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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1532

02/25/2021 Authored by Frederick
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying community supports provisions; amending
1.3 Minnesota Statutes 2020, sections 245.4874, subdivision 1; 245.697, subdivision
1.4 1; 252.43; 252A.01, subdivision 1; 252A.02, subdivisions 2, 9, 11, 12, by adding
1.5 subdivisions; 252A.03, subdivisions 3, 4; 252A.04, subdivisions 1, 2, 4; 252A.05;
1.6 252A.06, subdivisions 1, 2; 252A.07, subdivisions 1, 2, 3; 252A.081, subdivisions
1.7 2, 3, 5; 252A.09, subdivisions 1, 2; 252A.101, subdivisions 2, 3, 5, 6, 7, 8;
1.8 252A.111, subdivisions 2, 4, 6; 252A.12; 252A.16; 252A.17; 252A.19, subdivisions
1.9 2, 4, 5, 7, 8; 252A.20; 252A.21, subdivisions 2, 4; 254A.03, subdivision 3;
1.10 254A.171; 254A.19, subdivision 4; 254A.20; 254B.01, subdivisions 6, 8; 254B.02,
1.11 subdivision 1; 254B.03, subdivisions 1, 2, 4; 254B.04, subdivision 1; 254B.05,
1.12 subdivisions 1a, 1b, 4, 5; 254B.051; 254B.06, subdivisions 1, 3; 254B.12; 254B.13,
1.13 subdivisions 1, 2a, 5, 6; 254B.14, subdivisions 1, 5; 256.042, subdivisions 2, 4;
1.14 256B.051, subdivisions 1, 3, 5, 6, 7, by adding a subdivision; 256B.0947,
1.15 subdivision 6; 256B.4912, subdivision 13; 256B.69, subdivision 5a; 256B.85,
1.16 subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11b, 12, 12b, 13, 13a, 15, 17a, 18a,
1.17 20b, 23, 23a, by adding subdivisions; repealing Minnesota Statutes 2020, sections
1.18 252.28, subdivisions 1, 5; 252A.02, subdivisions 8, 10; 252A.21, subdivision 3.

1.19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.20 Section 1. Minnesota Statutes 2020, section 245.4874, subdivision 1, is amended to read:

1.21 Subdivision 1. Duties of county board. (a) The county board must:

1.22 (1) develop a system of affordable and locally available children's mental health services
1.23 according to sections 245.487 to 245.4889;

1.24 (2) consider the assessment of unmet needs in the county as reported by the local
1.25 children's mental health advisory council under section 245.4875, subdivision 5, paragraph
1.26 (b), clause (3). The county shall provide, upon request of the local children's mental health
1.27 advisory council, readily available data to assist in the determination of unmet needs;

2.1 (3) assure that parents and providers in the county receive information about how to
2.2 gain access to services provided according to sections 245.487 to 245.4889;

2.3 (4) coordinate the delivery of children's mental health services with services provided
2.4 by social services, education, corrections, health, and vocational agencies to improve the
2.5 availability of mental health services to children and the cost-effectiveness of their delivery;

2.6 (5) assure that mental health services delivered according to sections 245.487 to 245.4889
2.7 are delivered expeditiously and are appropriate to the child's diagnostic assessment and
2.8 individual treatment plan;

2.9 (6) provide for case management services to each child with severe emotional disturbance
2.10 according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions
2.11 1, 3, and 5;

2.12 (7) provide for screening of each child under section 245.4885 upon admission to a
2.13 residential treatment facility, acute care hospital inpatient treatment, or informal admission
2.14 to a regional treatment center;

2.15 (8) prudently administer grants and purchase-of-service contracts that the county board
2.16 determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4889;

2.17 (9) assure that mental health professionals, mental health practitioners, and case managers
2.18 employed by or under contract to the county to provide mental health services are qualified
2.19 under section 245.4871;

2.20 (10) assure that children's mental health services are coordinated with adult mental health
2.21 services specified in sections 245.461 to 245.486 so that a continuum of mental health
2.22 services is available to serve persons with mental illness, regardless of the person's age;

2.23 (11) assure that culturally competent mental health consultants are used as necessary to
2.24 assist the county board in assessing and providing appropriate treatment for children of
2.25 cultural or racial minority heritage; and

2.26 (12) consistent with section 245.486, arrange for or provide a children's mental health
2.27 screening for:

2.28 (i) a child receiving child protective services;

2.29 (ii) a child in out-of-home placement;

2.30 (iii) a child for whom parental rights have been terminated;

2.31 (iv) a child found to be delinquent; or

3.1 (v) a child found to have committed a juvenile petty offense for the third or subsequent
3.2 time.

3.3 A children's mental health screening is not required when a screening or diagnostic
3.4 assessment has been performed within the previous 180 days, or the child is currently under
3.5 the care of a mental health professional.

3.6 (b) When a child is receiving protective services or is in out-of-home placement, the
3.7 court or county agency must notify a parent or guardian whose parental rights have not been
3.8 terminated of the potential mental health screening and the option to prevent the screening
3.9 by notifying the court or county agency in writing.

3.10 (c) When a child is found to be delinquent or a child is found to have committed a
3.11 juvenile petty offense for the third or subsequent time, the court or county agency must
3.12 obtain written informed consent from the parent or legal guardian before a screening is
3.13 conducted unless the court, notwithstanding the parent's failure to consent, determines that
3.14 the screening is in the child's best interest.

3.15 (d) The screening shall be conducted with a screening instrument approved by the
3.16 commissioner of human services according to criteria that are updated and issued annually
3.17 to ensure that approved screening instruments are valid and useful for child welfare and
3.18 juvenile justice populations. Screenings shall be conducted by a mental health practitioner
3.19 as defined in section 245.4871, subdivision 26, or a probation officer or local social services
3.20 agency staff person who is trained in the use of the screening instrument. Training in the
3.21 use of the instrument shall include:

- 3.22 (1) training in the administration of the instrument;
- 3.23 (2) the interpretation of its validity given the child's current circumstances;
- 3.24 (3) the state and federal data practices laws and confidentiality standards;
- 3.25 (4) the parental consent requirement; and
- 3.26 (5) providing respect for families and cultural values.

3.27 If the screen indicates a need for assessment, the child's family, or if the family lacks
3.28 mental health insurance, the local social services agency, in consultation with the child's
3.29 family, shall have conducted a diagnostic assessment, including a functional assessment.
3.30 The administration of the screening shall safeguard the privacy of children receiving the
3.31 screening and their families and shall comply with the Minnesota Government Data Practices
3.32 Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of
3.33 1996, Public Law 104-191. Screening results shall be considered private data ~~and the~~

4.1 ~~commissioner shall not collect individual screening results.~~ The commissioner may collect
 4.2 individual screening results for the purposes of program evaluation and improvement.

4.3 (e) When the county board refers clients to providers of children's therapeutic services
 4.4 and supports under section 256B.0943, the county board must clearly identify the desired
 4.5 services components not covered under section 256B.0943 and identify the reimbursement
 4.6 source for those requested services, the method of payment, and the payment rate to the
 4.7 provider.

4.8 Sec. 2. Minnesota Statutes 2020, section 245.697, subdivision 1, is amended to read:

4.9 Subdivision 1. **Creation.** (a) A State Advisory Council on Mental Health is created. The
 4.10 council must have members appointed by the governor in accordance with federal
 4.11 requirements. In making the appointments, the governor shall consider appropriate
 4.12 representation of communities of color. The council must be composed of:

4.13 (1) the assistant commissioner of mental health for the department of human services;

4.14 (2) a representative of the Department of Human Services responsible for the medical
 4.15 assistance program;

4.16 (3) a representative of the Department of Health;

4.17 ~~(3)~~ (4) one member of each of the following professions:

4.18 (i) psychiatry;

4.19 (ii) psychology;

4.20 (iii) social work;

4.21 (iv) nursing;

4.22 (v) marriage and family therapy; and

4.23 (vi) professional clinical counseling;

4.24 ~~(4)~~ (5) one representative from each of the following advocacy groups: Mental Health
 4.25 Association of Minnesota, NAMI-MN, ~~Mental Health Consumer/Survivor Network of~~
 4.26 ~~Minnesota,~~ and Minnesota Disability Law Center, American Indian Mental Health Advisory
 4.27 Council, and a consumer-run mental health advocacy group;

4.28 ~~(5)~~ (6) providers of mental health services;

4.29 ~~(6)~~ (7) consumers of mental health services;

4.30 ~~(7)~~ (8) family members of persons with mental illnesses;

- 5.1 ~~(8)~~ (9) legislators;
- 5.2 ~~(9)~~ (10) social service agency directors;
- 5.3 ~~(10)~~ (11) county commissioners; and
- 5.4 ~~(11)~~ (12) other members reflecting a broad range of community interests, including
- 5.5 family physicians, or members as the United States Secretary of Health and Human Services
- 5.6 may prescribe by regulation or as may be selected by the governor.

5.7 (b) The council shall select a chair. Terms, compensation, and removal of members and

5.8 filling of vacancies are governed by section 15.059. Notwithstanding provisions of section

5.9 15.059, the council and its subcommittee on children's mental health do not expire. The

5.10 commissioner of human services shall provide staff support and supplies to the council.

5.11 Sec. 3. Minnesota Statutes 2020, section 252.43, is amended to read:

5.12 **252.43 COMMISSIONER'S DUTIES.**

5.13 (a) The commissioner shall supervise lead agencies' provision of day services to adults

5.14 with disabilities. The commissioner shall:

5.15 (1) determine the need for day ~~services~~ programs under ~~section~~ sections 256B.4914 and

5.16 252.41 to 252.46;

5.17 (2) establish payment rates as provided under section 256B.4914;

5.18 (3) adopt rules for the administration and provision of day services under sections

5.19 245A.01 to 245A.16₂; 252.28, subdivision 2₂; or 252.41 to 252.46₂; or Minnesota Rules,

5.20 parts 9525.1200 to 9525.1330;

5.21 (4) enter into interagency agreements necessary to ensure effective coordination and

5.22 provision of day services;

5.23 (5) monitor and evaluate the costs and effectiveness of day services; and

5.24 (6) provide information and technical help to lead agencies and vendors in their

5.25 administration and provision of day services.

5.26 (b) A determination of need in paragraph (a), clause (1), shall not be required for a

5.27 change in day service provider name or ownership.

