



April 8, 2025

The Honorable John A. Hoffman
Chair, Human Services Committee
Minnesota Senate
2111 Minnesota Senate Bldg.
St. Paul, MN 55155

The Honorable Jordan Rasmusson
Ranking Minority Member, Human Services Committee
Minnesota Senate
2409 Minnesota Senate Bldg.
St. Paul, MN 55155

Re: Legal Aid/Minnesota Disability Law Center Letter Regarding SF 3054, Human Services Finance Omnibus Bill

Dear Chair Hoffman, Ranking Minority Member Rasmusson, and Members of the Committee:

Legal Aid and the Minnesota Disability Law Center (MDLC) thank you for the opportunity to provide written testimony regarding SF 3054. We appreciate how difficult this must be as you make these decisions this session.

Legal Aid and the Minnesota Disability Law Center are especially grateful for the following provisions that came from individual bills this session:

- We support the change to allow waiver participants to have the option for abbreviated reassessments. MnCHOICES reassessments are time-consuming, can feel intrusive for participants, and have a significant financial burden on counties. Many waiver participants have permanent conditions where their needs do not change year-to-year, and the bill allows a participant or their legal representative to request a full assessment if needs change. This bill will lessen the burden for both service participants and counties, improving the overall disability service system in Minnesota. (This was formerly SF 2598.)

- We support the provision from the Damon Leivestad Direct Care Sustainability Act which allows for the provision of the Community First Services and Supports services during acute care hospital stays. Minnesota's overburden hospital system does not have the staff resources to provide the specialty care that many people with disabilities need when they are hospitalized, and allowing CFSS staff to be reimbursed for cares provided during a hospital stay will help ensure the wellbeing of people with disabilities who are experiencing a health crisis. (This was formerly SF 1127.)
- We support free communication services at all DHS/DCT programs and facilities. Maintaining one's support network of family and community is crucial to the success of those residing in mental and physical health facilities, especially when placement is not available near one's home. (This was formerly SF 666.)

We remain strongly opposed to the language that came from SF 2055, which is a major step backwards for the rights of assisted living facility residents. Our reasons for opposing this are as follows:

- This language shortens the length of time required for pre-termination meetings and notices for so-called "expedited termination."
- It also tries to set requirements for the Office of Administrative Hearings (OAH) on when and how they must conduct and rule on discharge appeal hearings. It is likely that providers will rely on these provisions to rush the discharge process, impacting residents' due process rights and putting their ability to locate new housing at risk. It is also very unclear whether OAH will be able to comply with these provisions, and it does not appear that they have had any input related to this change.
- The language creates an exemption from the termination notice content requirements, stating that providers do not actually need to comply with these rules as long as they make a "good faith effort" to do so. Such a standard is both unworkable and unnecessary. Minn. Stat. § 144G.52, subd. 8, lists nine clear requirements that must be included in a termination notice. There is no reason that assisted living providers cannot read the statute, create a notice template that complies with the statute, and use that template. The "good faith effort" exception is not necessary and will allow facilities to provide defective notices, impacting residents' due process rights.
- This language gives assisted living providers new rights in housing court while continuing to keep residents out of that forum. During the original discussions of this law in 2019, there was an agreement that assisted living discharges would not be heard in housing court. Allowing providers access to housing court remedies while denying those remedies to residents creates unnecessary inequities in our system.
- Finally, this language changes the Coordinated Moves requirements by stating that assisted living providers only need to identify two locations that will accept the residents to comply with their statutory of the law and then comply with it to ensure the wellbeing of the residents that they are paid to serve.

With regard to budget cuts, we realize that some cuts are inevitable and will limit our comments to the four we find most harmful.

We are most concerned about the caps on inflation. At the beginning of the session, Direct Care and Treatment staff warned us that Minnesota has a shortage of 58,000 healthcare workers, and this drastic cap on inflation will throw gasoline on the situation. DHS HCBS Labor Market Reporting in 2022 showed that direct support professionals in Minnesota were making 17% less than the livable wage for a household of one and 39% less for a household of three, so it is no wonder there is a shortage. Unable to find staffing, some Minnesotans with disabilities who have managed to live independently are moving into more restrictive, congregate settings that are more expensive...and those settings are becoming more compromised due to staffing shortages. To make things worse, some facilities have been paying their workers more than they are being reimbursed in anticipation of inflationary adjustments that are not coming and will now struggle with keeping their doors open. Balancing the budget on the backs of Minnesota's most vulnerable and Minnesota's lowest paid cannot be the answer.

The changes to the absence and utilization factor in day services will have a tremendous negative impact on staffing and likely force facilities to close as we believe the resulting budget fallout will have a dire effect on staffing.

The daily time limitation of eight hours on Individualized Home Supports (IHS) with training services will have a profound effect on the ability of Minnesotans with disabilities to either move to their own homes or remain in their own homes, especially for Minnesotans in rural areas. Creating an arbitrary limit of 8 hours of IHS with training per day will likely create a staffing nightmare for many individuals who wish to receive services in their own homes. IHS and PCA are often not handled by the same organizations, so service recipients will be forced to find two agencies to get their staffing needs met. If someone qualifies for 8 hours of IHS services and just a few hours of PCA staffing, it will be next-to-impossible to get the PCA staffing needs met, especially if that person is in greater Minnesota where staffing needs are highest.

The newly proposed changes to restricting the nursing facility level of care criteria will undoubtedly limit access to CADI and BI waiver services for Minnesotans with disabilities. To the extent this provision moves forward, we strongly encourage an amendment to apply it only to new waiver applicants. Otherwise, existing CADI and BI waiver recipients are likely to lose their waivers, and will be forced to either seek services in a congregate nursing home setting or simply go without essential care. At a minimum, there should be processes and protections in place for existing waiver recipients who may lose their waiver services because of this change to the nursing facility level of care eligibility criteria.

Thank you for the opportunity to submit written testimony on the human services budget omnibus bill. We look forward to continuing to work on these difficult decisions as you move into the conference committee.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Purrington", written in a cursive style.

Jennifer Purrington
Legal Director/Deputy Director
Minnesota Disability Law Center

A handwritten signature in black ink, appearing to read "Ellen Smart", written in a cursive style.

Ellen Smart
Staff Attorney
Legal Services Advocacy Project

This document has been formatted for accessibility. Please call Ellen Smart at 612/746-3761 if you need this document in an alternative format.