

HOME AND COMMUNITY-BASED SERVICES IN MINNESOTA FOR PERSONS WITH TRAUMATIC BRAIN INJURY

A Fact Sheet From The Minnesota Disability Law Center

This fact sheet is a brief introduction to the home and community-based services available in Minnesota for persons with traumatic or acquired brain injuries. This information is not legal advice. Each person's situation is different, and the law constantly changes. This fact sheet focuses only on Minnesota and federal law.

1. What is “traumatic brain injury?”

There are various legal and medical definitions for “traumatic brain injury” (TBI). For most social service programs in Minnesota, TBI includes any “sudden insult or damage to the brain or its coverings” as long as it occurs after birth.

TBI includes “acquired” brain injuries, such as those caused by seizures, infectious diseases, or strokes. TBI can also include degenerative diseases, such as multiple sclerosis, where the disease causes cognitive impairment.

2. What services are available for persons with TBI?

Minnesota has many programs that provide home- and community-based services and supports for eligible persons with disabilities. Persons with TBI who qualify for the state’s Medicaid program, known as Medical Assistance, may be eligible to receive: cognitive rehabilitation therapy, adult rehabilitative mental health services, home health aide and nursing services, various home health therapies, personal care assistant services, medical supplies and equipment, and transportation services. Counties also offer some home and community-based services through their “Children and Community Services Act” programs. The Minnesota Department of Employment and Economic Development, Rehabilitation Services branch, also offers vocational services and supports.

3. What is the “TBI waiver?”

The main program providing home- and community-based services for persons with TBI is the TBI waiver. The TBI waiver is part of the Medical Assistance program. The Disability Services Division of the Minnesota Department of Human Services administers the waiver with help from county social service agencies. The waiver promotes community living and independence by providing services and supports in the community instead of in hospitals or nursing facilities.

The waiver covers home and community-based services and support not otherwise available under regular Medical Assistance. Both children and adults can use the waiver. People who use the waiver can live in their own home, in a biological or adoptive family’s home, in a relative’s home, in

a family foster care home, in a corporate foster care home, in a board and lodging facility, or in an assisted living facility. If married, a person may receive TBI waiver services while living at home with his or her spouse.

4. What services does the TBI Waiver offer?

Depending on each person's individual abilities and needs, the following services and supports are available through the TBI waiver:

- Adult day care services
- Assisted living services
- Behavior programming by professionals
- Case management and case aide services
- Chore services
- Companion services
- Consumer-Directed Community Supports
- Extended cognitive rehabilitation therapy
- Extended home health aide & nursing services
- Extended home health therapies
- Extended personal care assistant services
- Extended supplies and equipment
- Extended transportation services
- Family counseling and training
- Foster care
- Home delivered meals
- Homemaker services
- Independent living skills and independent living therapies
- Mental health testing
- Modifications to home or vehicle
- Night supervision services
- Pre-vocational services
- Residential care services
- Respite care
- Structured day program services
- Supported employment services

5. Who is eligible for the TBI Waiver?

Eligibility for the TBI waiver depends on a screening process. To be eligible for the TBI waiver, a person must meet all these criteria:

- Be a Medical Assistance (MA) recipient or be eligible for MA
- Have a documented diagnosis of traumatic or acquired brain injury, or an acquired or degenerative disease diagnosis where cognitive impairment is present, provided the diagnosis is not "congenital" (present at birth)
- Experience significant/severe behavioral and cognitive problems related to the injury
- Be under the age of 65 years at the time of application
- Be certified as disabled by the State Medical Review Team or by the Social Security Administration
- Need the level of care available in a nursing facility (NF) or neuro-behavioral (NB) hospital
- Choose services in the community instead of services in a nursing facility or neuro-behavioral hospital

- Be assessed at Level IV or above on the Rancho Los Amigos Levels of Cognitive Functioning Scale (this measures how a person functions after experiencing a TBI).

6. How do I apply for the TBI Waiver?

You can apply for the TBI waiver through your local county social service agency. The county will have forms for you and can help you get any necessary health evaluations completed.

7. Will I automatically receive TBI waiver services if I am found eligible for the waiver?

Unfortunately, no. Changes made in 2003 limited the funding for the TBI waiver. Only a certain number of new waiver “slots” are granted each year. Counties must create guidelines for determining who may receive the available slots, with priority going to persons residing in institutional settings.

8. What can I do if the county determines that I am not eligible for the TBI waiver?

If your county refuses to assess you for the TBI waiver or finds you ineligible for the waiver, and you disagree with the county’s action, you may request an administrative appeal with the Department of Human Services. You must send the request to either the county or the Appeals and Regulations Division of the Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155; fax number 651-297-3173. The request must be in writing and made within 30 days of the county’s notice to you of its decision, or within 90 days if you have a good reason for the delay.

9. How can the Minnesota Disability Law Center help?

The Minnesota Disability Law Center (MDLC) is the state’s protection and advocacy system for persons with disabilities in Minnesota and receives federal funds for that purpose. MDLC provides free legal assistance to individuals with disabilities on civil legal issues relating to their disabilities. For persons with TBI, MDLC staff can help clients access appropriate services and can address other legal issues such as abuse and neglect and rights violations.

Requests for legal advice or assistance may be directed to our intake staff at 1-800-292-4150 or 1-612-334-5970.

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