5.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.1 Sec. 4. Minnesota Statutes 2020, section 252A.01, subdivision 1, is amended to read:

6.2 Subdivision 1. **Policy.** (a) It is the policy of the state of Minnesota to provide a
6.3 coordinated approach to the supervision, protection, and habilitation of its adult citizens
6.4 with a developmental disability. In furtherance of this policy, sections 252A.01 to 252A.21
6.5 are enacted to authorize the commissioner of human services to:

6.6 (1) supervise those adult citizens with a developmental disability who are unable to fully
6.7 provide for their own needs and for whom no qualified person is willing and able to seek
6.8 guardianship ~~or conservatorship~~ under sections 524.5-101 to 524.5-502; and

6.9 (2) protect adults with a developmental disability from violation of their human and civil
6.10 rights by ~~assuring~~ ensuring that they receive the full range of needed social, financial,
6.11 residential, and habilitative services to which they are lawfully entitled.

6.12 (b) Public guardianship ~~or conservatorship~~ is the most restrictive form of guardianship
6.13 ~~or conservatorship~~ and should be imposed only when ~~no other acceptable alternative is~~
6.14 ~~available~~ less restrictive alternatives have been attempted and determined to be insufficient
6.15 to meet the person's needs. Less restrictive alternatives include but are not limited to
6.16 supported decision making, community or residential services, or appointment of a health
6.17 care agent.

6.18 Sec. 5. Minnesota Statutes 2020, section 252A.02, subdivision 2, is amended to read:

6.19 Subd. 2. **Person with a developmental disability.** "Person with a developmental
6.20 disability" refers to any person age 18 or older who:

6.21 (1) ~~has been diagnosed as having significantly subaverage intellectual functioning existing~~
6.22 ~~concurrently with demonstrated deficits in adaptive behavior such as to require supervision~~
6.23 ~~and protection for the person's welfare or the public welfare.~~ a developmental disability or
6.24 related condition;

6.25 (2) is impaired to the extent of lacking sufficient understanding or capacity to make
6.26 personal decisions; and

6.27 (3) is unable to meet personal needs for medical care, nutrition, clothing, shelter, or
6.28 safety, even with appropriate technological and supported decision-making assistance.

7.1 Sec. 6. Minnesota Statutes 2020, section 252A.02, subdivision 9, is amended to read:

7.2 Subd. 9. **Ward Person subject to public guardianship.** ~~"Ward"~~ "Person subject to
7.3 public guardianship" means a person with a developmental disability for whom the court
7.4 has appointed a public guardian.

7.5 Sec. 7. Minnesota Statutes 2020, section 252A.02, subdivision 11, is amended to read:

7.6 Subd. 11. **Interested person.** "Interested person" means an interested responsible adult,
7.7 ~~including, but not limited to, a public official, guardian, spouse, parent, adult sibling, legal~~
7.8 ~~counsel, adult child, or next of kin of a person alleged to have a developmental disability;~~
7.9 including but not limited to:

7.10 (1) the person subject to guardianship, protected person, or respondent;

7.11 (2) a nominated guardian or conservator;

7.12 (3) a legal representative;

7.13 (4) the spouse; parent, including stepparent; adult children, including adult stepchildren
7.14 of a living spouse; and siblings. If no such persons are living or can be located, the next of
7.15 kin of the person subject to public guardianship or the respondent is an interested person;

7.16 (5) a representative of a state ombudsman's office or a federal protection and advocacy
7.17 program that has notified the commissioner or lead agency that it has a matter regarding
7.18 the protected person subject to guardianship, person subject to conservatorship, or respondent;
7.19 and

7.20 (6) a health care agent or proxy appointed pursuant to a health care directive as defined
7.21 in section 145C.01, subdivision 5a; a living will under chapter 145B; or other similar
7.22 documentation executed in another state and enforceable under the laws of this state.

7.23 Sec. 8. Minnesota Statutes 2020, section 252A.02, subdivision 12, is amended to read:

7.24 Subd. 12. **Comprehensive evaluation.** (a) "Comprehensive evaluation" ~~shall consist~~
7.25 consists of:

7.26 (1) a medical report on the health status and physical condition of the proposed ~~ward,~~
7.27 person subject to public guardianship prepared under the direction of a licensed physician
7.28 or advanced practice registered nurse;

7.29 (2) a report on the ~~proposed ward's~~ intellectual capacity and functional abilities, ~~specifying~~
7.30 of the proposed person subject to public guardianship that specifies the tests and other data

8.1 used in reaching its conclusions; and is prepared by a psychologist who is qualified in the
8.2 diagnosis of developmental disability; and

8.3 (3) a report from the case manager that includes:

8.4 (i) the most current assessment of individual service needs as described in rules of the
8.5 commissioner;

8.6 (ii) the most current individual service plan under section 256B.092, subdivision 1b;
8.7 and

8.8 (iii) a description of contacts with and responses of near relatives of the proposed ~~ward~~
8.9 person subject to public guardianship notifying ~~them~~ the near relatives that a nomination
8.10 for public guardianship has been made and advising ~~them~~ the near relatives that they may
8.11 seek private guardianship.

8.12 (b) Each report under paragraph (a), clause (3), shall contain recommendations as to the
8.13 amount of assistance and supervision required by the proposed ~~ward~~ person subject to public
8.14 guardianship to function as independently as possible in society. To be considered part of
8.15 the comprehensive evaluation, the reports must be completed no more than one year before
8.16 filing the petition under section 252A.05.

8.17 Sec. 9. Minnesota Statutes 2020, section 252A.02, is amended by adding a subdivision to
8.18 read:

8.19 Subd. 16. **Protected person.** "Protected person" means a person for whom a guardian
8.20 or conservator has been appointed or other protective order has been sought. A protected
8.21 person may be a minor.

8.22 Sec. 10. Minnesota Statutes 2020, section 252A.02, is amended by adding a subdivision
8.23 to read:

8.24 Subd. 17. **Respondent.** "Respondent" means an individual for whom the appointment
8.25 of a guardian or conservator or other protective order is sought.

8.26 Sec. 11. Minnesota Statutes 2020, section 252A.02, is amended by adding a subdivision
8.27 to read:

8.28 Subd. 18. **Supported decision making.** "Supported decision making" means assistance
8.29 to understand the nature and consequences of personal and financial decisions from one or
8.30 more persons of the individual's choosing to enable the individual to make the personal and

9.1 financial decisions and, when consistent with the individual's wishes, to communicate a
 9.2 decision once made.

9.3 Sec. 12. Minnesota Statutes 2020, section 252A.03, subdivision 3, is amended to read:

9.4 Subd. 3. **Standard for acceptance.** The commissioner shall accept the nomination if:
 9.5 ~~the comprehensive evaluation concludes that:~~

9.6 ~~(1) the person alleged to have developmental disability is, in fact, developmentally~~
 9.7 ~~disabled;~~ (1) the person's assessment confirms that they are a person with a developmental
 9.8 disability under section 252A.02, subdivision 2;

9.9 (2) the person is in need of the supervision and protection of a ~~conservator or~~ guardian;
 9.10 ~~and~~

9.11 (3) no qualified person is willing to assume guardianship ~~or conservatorship~~ under
 9.12 sections 524.5-101 to 524.5-502.; and

9.13 (4) the person subject to public guardianship was included in the process prior to the
 9.14 submission of the nomination.

9.15 Sec. 13. Minnesota Statutes 2020, section 252A.03, subdivision 4, is amended to read:

9.16 Subd. 4. **Alternatives.** (a) Public guardianship ~~or conservatorship~~ may be imposed only
 9.17 when:

9.18 (1) the person subject to guardianship is impaired to the extent of lacking sufficient
 9.19 understanding or capacity to make personal decisions;

9.20 (2) the person subject to guardianship is unable to meet personal needs for medical care,
 9.21 nutrition, clothing, shelter, or safety, even with appropriate technological and supported
 9.22 decision-making assistance; and

9.23 (3) no acceptable, less restrictive form of guardianship or conservatorship is available.

9.24 (b) The commissioner shall seek parents, near relatives, and other interested persons to
 9.25 assume guardianship for persons with developmental disabilities who are currently under
 9.26 public guardianship. If a person seeks to become a guardian ~~or conservator~~, costs to the
 9.27 person may be reimbursed under section 524.5-502. The commissioner must provide technical
 9.28 assistance to parents, near relatives, and interested persons seeking to become guardians ~~or~~
 9.29 ~~conservators.~~

10.1 Sec. 14. Minnesota Statutes 2020, section 252A.04, subdivision 1, is amended to read:

10.2 Subdivision 1. **Local agency.** Upon receipt of a written nomination, the commissioner
 10.3 shall promptly order the local agency of the county in which the proposed ~~ward~~ person
 10.4 subject to public guardianship resides to coordinate or arrange for a comprehensive evaluation
 10.5 of the proposed ~~ward~~ person subject to public guardianship.

10.6 Sec. 15. Minnesota Statutes 2020, section 252A.04, subdivision 2, is amended to read:

10.7 Subd. 2. **Medication; treatment.** A proposed ~~ward~~ person subject to public guardianship
 10.8 who, at the time the comprehensive evaluation is to be performed, has been under medical
 10.9 care shall not be so under the influence or so suffer the effects of drugs, medication, or other
 10.10 treatment as to be hampered in the testing or evaluation process. When in the opinion of
 10.11 the licensed physician or advanced practice registered nurse attending the proposed ~~ward~~
 10.12 person subject to public guardianship, the discontinuance of medication or other treatment
 10.13 is not in the ~~proposed ward's~~ best interest of the proposed person subject to public
 10.14 guardianship, the physician or advanced practice registered nurse shall record a list of all
 10.15 drugs, medication, or other treatment ~~which~~ that the proposed ~~ward~~ person subject to public
 10.16 guardianship received 48 hours immediately prior to any examination, test, or interview
 10.17 conducted in preparation for the comprehensive evaluation.

10.18 Sec. 16. Minnesota Statutes 2020, section 252A.04, subdivision 4, is amended to read:

10.19 Subd. 4. **File.** The comprehensive evaluation shall be kept on file at the Department of
 10.20 Human Services and shall be open to the inspection of the proposed ~~ward~~ person subject to
 10.21 public guardianship and ~~such~~ other persons ~~as may be given permission~~ permitted by the
 10.22 commissioner.

