) has manufactured or distributed drugs while providing authorized services to the participant or while in the participant's home; or

(5) has been excluded as a provider by the commissioner of human services, or the United States Department of Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, or any other federal health care program.

(c) A support worker may appeal in writing to the commissioner to contest the decision to terminate the support worker's provider enrollment and provider number.