10.23 Sec. 17. Minnesota Statutes 2020, section 252A.05, is amended to read:

10.24 **252A.05 COMMISSIONER'S PETITION FOR APPOINTMENT AS PUBLIC**
 10.25 **GUARDIAN ~~OR PUBLIC CONSERVATOR.~~**

10.26 In every case in which the commissioner agrees to accept a nomination, the local agency,
 10.27 within 20 working days of receipt of the commissioner's acceptance, shall petition on behalf
 10.28 of the commissioner in the county or court of the county of residence of the person with a
 10.29 developmental disability for appointment to act as ~~public conservator or~~ public guardian of
 10.30 the person with a developmental disability.

11.1 Sec. 18. Minnesota Statutes 2020, section 252A.06, subdivision 1, is amended to read:

11.2 Subdivision 1. **Who may file.** ~~The commissioner, the local agency, a person with a~~
 11.3 ~~developmental disability or any parent, spouse or relative of a person with a developmental~~
 11.4 ~~disability may file~~ A verified petition alleging that the appointment of a public conservator
 11.5 ~~or public guardian is required~~ may be filed by: the commissioner; the local agency; a person
 11.6 with a developmental disability; or a parent, stepparent, spouse, or relative of a person with
 11.7 a developmental disability.

11.8 Sec. 19. Minnesota Statutes 2020, section 252A.06, subdivision 2, is amended to read:

11.9 Subd. 2. **Contents.** The petition shall set forth:

11.10 (1) the name and address of the petitioner; and, in the case of a petition brought by a
 11.11 person other than the commissioner, whether the petitioner is a parent, spouse, or relative
 11.12 ~~of the proposed ward~~ of the proposed person subject to guardianship;

11.13 (2) whether the commissioner has accepted a nomination to act as ~~public conservator~~
 11.14 ~~or public guardian;~~

11.15 (3) the name, address, and date of birth of the proposed ~~ward~~ person subject to public
 11.16 guardianship;

11.17 (4) the names and addresses of the nearest relatives and spouse, if any, of the proposed
 11.18 ~~ward~~ person subject to public guardianship;

11.19 (5) the probable value and general character of the ~~proposed ward's~~ real and personal
 11.20 property of the proposed person subject to public guardianship and the probable amount of
 11.21 ~~the proposed ward's debts~~ of the proposed person subject to public guardianship; and

11.22 (6) the facts supporting the establishment of public ~~conservatorship~~ or guardianship,
 11.23 including that no family member or other qualified individual is willing to assume
 11.24 ~~guardianship or conservatorship~~ responsibilities under sections 524.5-101 to 524.5-502;
 11.25 ~~and.~~

11.26 ~~(7) if conservatorship is requested, the powers the petitioner believes are necessary to~~
 11.27 ~~protect and supervise the proposed conservatee.~~

11.28 Sec. 20. Minnesota Statutes 2020, section 252A.07, subdivision 1, is amended to read:

11.29 Subdivision 1. **With petition.** When a petition is brought by the commissioner or local
 11.30 agency, a copy of the comprehensive evaluation shall be filed with the petition. If a petition
 11.31 is brought by a person other than the commissioner or local agency and a comprehensive

12.1 evaluation has been prepared within a year of the filing of the petition, the local agency
 12.2 shall ~~forward~~ send a copy of the comprehensive evaluation to the court upon notice of the
 12.3 filing of the petition. If a comprehensive evaluation has not been prepared within a year of
 12.4 the filing of the petition, the local agency, upon notice of the filing of the petition, shall
 12.5 arrange for a comprehensive evaluation to be prepared and ~~forwarded~~ provided to the court
 12.6 within 90 days.

12.7 Sec. 21. Minnesota Statutes 2020, section 252A.07, subdivision 2, is amended to read:

12.8 Subd. 2. **Copies.** A copy of the comprehensive evaluation shall be made available by
 12.9 the court to the proposed ~~ward~~ person subject to public guardianship, the ~~proposed ward's~~
 12.10 counsel of the proposed person subject to public guardianship, the county attorney, the
 12.11 attorney general, and the petitioner.

12.12 Sec. 22. Minnesota Statutes 2020, section 252A.07, subdivision 3, is amended to read:

12.13 Subd. 3. **Evaluation required; exception.** (a) No action for the appointment of a public
 12.14 guardian may proceed to hearing unless a comprehensive evaluation has been first filed
 12.15 with the court; ~~provided, however, that an action may proceed and a guardian appointed.~~

12.16 (b) Paragraph (a) does not apply if the director of the local agency responsible for
 12.17 conducting the comprehensive evaluation has filed an affidavit that the proposed ~~ward~~
 12.18 person subject to public guardianship refused to participate in the comprehensive evaluation
 12.19 and the court finds on the basis of clear and convincing evidence that the proposed ~~ward~~
 12.20 person subject to public guardianship is developmentally disabled and in need of the
 12.21 supervision and protection of a guardian.

12.22 Sec. 23. Minnesota Statutes 2020, section 252A.081, subdivision 2, is amended to read:

12.23 Subd. 2. **Service of notice.** Service of notice on the ~~ward~~ person subject to public
 12.24 guardianship or proposed ~~ward~~ person subject to public guardianship must be made by a
 12.25 nonuniformed person or nonuniformed visitor. To the extent possible, the ~~process server or~~
 12.26 ~~visitor~~ person or visitor serving the notice shall explain the document's meaning to the
 12.27 proposed ~~ward~~ person subject to public guardianship. In addition to the persons required to
 12.28 be served under sections 524.5-113, 524.5-205, and 524.5-304, the mailed notice of the
 12.29 hearing must be served on the commissioner, the local agency, and the county attorney.

13.1 Sec. 24. Minnesota Statutes 2020, section 252A.081, subdivision 3, is amended to read:

13.2 Subd. 3. **Attorney.** In place of the notice of attorney provisions in sections 524.5-205
13.3 and 524.5-304, the notice must state that the court will appoint an attorney for the proposed
13.4 ~~ward~~ person subject to public guardianship unless an attorney is provided by other persons.

13.5 Sec. 25. Minnesota Statutes 2020, section 252A.081, subdivision 5, is amended to read:

13.6 Subd. 5. **Defective notice of service.** A defect in the service of notice or process, other
13.7 than personal service upon the proposed ~~ward or conservatee~~ person subject to public
13.8 guardianship or service upon the commissioner and local agency within the time allowed
13.9 and the form prescribed in this section and sections 524.5-113, 524.5-205, and 524.5-304,
13.10 does not invalidate any public guardianship ~~or conservatorship~~ proceedings.

13.11 Sec. 26. Minnesota Statutes 2020, section 252A.09, subdivision 1, is amended to read:

13.12 Subdivision 1. **Attorney appointment.** Upon the filing of the petition, the court shall
13.13 appoint an attorney for the proposed ~~ward~~ person subject to public guardianship, unless
13.14 such counsel is provided by others.

13.15 Sec. 27. Minnesota Statutes 2020, section 252A.09, subdivision 2, is amended to read:

13.16 Subd. 2. **Representation.** Counsel shall visit with and, to the extent possible, consult
13.17 with the proposed ~~ward~~ person subject to public guardianship prior to the hearing and shall
13.18 be given adequate time to prepare ~~therefor~~ for the hearing. Counsel shall be given the full
13.19 right of subpoena and shall be supplied with a copy of all documents filed with or issued
13.20 by the court.

13.21 Sec. 28. Minnesota Statutes 2020, section 252A.101, subdivision 2, is amended to read:

13.22 Subd. 2. **Waiver of presence.** The proposed ~~ward~~ person subject to public guardianship
13.23 may waive the right to be present at the hearing only if the proposed ~~ward~~ person subject
13.24 to public guardianship has met with counsel and specifically waived the right to appear.

13.25 Sec. 29. Minnesota Statutes 2020, section 252A.101, subdivision 3, is amended to read:

13.26 Subd. 3. **Medical care.** If, at the time of the hearing, the proposed ~~ward~~ person subject
13.27 to public guardianship has been under medical care, the ~~ward~~ person subject to public
13.28 guardianship has the same rights regarding limitation on the use of drugs, medication, or
13.29 other treatment before the hearing that are available under section 252A.04, subdivision 2.

14.1 Sec. 30. Minnesota Statutes 2020, section 252A.101, subdivision 5, is amended to read:

14.2 Subd. 5. **Findings.** (a) In all cases the court shall make specific written findings of fact,
14.3 conclusions of law, and direct entry of an appropriate judgment or order. The court shall
14.4 order the appointment of the commissioner as guardian ~~or conservator~~ if it finds that:

14.5 (1) the proposed ~~ward or conservatee~~ person subject to public guardianship is a person
14.6 with a developmental disability as defined in section 252A.02, subdivision 2;

14.7 (2) the proposed ~~ward or conservatee~~ person subject to public guardianship is incapable
14.8 of exercising specific legal rights, which must be enumerated in ~~its~~ the court's findings;

14.9 (3) the proposed ~~ward or conservatee~~ person subject to public guardianship is in need
14.10 of the supervision and protection of a public guardian ~~or conservator~~; and

14.11 (4) no appropriate alternatives to public guardianship ~~or public conservatorship~~ exist
14.12 that are less restrictive of the person's civil rights and liberties, such as appointing a private
14.13 guardian, or conservator supported decision maker, or health care agent; or arranging
14.14 residential or community services under sections 524.5-101 to 524.5-502.

14.15 (b) The court shall grant the specific powers that are necessary for the commissioner to
14.16 act as public guardian ~~or conservator~~ on behalf of the ~~ward or conservatee~~ person subject
14.17 to public guardianship.

14.18 Sec. 31. Minnesota Statutes 2020, section 252A.101, subdivision 6, is amended to read:

14.19 Subd. 6. **Notice of order; appeal.** A copy of the order shall be served by mail upon the
14.20 ~~ward or conservatee~~ person subject to public guardianship and the ~~ward's~~ counsel of the
14.21 person subject to public guardianship. The order must be accompanied by a notice that
14.22 advises the ~~ward or conservatee~~ person subject to public guardianship of the right to appeal
14.23 the guardianship ~~or conservatorship~~ appointment within 30 days.

14.24 Sec. 32. Minnesota Statutes 2020, section 252A.101, subdivision 7, is amended to read:

14.25 Subd. 7. **Letters of guardianship.** (a) Letters of guardianship ~~or conservatorship~~ must
14.26 be issued by the court and contain:

14.27 (1) the name, address, and telephone number of the ~~ward or conservatee~~ person subject
14.28 to public guardianship; and

14.29 (2) the powers to be exercised on behalf of the ~~ward or conservatee~~ person subject to
14.30 public guardianship.

15.1 (b) The letters under paragraph (a) must be served by mail upon the ~~ward or conservatee~~
15.2 person subject to public guardianship, the ward's counsel of the person subject to public
15.3 guardianship, the commissioner, and the local agency.

15.4 Sec. 33. Minnesota Statutes 2020, section 252A.101, subdivision 8, is amended to read:

15.5 Subd. 8. **Dismissal.** If upon the completion of the hearing and consideration of the record,
15.6 the court finds that the proposed ~~ward~~ person subject to public guardianship is not
15.7 developmentally disabled or is developmentally disabled but not in need of the supervision
15.8 and protection of a ~~conservator or public guardian, if the court~~ shall dismiss the application
15.9 and shall notify the proposed ~~ward~~ person subject to public guardianship, the ward's counsel
15.10 of the person subject to public guardianship, and the petitioner of the court's findings.

15.11 Sec. 34. Minnesota Statutes 2020, section 252A.111, subdivision 2, is amended to read:

15.12 Subd. 2. **Additional powers.** In addition to the powers contained in sections 524.5-207
15.13 and 524.5-313, the powers of a public guardian that the court may grant include:

15.14 (1) the power to permit or withhold permission for the ~~ward~~ person subject to public
15.15 guardianship to marry;

15.16 (2) the power to begin legal action or defend against legal action in the name of the ~~ward~~
15.17 person subject to public guardianship; and

15.18 (3) the power to consent to the adoption of the ~~ward~~ person subject to public guardianship
15.19 as provided in section 259.24.

15.20 Sec. 35. Minnesota Statutes 2020, section 252A.111, subdivision 4, is amended to read:

15.21 Subd. 4. **Appointment of conservator.** If the ~~ward~~ person subject to public guardianship
15.22 has a personal estate beyond that which is necessary for the ~~ward's~~ personal and immediate
15.23 needs of the person subject to public guardianship, the commissioner shall determine whether
15.24 a conservator should be appointed. The commissioner shall consult with the parents, spouse,
15.25 or nearest relative of the ~~ward~~ person subject to public guardianship. The commissioner
15.26 may petition the court for the appointment of a private conservator of the ~~ward~~ person
15.27 subject to public guardianship. The commissioner cannot act as conservator for public ~~wards~~
15.28 persons subject to public guardianship or public protected persons.

16.1 Sec. 36. Minnesota Statutes 2020, section 252A.111, subdivision 6, is amended to read:

16.2 Subd. 6. **Special duties.** In exercising powers and duties under this chapter, the
16.3 commissioner shall:

16.4 (1) maintain close contact with the ~~ward~~ person subject to public guardianship, visiting
16.5 at least twice a year;

16.6 (2) protect and exercise the legal rights of the ~~ward~~ person subject to public guardianship;

16.7 (3) take actions and make decisions on behalf of the ~~ward~~ person subject to public
16.8 guardianship that encourage and allow the maximum level of independent functioning in a
16.9 manner least restrictive of the ~~ward's~~ personal freedom of the person subject to public
16.10 guardianship consistent with the need for supervision and protection; and

16.11 (4) permit and encourage maximum self-reliance on the part of the ~~ward~~ person subject
16.12 to public guardianship and permit and encourage input by the nearest relative of the ~~ward~~
16.13 person subject to public guardianship in planning and decision making on behalf of the
16.14 ~~ward~~ person subject to public guardianship.

16.15 Sec. 37. Minnesota Statutes 2020, section 252A.12, is amended to read:

16.16 **252A.12 APPOINTMENT OF ~~CONSERVATOR~~ PUBLIC GUARDIAN NOT A**
16.17 **FINDING OF INCOMPETENCY.**

16.18 An appointment of the commissioner as ~~conservator~~ public guardian shall not constitute
16.19 a judicial finding that the person with a developmental disability is legally incompetent
16.20 except for the restrictions ~~which~~ that the conservatorship public guardianship places on the
16.21 ~~conservatee~~ person subject to public guardianship. The appointment of a ~~conservator~~ public
16.22 guardian shall not deprive the ~~conservatee~~ person subject to public guardianship of the right
16.23 to vote.

16.24 Sec. 38. Minnesota Statutes 2020, section 252A.16, is amended to read:

16.25 **252A.16 ANNUAL REVIEW.**

16.26 Subdivision 1. **Review required.** The commissioner shall require an annual review of
16.27 the physical, mental, and social adjustment and progress of every ~~ward and conservatee~~
16.28 person subject to public guardianship. A copy of this review shall be kept on file at the
16.29 Department of Human Services and may be inspected by the ~~ward or conservatee~~ person
16.30 subject to public guardianship, the ~~ward's or conservatee's~~ parents, spouse, or relatives of
16.31 the person subject to public guardianship, and other persons who receive the permission of

17.1 the commissioner. The review shall contain information required under Minnesota Rules,
17.2 part 9525.3065, subpart 1.

17.3 Subd. 2. **Assessment of need for continued guardianship.** The commissioner shall
17.4 annually review the legal status of each ~~ward~~ person subject to public guardianship in light
17.5 of the progress indicated in the annual review. If the commissioner determines the ~~ward~~
17.6 person subject to public guardianship is no longer in need of public guardianship ~~or~~
17.7 ~~conservatorship~~ or is capable of functioning under a less restrictive ~~conservatorship~~
17.8 guardianship, the commissioner or local agency shall petition the court pursuant to section
17.9 252A.19 to restore the ~~ward~~ person subject to public guardianship to capacity or for a
17.10 modification of the court's previous order.

17.11 Sec. 39. Minnesota Statutes 2020, section 252A.17, is amended to read:

17.12 **252A.17 EFFECT OF SUCCESSION IN OFFICE.**

17.13 The appointment by the court of the commissioner ~~of human services~~ as public
17.14 ~~conservator~~ or guardian shall be by the title of the commissioner's office. The authority of
17.15 the commissioner as public ~~conservator~~ or guardian shall cease upon the termination of the
17.16 commissioner's term of office and shall vest in a successor or successors in office without
17.17 further court proceedings.

17.18 Sec. 40. Minnesota Statutes 2020, section 252A.19, subdivision 2, is amended to read:

17.19 Subd. 2. **Petition.** The commissioner, ~~ward~~ person subject to public guardianship, or
17.20 any interested person may petition the appointing court or the court to which venue has
17.21 been transferred ~~for an order to~~ ;

17.22 (1) for an order to remove the guardianship ~~or to~~ ;

17.23 (2) for an order to limit or expand the powers of the guardianship ~~or to~~ ;

17.24 (3) for an order to appoint a guardian ~~or conservator~~ under sections 524.5-101 to
17.25 524.5-502 ~~or to~~ ;

17.26 (4) for an order to restore the ~~ward~~ person subject to public guardianship or protected
17.27 person to full legal capacity ~~or to~~ ;

17.28 (5) to review de novo any decision made by the public guardian ~~or public conservator~~
17.29 for or on behalf of a ~~ward~~ person subject to public guardianship or protected person; or

17.30 (6) for any other order as the court may deem just and equitable.

18.1 Sec. 41. Minnesota Statutes 2020, section 252A.19, subdivision 4, is amended to read:

18.2 Subd. 4. **Comprehensive evaluation.** The commissioner shall, at the court's request,
 18.3 arrange for the preparation of a comprehensive evaluation of the ~~ward~~ person subject to
 18.4 public guardianship or protected person.

18.5 Sec. 42. Minnesota Statutes 2020, section 252A.19, subdivision 5, is amended to read:

18.6 Subd. 5. **Court order.** Upon proof of the allegations of the petition the court shall enter
 18.7 an order removing the guardianship or limiting or expanding the powers of the guardianship
 18.8 or restoring the ~~ward~~ person subject to public guardianship or protected person to full legal
 18.9 capacity or may enter such other order as the court may deem just and equitable.

18.10 Sec. 43. Minnesota Statutes 2020, section 252A.19, subdivision 7, is amended to read:

18.11 Subd. 7. **Attorney general's role; commissioner's role.** The attorney general may
 18.12 appear and represent the commissioner in such proceedings. The commissioner shall support
 18.13 or oppose the petition if the commissioner deems such action necessary for the protection
 18.14 and supervision of the ~~ward~~ person subject to public guardianship or protected person.

18.15 Sec. 44. Minnesota Statutes 2020, section 252A.19, subdivision 8, is amended to read:

18.16 Subd. 8. ~~Court-appointed~~ **Court-appointed counsel.** In all such proceedings, the
 18.17 protected person or ~~ward~~ person subject to public guardianship shall be afforded an
 18.18 opportunity to be represented by counsel, and if neither the protected person or ~~ward~~ person
 18.19 subject to public guardianship nor others provide counsel the court shall appoint counsel to
 18.20 represent the protected person or ~~ward~~ person subject to public guardianship.

18.21 Sec. 45. Minnesota Statutes 2020, section 252A.20, is amended to read:

18.22 **252A.20 COSTS OF HEARINGS.**

18.23 Subdivision 1. **Witness and attorney fees.** In each proceeding under sections 252A.01
 18.24 to 252A.21, the court shall allow and order paid to each witness subpoenaed the fees and
 18.25 mileage prescribed by law; to each physician, advanced practice registered nurse,
 18.26 psychologist, or social worker who assists in the preparation of the comprehensive evaluation
 18.27 and who is not ~~in the employ of~~ employed by the local agency or the state Department of
 18.28 Human Services, a reasonable sum for services and for travel; and to the ~~ward's~~ counsel of
 18.29 the person subject to public guardianship, when appointed by the court, a reasonable sum
 18.30 for travel and for each day or portion of a day actually employed in court or actually

19.1 consumed in preparing for the hearing. Upon order the county auditor shall issue a warrant
 19.2 on the county treasurer for payment of the amount allowed.

19.3 Subd. 2. **Expenses.** When the settlement of the ~~ward~~ person subject to public guardianship
 19.4 is found to be in another county, the court shall transmit to the county auditor a statement
 19.5 of the expenses incurred pursuant to subdivision 1. The auditor shall transmit the statement
 19.6 to the auditor of the county of the ~~ward's~~ settlement of the person subject to public
 19.7 guardianship and this claim shall be paid as other claims against that county. If the auditor
 19.8 to whom this claim is transmitted denies the claim, the auditor shall transmit it, together
 19.9 with the objections thereto, to the commissioner, who shall determine the question of
 19.10 settlement and certify findings to each auditor. If the claim is not paid within 30 days after
 19.11 such certification, an action may be maintained thereon in the district court of the claimant
 19.12 county.

19.13 Subd. 3. **Change of venue; cost of proceedings.** Whenever venue of a proceeding has
 19.14 been transferred under sections 252A.01 to 252A.21, the costs of such proceedings shall be
 19.15 reimbursed to the county of the ~~ward's~~ settlement of the person subject to public guardianship
 19.16 by the state.

19.17 Sec. 46. Minnesota Statutes 2020, section 252A.21, subdivision 2, is amended to read:

19.18 Subd. 2. **Rules.** The commissioner shall adopt rules to implement this chapter. The rules
 19.19 must include standards for performance of guardianship ~~or conservatorship~~ duties including;
 19.20 but not limited to: twice a year visits with the ~~ward~~ person subject to public guardianship;
 19.21 a requirement that the duties of guardianship ~~or conservatorship~~ and case management not
 19.22 be performed by the same person; specific standards for action on "do not resuscitate" orders
 19.23 as recommended by a physician, an advanced practice registered nurse, or a physician
 19.24 assistant; sterilization requests; and the use of psychotropic medication and aversive
 19.25 procedures.

19.26 Sec. 47. Minnesota Statutes 2020, section 252A.21, subdivision 4, is amended to read:

19.27 Subd. 4. **Private guardianships ~~and conservatorships~~.** Nothing in sections 252A.01
 19.28 to 252A.21 shall impair the right of individuals to establish private guardianships ~~or~~
 19.29 ~~conservatorships~~ in accordance with applicable law.

19.30 Sec. 48. Minnesota Statutes 2020, section 254A.03, subdivision 3, is amended to read:

19.31 Subd. 3. **Rules for substance use disorder care.** (a) The commissioner of human
 19.32 services shall establish by rule criteria to be used in determining the appropriate level of

20.1 ~~chemical dependency~~ substance use disorder care for each recipient of public assistance
20.2 seeking treatment for substance misuse or substance use disorder. ~~Upon federal approval~~
20.3 ~~of a comprehensive assessment as a Medicaid benefit, or on July 1, 2018, whichever is later,~~
20.4 ~~and~~ Notwithstanding the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, an
20.5 eligible vendor of comprehensive assessments under section 254B.05 may determine and
20.6 approve the appropriate level of substance use disorder treatment for a recipient of public
20.7 assistance. The process for determining an individual's financial eligibility for the
20.8 ~~consolidated chemical dependency treatment~~ behavioral health fund or determining an
20.9 individual's enrollment in or eligibility for a publicly subsidized health plan is not affected
20.10 by the individual's choice to access a comprehensive assessment for placement.

20.11 (b) The commissioner shall develop and implement a utilization review process for
20.12 publicly funded treatment placements to monitor and review the clinical appropriateness
20.13 and timeliness of all publicly funded placements in treatment.

20.14 (c) If a screen result is positive for ~~alcohol or~~ substance misuse, a brief screening for
20.15 ~~alcohol or~~ a substance use disorder that is provided to a recipient of public assistance within
20.16 a primary care clinic, hospital, or other medical setting or school setting establishes medical
20.17 necessity and approval for an initial set of substance use disorder services identified in
20.18 section 254B.05, subdivision 5. The initial set of services approved for a recipient whose
20.19 screen result is positive may include any combination of up to four hours of individual or
20.20 group substance use disorder treatment, two hours of substance use disorder treatment
20.21 coordination, or two hours of substance use disorder peer support services provided by a
20.22 qualified individual according to chapter 245G. A recipient must obtain an assessment
20.23 pursuant to paragraph (a) to be approved for additional treatment services. Minnesota Rules,
20.24 parts 9530.6600 to 9530.6655, and a comprehensive assessment pursuant to section 245G.05
20.25 are not applicable to the initial set of services allowed under this subdivision. A positive
20.26 screen result establishes eligibility for the initial set of services allowed under this
20.27 subdivision.

20.28 (d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, an individual may
20.29 choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals
20.30 obtaining a comprehensive assessment may access any enrolled provider that is licensed to
20.31 provide the level of service authorized pursuant to section 254A.19, subdivision 3, paragraph
20.32 (d). If the individual is enrolled in a prepaid health plan, the individual must comply with
20.33 any provider network requirements or limitations. This paragraph expires July 1, 2022.

21.1 Sec. 49. Minnesota Statutes 2020, section 254A.171, is amended to read:

21.2 **254A.171 INTERVENTION AND ADVOCACY PROGRAM.**

21.3 Within the limit of money available, the commissioner shall fund voluntary outreach
 21.4 programs targeted at women who deliver children affected by prenatal alcohol or drug use.
 21.5 The programs shall help women obtain treatment, stay in recovery, and plan any future
 21.6 pregnancies. An advocate shall be assigned to each woman in the program to provide
 21.7 guidance and advice with respect to treatment programs, child safety and parenting, housing,
 21.8 family planning, and any other personal issues that are barriers to remaining free of ~~chemical~~
 21.9 ~~dependency~~ a substance use disorder.

21.10 Sec. 50. Minnesota Statutes 2020, section 254A.19, subdivision 4, is amended to read:

21.11 Subd. 4. **Civil commitments.** A Rule 25 assessment, under Minnesota Rules, part
 21.12 9530.6615, does not need to be completed for an individual being committed as a chemically
 21.13 dependent person, as defined in section 253B.02, and for the duration of a civil commitment
 21.14 under section ~~253B.065~~, 253B.09, or 253B.095 in order for a county to access ~~consolidated~~
 21.15 ~~chemical dependency treatment~~ behavioral health funds under section 254B.04. The county
 21.16 must determine if the individual meets the financial eligibility requirements for the
 21.17 ~~consolidated chemical dependency treatment~~ behavioral health funds under section 254B.04.
 21.18 Nothing in this subdivision prohibits placement in a treatment facility or treatment program
 21.19 governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.

21.20 Sec. 51. Minnesota Statutes 2020, section 254A.20, is amended to read:

21.21 **254A.20 DUTIES OF COMMISSIONER RELATED TO ~~CHEMICAL HEALTH~~**
 21.22 **SUBSTANCE USE DISORDER.**

21.23 The commissioner shall develop a directory that identifies key characteristics of each
 21.24 licensed ~~chemical dependency~~ substance use disorder treatment program.

21.25 Sec. 52. Minnesota Statutes 2020, section 254B.01, subdivision 6, is amended to read:

21.26 Subd. 6. **Local money.** "Local money" means county levies, federal social services
 21.27 money, or other money that may be spent at county discretion to provide ~~chemical~~
 21.28 ~~dependency~~ substance use disorder services eligible for payment according to ~~Laws 1986,~~
 21.29 ~~chapter 394, sections 8 to 20~~ sections 254B.01 to 254B.09; 256B.02, subdivision 8; and
 21.30 256B.70.

22.1 Sec. 53. Minnesota Statutes 2020, section 254B.01, subdivision 8, is amended to read:

22.2 Subd. 8. **Recovery community organization.** "Recovery community organization"
 22.3 means an independent organization led and governed by representatives of local communities
 22.4 of recovery. A recovery community organization mobilizes resources within and outside
 22.5 of the recovery community to increase the prevalence and quality of long-term recovery
 22.6 from ~~alcohol and other drug addiction~~ a substance use disorder. Recovery community
 22.7 organizations provide peer-based recovery support activities such as training of recovery
 22.8 peers. Recovery community organizations provide mentorship and ongoing support to
 22.9 individuals dealing with a substance use disorder and connect them with the resources that
 22.10 can support each person's recovery. A recovery community organization also promotes a
 22.11 recovery-focused orientation in community education and outreach programming, and
 22.12 organize recovery-focused policy advocacy activities to foster healthy communities and
 22.13 reduce the stigma of substance use disorder.

22.14 Sec. 54. Minnesota Statutes 2020, section 254B.02, subdivision 1, is amended to read:

22.15 Subdivision 1. ~~Chemical dependency~~ Substance use disorder **treatment**
 22.16 **allocation.** The ~~chemical dependency~~ substance use disorder treatment appropriation shall
 22.17 be placed in a special revenue account. The money in the special revenue account must be
 22.18 used according to the requirements in this chapter.

22.19 Sec. 55. Minnesota Statutes 2020, section 254B.03, subdivision 1, is amended to read:

22.20 Subdivision 1. **Local agency duties.** (a) Every local agency shall provide ~~chemical~~
 22.21 ~~dependency~~ substance use disorder services to persons residing within its jurisdiction who
 22.22 meet criteria established by the commissioner for placement in a ~~chemical dependency~~
 22.23 substance use disorder residential or nonresidential treatment service. ~~Chemical dependency~~
 22.24 Substance use disorder money must be administered by the local agencies according to law
 22.25 and rules adopted by the commissioner under sections 14.001 to 14.69.

22.26 (b) In order to contain costs, the commissioner of human services shall select eligible
 22.27 vendors of ~~chemical dependency~~ substance use disorder services who can provide economical
 22.28 and appropriate treatment. Unless the local agency is a social services department directly
 22.29 administered by a county or human services board, the local agency shall not be an eligible
 22.30 vendor under section 254B.05. The commissioner may approve proposals from county
 22.31 boards to provide services in an economical manner or to control utilization, with safeguards
 22.32 to ensure that necessary services are provided. If a county implements a demonstration or

23.1 experimental medical services funding plan, the commissioner shall transfer the money as
 23.2 appropriate.

23.3 (c) A culturally specific vendor that provides assessments under a variance under
 23.4 Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons
 23.5 not covered by the variance.

23.6 (d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, an individual may
 23.7 choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals
 23.8 obtaining a comprehensive assessment may access any enrolled provider that is licensed to
 23.9 provide the level of service authorized pursuant to section 254A.19, subdivision 3, paragraph
 23.10 (d). If the individual is enrolled in a prepaid health plan, the individual must comply with
 23.11 any provider network requirements or limitations.

23.12 (e) Beginning July 1, 2022, local agencies shall not make placement location
 23.13 determinations.

23.14 Sec. 56. Minnesota Statutes 2020, section 254B.03, subdivision 2, is amended to read:

23.15 Subd. 2. **Chemical dependency fund payment.** (a) Payment from the chemical
 23.16 dependency fund is limited to payments for services other than detoxification licensed under
 23.17 Minnesota Rules, parts 9530.6510 to 9530.6590, ~~that, if located outside of federally~~
 23.18 ~~recognized tribal lands, would be required to be licensed by the commissioner as a chemical~~
 23.19 ~~dependency treatment or rehabilitation program under sections 245A.01 to 245A.16, services~~
 23.20 identified in section 254B.05, and services other than detoxification provided in another
 23.21 state that would be required to be licensed as a chemical dependency program if the program
 23.22 were in the state. Out of state vendors must also provide the commissioner with assurances
 23.23 that the program complies substantially with state licensing requirements and possesses all
 23.24 licenses and certifications required by the host state to provide chemical dependency
 23.25 treatment. Vendors receiving payments from the chemical dependency fund must not require
 23.26 co-payment from a recipient of benefits for services provided under this subdivision. The
 23.27 vendor is prohibited from using the client's public benefits to offset the cost of services paid
 23.28 under this section. The vendor shall not require the client to use public benefits for room
 23.29 or board costs. This includes but is not limited to cash assistance benefits under chapters
 23.30 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP benefits is a right of a client
 23.31 receiving services through the consolidated chemical dependency treatment fund or through
 23.32 state contracted managed care entities. Payment from the chemical dependency fund shall
 23.33 be made for necessary room and board costs provided by vendors meeting the criteria under

24.1 section 254B.05, subdivision 1a, or in a community hospital licensed by the commissioner
24.2 of health according to sections 144.50 to 144.56 to a client who is:

24.3 (1) determined to meet the criteria for placement in a residential chemical dependency
24.4 treatment program according to rules adopted under section 254A.03, subdivision 3; and

24.5 (2) concurrently receiving a chemical dependency treatment service in a program licensed
24.6 by the commissioner and reimbursed by the chemical dependency fund.

24.7 (b) A county may, from its own resources, provide chemical dependency services for
24.8 which state payments are not made. A county may elect to use the same invoice procedures
24.9 and obtain the same state payment services as are used for chemical dependency services
24.10 for which state payments are made under this section if county payments are made to the
24.11 state in advance of state payments to vendors. When a county uses the state system for
24.12 payment, the commissioner shall make monthly billings to the county using the most recent
24.13 available information to determine the anticipated services for which payments will be made
24.14 in the coming month. Adjustment of any overestimate or underestimate based on actual
24.15 expenditures shall be made by the state agency by adjusting the estimate for any succeeding
24.16 month.

24.17 (c) The commissioner shall coordinate chemical dependency services and determine
24.18 whether there is a need for any proposed expansion of chemical dependency treatment
24.19 services. The commissioner shall deny vendor certification to any provider that has not
24.20 received prior approval from the commissioner for the creation of new programs or the
24.21 expansion of existing program capacity. The commissioner shall consider the provider's
24.22 capacity to obtain clients from outside the state based on plans, agreements, and previous
24.23 utilization history, when determining the need for new treatment services.

24.24 Sec. 57. Minnesota Statutes 2020, section 254B.03, subdivision 4, is amended to read:

24.25 Subd. 4. **Division of costs.** (a) Except for services provided by a county under section
24.26 254B.09, subdivision 1, or services provided under section 256B.69, the county shall, out
24.27 of local money, pay the state for 22.95 percent of the cost of ~~chemical dependency~~ substance
24.28 use disorder services, except for those services provided to persons enrolled in medical
24.29 assistance under chapter 256B and room and board services under section 254B.05,
24.30 subdivision 5, paragraph (b), clause (12). Counties may use the indigent hospitalization
24.31 levy for treatment and hospital payments made under this section.

25.1 (b) 22.95 percent of any state collections from private or third-party pay, less 15 percent
 25.2 for the cost of payment and collections, must be distributed to the county that paid for a
 25.3 portion of the treatment under this section.

25.4 Sec. 58. Minnesota Statutes 2020, section 254B.04, subdivision 1, is amended to read:

25.5 Subdivision 1. **Eligibility.** (a) Persons eligible for benefits under Code of Federal
 25.6 Regulations, title 25, part 20, who meet the income standards of section 256B.056,
 25.7 subdivision 4, and are not enrolled in medical assistance, are entitled to ~~chemical dependency~~
 25.8 behavioral health fund services. State money appropriated for this paragraph must be placed
 25.9 in a separate account established for this purpose.

25.10 (b) Persons with dependent children who are determined to be in need of ~~chemical~~
 25.11 ~~dependency~~ substance use disorder treatment pursuant to an assessment under section
 25.12 260E.20, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212,
 25.13 shall be assisted by the local agency to access needed treatment services. Treatment services
 25.14 must be appropriate for the individual or family, which may include long-term care treatment
 25.15 or treatment in a facility that allows the dependent children to stay in the treatment facility.
 25.16 The county shall pay for out-of-home placement costs, if applicable.

25.17 (c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible
 25.18 for room and board services under section 254B.05, subdivision 5, paragraph (b), clause
 25.19 (12).

25.20 Sec. 59. Minnesota Statutes 2020, section 254B.05, subdivision 1a, is amended to read:

25.21 Subd. 1a. **Room and board provider requirements.** (a) ~~Effective January 1, 2000,~~
 25.22 Vendors of room and board are eligible for ~~chemical dependency~~ behavioral health fund
 25.23 payment if the vendor:

25.24 (1) has rules prohibiting residents bringing ~~chemicals~~ substances into the facility or using
 25.25 ~~chemicals~~ substances while residing in the facility and provide consequences for infractions
 25.26 of those rules;

25.27 (2) is determined to meet applicable health and safety requirements;

25.28 (3) is not a jail or prison;

25.29 (4) is not concurrently receiving funds under chapter 256I for the recipient;

25.30 (5) admits individuals who are 18 years of age or older;

26.1 (6) is registered as a board and lodging or lodging establishment according to section
26.2 157.17;

26.3 (7) has awake staff on site 24 hours per day;

26.4 (8) has staff who are at least 18 years of age and meet the requirements of section
26.5 245G.11, subdivision 1, paragraph (b);

26.6 (9) has emergency behavioral procedures that meet the requirements of section 245G.16;

26.7 (10) meets the requirements of section 245G.08, subdivision 5, if administering
26.8 medications to clients;

26.9 (11) meets the abuse prevention requirements of section 245A.65, including a policy on
26.10 fraternization and the mandatory reporting requirements of section 626.557;

26.11 (12) documents coordination with the treatment provider to ensure compliance with
26.12 section 254B.03, subdivision 2;

26.13 (13) protects client funds and ensures freedom from exploitation by meeting the
26.14 provisions of section 245A.04, subdivision 13;

26.15 (14) has a grievance procedure that meets the requirements of section 245G.15,
26.16 subdivision 2; and

26.17 (15) has sleeping and bathroom facilities for men and women separated by a door that
26.18 is locked, has an alarm, or is supervised by awake staff.

26.19 (b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from
26.20 paragraph (a), clauses (5) to (15).

26.21 (c) Licensed programs providing intensive residential treatment services or residential
26.22 crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors
26.23 of room and board and are exempt from paragraph (a), clauses (6) to (15).

26.24 Sec. 60. Minnesota Statutes 2020, section 254B.05, subdivision 1b, is amended to read:

26.25 Subd. 1b. **Additional vendor requirements.** Vendors must comply with the following
26.26 duties:

26.27 (1) maintain a provider agreement with the department;

26.28 (2) continually comply with the standards in the agreement;

26.29 (3) participate in the Drug Alcohol Normative Evaluation System;

27.1 (4) submit an annual financial statement which reports functional expenses of ~~chemical~~
 27.2 ~~dependency~~ substance use disorder treatment costs in a form approved by the commissioner;

27.3 (5) report information about the vendor's current capacity in a manner prescribed by the
 27.4 commissioner; and

27.5 (6) maintain adequate and appropriate insurance coverage necessary to provide ~~chemical~~
 27.6 ~~dependency~~ substance use disorder treatment services, and at a minimum:

27.7 (i) employee dishonesty in the amount of \$10,000 if the vendor has or had custody or
 27.8 control of money or property belonging to clients; and

27.9 (ii) bodily injury and property damage in the amount of \$2,000,000 for each occurrence,
 27.10 except that a county or a county joint powers entity who is otherwise an eligible vendor
 27.11 shall be subject to the limits on liability under section 466.04.

27.12 Sec. 61. Minnesota Statutes 2020, section 254B.05, subdivision 4, is amended to read:

27.13 Subd. 4. **Regional treatment centers.** Regional treatment center ~~chemical dependency~~
 27.14 substance use disorder treatment units are eligible vendors. The commissioner may expand
 27.15 the capacity of ~~chemical dependency~~ substance use disorder treatment units beyond the
 27.16 capacity funded by direct legislative appropriation to serve individuals who are referred for
 27.17 treatment by counties and whose treatment will be paid for by funding under this chapter
 27.18 or other funding sources. Notwithstanding the provisions of sections 254B.03 to 254B.041,
 27.19 payment for any person committed at county request to a regional treatment center under
 27.20 chapter 253B for ~~chemical dependency~~ substance use disorder treatment and determined to
 27.21 be ineligible under the ~~chemical dependency consolidated treatment~~ behavioral health fund,
 27.22 shall become the responsibility of the county.

27.23 Sec. 62. Minnesota Statutes 2020, section 254B.05, subdivision 5, is amended to read:

27.24 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance
 27.25 use disorder services and service enhancements funded under this chapter.

27.26 (b) Eligible substance use disorder treatment services include:

27.27 (1) outpatient treatment services that are licensed according to sections 245G.01 to
 27.28 245G.17, or applicable tribal license;

27.29 (2) comprehensive assessments provided according to sections 245.4863, paragraph (a),
 27.30 and 245G.05;

- 28.1 (3) care coordination services provided according to section 245G.07, subdivision 1,
28.2 paragraph (a), clause (5);
- 28.3 (4) peer recovery support services provided according to section 245G.07, subdivision
28.4 2, clause (8);
- 28.5 (5) ~~on July 1, 2019, or upon federal approval, whichever is later,~~ withdrawal management
28.6 services provided according to chapter 245F;
- 28.7 (6) medication-assisted therapy services that are licensed according to sections 245G.01
28.8 to 245G.17 and 245G.22, or applicable tribal license;
- 28.9 (7) medication-assisted therapy plus enhanced treatment services that meet the
28.10 requirements of clause (6) and provide nine hours of clinical services each week;
- 28.11 (8) high, medium, and low intensity residential treatment services that are licensed
28.12 according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which
28.13 provide, respectively, 30, 15, and five hours of clinical services each week;
- 28.14 (9) hospital-based treatment services that are licensed according to sections 245G.01 to
28.15 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to
28.16 144.56;
- 28.17 (10) adolescent treatment programs that are licensed as outpatient treatment programs
28.18 according to sections 245G.01 to 245G.18 or as residential treatment programs according
28.19 to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or
28.20 applicable tribal license;
- 28.21 (11) high-intensity residential treatment services that are licensed according to sections
28.22 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of
28.23 clinical services each week provided by a state-operated vendor or to clients who have been
28.24 civilly committed to the commissioner, present the most complex and difficult care needs,
28.25 and are a potential threat to the community; and
- 28.26 (12) room and board facilities that meet the requirements of subdivision 1a.
- 28.27 (c) The commissioner shall establish higher rates for programs that meet the requirements
28.28 of paragraph (b) and one of the following additional requirements:
- 28.29 (1) programs that serve parents with their children if the program:
- 28.30 (i) provides on-site child care during the hours of treatment activity that:
- 28.31 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter
28.32 9503; or

29.1 (B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph
29.2 (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or

29.3 (ii) arranges for off-site child care during hours of treatment activity at a facility that is
29.4 licensed under chapter 245A as:

29.5 (A) a child care center under Minnesota Rules, chapter 9503; or

29.6 (B) a family child care home under Minnesota Rules, chapter 9502;

29.7 (2) culturally specific programs as defined in section 254B.01, subdivision 4a, or
29.8 programs or subprograms serving special populations, if the program or subprogram meets
29.9 the following requirements:

29.10 (i) is designed to address the unique needs of individuals who share a common language,
29.11 racial, ethnic, or social background;

29.12 (ii) is governed with significant input from individuals of that specific background; and

29.13 (iii) employs individuals to provide individual or group therapy, at least 50 percent of
29.14 whom are of that specific background, except when the common social background of the
29.15 individuals served is a traumatic brain injury or cognitive disability and the program employs
29.16 treatment staff who have the necessary professional training, as approved by the
29.17 commissioner, to serve clients with the specific disabilities that the program is designed to
29.18 serve;

29.19 (3) programs that offer medical services delivered by appropriately credentialed health
29.20 care staff in an amount equal to two hours per client per week if the medical needs of the
29.21 client and the nature and provision of any medical services provided are documented in the
29.22 client file; and

29.23 (4) programs that offer services to individuals with co-occurring mental health and
29.24 ~~chemical dependency~~ substance use disorder problems if:

29.25 (i) the program meets the co-occurring requirements in section 245G.20;

29.26 (ii) 25 percent of the counseling staff are licensed mental health professionals, as defined
29.27 in section 245.462, subdivision 18, clauses (1) to (6), or are students or licensing candidates
29.28 under the supervision of a licensed alcohol and drug counselor supervisor and licensed
29.29 mental health professional, except that no more than 50 percent of the mental health staff
29.30 may be students or licensing candidates with time documented to be directly related to
29.31 provisions of co-occurring services;

30.1 (iii) clients scoring positive on a standardized mental health screen receive a mental
30.2 health diagnostic assessment within ten days of admission;

30.3 (iv) the program has standards for multidisciplinary case review that include a monthly
30.4 review for each client that, at a minimum, includes a licensed mental health professional
30.5 and licensed alcohol and drug counselor, and their involvement in the review is documented;

30.6 (v) family education is offered that addresses mental health and substance abuse disorders
30.7 and the interaction between the two; and

30.8 (vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder
30.9 training annually.

30.10 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program
30.11 that provides arrangements for off-site child care must maintain current documentation at
30.12 the ~~chemical dependency~~ substance use disorder facility of the child care provider's current
30.13 licensure to provide child care services. Programs that provide child care according to
30.14 paragraph (c), clause (1), must be deemed in compliance with the licensing requirements
30.15 in section 245G.19.

30.16 (e) Adolescent residential programs that meet the requirements of Minnesota Rules,
30.17 parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements
30.18 in paragraph (c), clause (4), items (i) to (iv).

30.19 (f) Subject to federal approval, ~~chemical dependency~~ substance use disorder services
30.20 that are otherwise covered as direct face-to-face services may be provided via two-way
30.21 interactive video. The use of two-way interactive video must be medically appropriate to
30.22 the condition and needs of the person being served. Reimbursement shall be at the same
30.23 rates and under the same conditions that would otherwise apply to direct face-to-face services.
30.24 The interactive video equipment and connection must comply with Medicare standards in
30.25 effect at the time the service is provided.

30.26 (g) For the purpose of reimbursement under this section, substance use disorder treatment
30.27 services provided in a group setting without a group participant maximum or maximum
30.28 client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one.
30.29 At least one of the attending staff must meet the qualifications as established under this
30.30 chapter for the type of treatment service provided. A recovery peer may not be included as
30.31 part of the staff ratio.

31.1 Sec. 63. Minnesota Statutes 2020, section 254B.051, is amended to read:

31.2 **254B.051 SUBSTANCE USE DISORDER TREATMENT EFFECTIVENESS.**

31.3 In addition to the substance use disorder treatment program performance outcome
 31.4 measures that the commissioner of human services collects annually from treatment providers,
 31.5 the commissioner shall request additional data from programs that receive appropriations
 31.6 from the ~~consolidated chemical dependency treatment~~ behavioral health fund. This data
 31.7 shall include the number of client readmissions six months after release from inpatient
 31.8 treatment; and the cost of treatment per person for each program receiving ~~consolidated~~
 31.9 ~~chemical dependency treatment~~ behavioral health funds. The commissioner may post this
 31.10 data on the department website.

31.11 Sec. 64. Minnesota Statutes 2020, section 254B.06, subdivision 1, is amended to read:

31.12 Subdivision 1. **State collections.** The commissioner is responsible for all collections
 31.13 from persons determined to be partially responsible for the cost of care of an eligible person
 31.14 receiving services under ~~Laws 1986, chapter 394, sections 8 to 20~~ sections 254B.01 to
 31.15 254B.09; 256B.02, subdivision 8; and 256B.70. The commissioner may initiate, or request
 31.16 the attorney general to initiate, necessary civil action to recover the unpaid cost of care. The
 31.17 commissioner may collect all third-party payments for ~~chemical dependency~~ substance use
 31.18 disorder services provided under ~~Laws 1986, chapter 394, sections 8 to 20~~ sections 254B.01
 31.19 to 254B.09; 256B.02, subdivision 8; and 256B.70, including private insurance and federal
 31.20 Medicaid and Medicare financial participation. The remaining receipts must be deposited
 31.21 in the ~~chemical dependency~~ behavioral health fund.

31.22 Sec. 65. Minnesota Statutes 2020, section 254B.06, subdivision 3, is amended to read:

31.23 Subd. 3. **Payment; denial.** The commissioner shall pay eligible vendors for placements
 31.24 made by local agencies under section 254B.03, subdivision 1, and placements by tribal
 31.25 designated agencies according to section 254B.09. The commissioner may reduce or deny
 31.26 payment of the state share when services are not provided according to the placement criteria
 31.27 established by the commissioner. The commissioner may pay for all or a portion of improper
 31.28 county ~~chemical dependency~~ substance use disorder placements and bill the county for the
 31.29 entire payment made when the placement did not comply with criteria established by the
 31.30 commissioner. The commissioner may make payments to vendors and charge the county
 31.31 100 percent of the payments if documentation of a county approved placement is received
 31.32 more than 30 working days, exclusive of weekends and holidays, after the date services

32.1 began. The commissioner shall not pay vendors until private insurance company claims
32.2 have been settled.

32.3 Sec. 66. Minnesota Statutes 2020, section 254B.12, is amended to read:

32.4 **254B.12 RATE METHODOLOGY.**

32.5 Subdivision 1. ~~CCDTF~~ **Behavioral health fund rate methodology established.** The
32.6 commissioner shall establish a new rate methodology for the ~~consolidated-chemical~~
32.7 ~~dependency-treatment~~ behavioral health fund. The new methodology must replace
32.8 county-negotiated rates with a uniform statewide methodology that must include a graduated
32.9 reimbursement scale based on the patients' level of acuity and complexity. At least biennially,
32.10 the commissioner shall review the financial information provided by vendors to determine
32.11 the need for rate adjustments.

32.12 Subd. 2. **Payment methodology for highly specialized vendors.** Notwithstanding
32.13 subdivision 1, ~~the commissioner shall seek federal authority to develop the following separate~~
32.14 ~~payment methodologies for substance use disorder treatment services provided under the~~
32.15 ~~consolidated-chemical-dependency-treatment~~ behavioral health fund exist: (1) by a
32.16 state-operated vendor; or (2) for persons who have been civilly committed to the
32.17 commissioner, present the most complex and difficult care needs, and are a potential threat
32.18 to the community. ~~A payment methodology under this subdivision is effective for services~~
32.19 ~~provided on or after October 1, 2015, or on or after the receipt of federal approval, whichever~~
32.20 ~~is later.~~

32.21 Subd. 3. ~~Chemical-dependency~~ **Substance use disorder provider rate increase.** For
32.22 the ~~chemical-dependency~~ substance use disorder services listed in section 254B.05,
32.23 subdivision 5, and provided on or after July 1, 2017, payment rates shall be increased by
32.24 one percent over the rates in effect on January 1, 2017, for vendors who meet the
32.25 requirements of section 254B.05.

32.26 Sec. 67. Minnesota Statutes 2020, section 254B.13, subdivision 1, is amended to read:

32.27 Subdivision 1. **Authorization for navigator pilot projects.** The commissioner may
32.28 approve and implement navigator pilot projects developed under the planning process
32.29 required under Laws 2009, chapter 79, article 7, section 26, to provide alternatives to and
32.30 enhance coordination of the delivery of ~~chemical-health~~ substance use disorder services
32.31 required under section 254B.03.

33.1 Sec. 68. Minnesota Statutes 2020, section 254B.13, subdivision 2a, is amended to read:

33.2 Subd. 2a. **Eligibility for navigator pilot program.** (a) To be considered for participation
33.3 in a navigator pilot program, an individual must:

33.4 (1) be a resident of a county with an approved navigator program;

33.5 (2) be eligible for ~~consolidated chemical dependency treatment~~ behavioral health fund
33.6 services;

33.7 (3) be a voluntary participant in the navigator program;

33.8 (4) satisfy one of the following items:

33.9 (i) have at least one severity rating of three or above in dimension four, five, or six in a
33.10 comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4)
33.11 to (6); or

33.12 (ii) have at least one severity rating of two or above in dimension four, five, or six in a
33.13 comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4)
33.14 to (6), and be currently participating in a Rule 31 treatment program under chapter 245G
33.15 or be within 60 days following discharge after participation in a Rule 31 treatment program;
33.16 and

33.17 (5) have had at least two treatment episodes in the past two years, not limited to episodes
33.18 reimbursed by the ~~consolidated chemical dependency treatment~~ behavioral health funds.

33.19 An admission to an emergency room, a detoxification program, or a hospital may be
33.20 substituted for one treatment episode if it resulted from the individual's substance use
33.21 disorder.

33.22 (b) New eligibility criteria may be added as mutually agreed upon by the commissioner
33.23 and participating navigator programs.

33.24 Sec. 69. Minnesota Statutes 2020, section 254B.13, subdivision 5, is amended to read:

33.25 Subd. 5. **Duties of commissioner.** (a) For purposes of this subdivision, "nontreatment
33.26 navigator pilot services" includes navigator services, peer support, family engagement and
33.27 support, housing support, rent subsidies, supported employment, and independent living
33.28 skills.

33.29 ~~(a)~~ (b) Notwithstanding any other provisions in this chapter, the commissioner may
33.30 authorize navigator pilot projects to use ~~chemical dependency treatment~~ behavioral health
33.31 funds to pay for nontreatment navigator pilot services:

34.1 (1) in addition to those authorized under section 254B.03, subdivision 2, paragraph (a);
 34.2 and

34.3 (2) by vendors in addition to those authorized under section 254B.05 when not providing
 34.4 ~~chemical dependency~~ substance use disorder treatment services.

34.5 ~~(b) For purposes of this section, "nontreatment navigator pilot services" include navigator~~
 34.6 ~~services, peer support, family engagement and support, housing support, rent subsidies,~~
 34.7 ~~supported employment, and independent living skills.~~

34.8 (c) State expenditures for ~~chemical dependency~~ substance use disorder services and
 34.9 nontreatment navigator pilot services provided by or through the navigator pilot projects
 34.10 must not be greater than the ~~chemical dependency~~ behavioral health treatment fund expected
 34.11 share of forecasted expenditures in the absence of the navigator pilot projects. The
 34.12 commissioner may restructure the schedule of payments between the state and participating
 34.13 counties under the local agency share and division of cost provisions under section 254B.03,
 34.14 subdivisions 3 and 4, as necessary to facilitate the operation of the navigator pilot projects.

34.15 (d) The commissioner may waive administrative rule requirements that are incompatible
 34.16 with the implementation of the navigator pilot project, except that any ~~chemical dependency~~
 34.17 substance use disorder treatment funded under this section must continue to be provided by
 34.18 a licensed treatment provider.

34.19 (e) The commissioner shall not approve or enter into any agreement related to navigator
 34.20 pilot projects authorized under this section that puts current or future federal funding at risk.

34.21 (f) The commissioner shall provide participating navigator pilot projects with transactional
 34.22 data, reports, provider data, and other data generated by county activity to assess and measure
 34.23 outcomes. This information must be transmitted or made available in an acceptable form
 34.24 to participating navigator pilot projects at least once every six months or within a reasonable
 34.25 time following the commissioner's receipt of information from the counties needed to comply
 34.26 with this paragraph.

34.27 Sec. 70. Minnesota Statutes 2020, section 254B.13, subdivision 6, is amended to read:

34.28 Subd. 6. **Duties of county board.** The county board, or other county entity that is
 34.29 approved to administer a navigator pilot project, shall:

34.30 (1) administer the navigator pilot project in a manner consistent with the objectives
 34.31 described in subdivision 2 and the planning process in subdivision 5;

35.1 (2) ensure that no one is denied ~~chemical dependency~~ substance use disorder treatment
 35.2 services for which they would otherwise be eligible under section 254A.03, subdivision 3;
 35.3 and

35.4 (3) provide the commissioner with timely and pertinent information as negotiated in
 35.5 agreements governing operation of the navigator pilot projects.

35.6 Sec. 71. Minnesota Statutes 2020, section 254B.14, subdivision 1, is amended to read:

35.7 Subdivision 1. **Authorization for continuum of care pilot projects.** The commissioner
 35.8 shall establish ~~chemical dependency~~ substance use disorder continuum of care pilot projects
 35.9 to begin implementing the measures developed with stakeholder input and identified in the
 35.10 report completed pursuant to Laws 2012, chapter 247, article 5, section 8. The pilot projects
 35.11 are intended to improve the effectiveness and efficiency of the service continuum for
 35.12 ~~chemically dependent~~ individuals with substance use disorders in Minnesota while reducing
 35.13 duplication of efforts and promoting scientifically supported practices.

35.14 Sec. 72. Minnesota Statutes 2020, section 254B.14, subdivision 5, is amended to read:

35.15 Subd. 5. **Duties of commissioner.** (a) Notwithstanding any other provisions in this
 35.16 chapter, the commissioner may authorize ~~chemical dependency treatment~~ behavioral health
 35.17 funds to pay for nontreatment services arranged by continuum of care pilot projects.
 35.18 Individuals who are currently accessing Rule 31 treatment services are eligible for concurrent
 35.19 participation in the continuum of care pilot projects.

35.20 (b) County expenditures for continuum of care pilot project services shall not be greater
 35.21 than their expected share of forecasted expenditures in the absence of the continuum of care
 35.22 pilot projects.

35.23 Sec. 73. Minnesota Statutes 2020, section 256.042, subdivision 2, is amended to read:

35.24 Subd. 2. **Membership.** (a) The council shall consist of the following 19 voting members,
 35.25 appointed by the commissioner of human services except as otherwise specified, and three
 35.26 nonvoting members:

35.27 (1) two members of the house of representatives, appointed in the following sequence:
 35.28 the first from the majority party appointed by the speaker of the house and the second from
 35.29 the minority party appointed by the minority leader. Of these two members, one member
 35.30 must represent a district outside of the seven-county metropolitan area, and one member
 35.31 must represent a district that includes the seven-county metropolitan area. The appointment

36.1 by the minority leader must ensure that this requirement for geographic diversity in
36.2 appointments is met;

36.3 (2) two members of the senate, appointed in the following sequence: the first from the
36.4 majority party appointed by the senate majority leader and the second from the minority
36.5 party appointed by the senate minority leader. Of these two members, one member must
36.6 represent a district outside of the seven-county metropolitan area and one member must
36.7 represent a district that includes the seven-county metropolitan area. The appointment by
36.8 the minority leader must ensure that this requirement for geographic diversity in appointments
36.9 is met;

36.10 (3) one member appointed by the Board of Pharmacy;

36.11 (4) one member who is a physician appointed by the Minnesota Medical Association;

36.12 (5) one member representing opioid treatment programs, sober living programs, or
36.13 substance use disorder programs licensed under chapter 245G;

36.14 (6) one member appointed by the Minnesota Society of Addiction Medicine who is an
36.15 addiction psychiatrist;

36.16 (7) one member representing professionals providing alternative pain management
36.17 therapies, including, but not limited to, acupuncture, chiropractic, or massage therapy;

36.18 (8) one member representing nonprofit organizations conducting initiatives to address
36.19 the opioid epidemic, with the commissioner's initial appointment being a member
36.20 representing the Steve Rumlmer Hope Network, and subsequent appointments representing
36.21 this or other organizations;

36.22 (9) one member appointed by the Minnesota Ambulance Association who is serving
36.23 with an ambulance service as an emergency medical technician, advanced emergency
36.24 medical technician, or paramedic;

36.25 (10) one member representing the Minnesota courts who is a judge or law enforcement
36.26 officer;

36.27 (11) one public member who is a Minnesota resident and who is in opioid addiction
36.28 recovery;

36.29 (12) two members representing Indian tribes, one representing the Ojibwe tribes and
36.30 one representing the Dakota tribes;

36.31 (13) one public member who is a Minnesota resident and who is suffering from chronic
36.32 pain, intractable pain, or a rare disease or condition;

- 37.1 (14) one mental health advocate representing persons with mental illness;
- 37.2 (15) one member appointed by the Minnesota Hospital Association;
- 37.3 (16) one member representing a local health department; and
- 37.4 (17) the commissioners of human services, health, and corrections, or their designees,
- 37.5 who shall be ex officio nonvoting members of the council.

37.6 (b) The commissioner of human services shall coordinate the commissioner's

37.7 appointments to provide geographic, racial, and gender diversity, and shall ensure that at

37.8 least one-half of council members appointed by the commissioner reside outside of the

37.9 seven-county metropolitan area. Of the members appointed by the commissioner, to the

37.10 extent practicable, at least one member must represent a community of color

37.11 disproportionately affected by the opioid epidemic.

37.12 (c) The council is governed by section 15.059, except that members of the council shall

37.13 serve three-year terms and shall receive no compensation other than reimbursement for

37.14 expenses. Notwithstanding section 15.059, subdivision 6, the council shall not expire. The

37.15 three-year term for members in paragraph (a), clauses (1), (3), (5), (7), (9), (11), (13), (15),

37.16 and (17), ends on September 30, 2022. The three-year term for members in paragraph (a),

37.17 clauses (2), (4), (6), (8), (10), (12), (14), and (16), ends on September 30, 2023.

37.18 (d) The chair shall convene the council at least quarterly, and may convene other meetings

37.19 as necessary. The chair shall convene meetings at different locations in the state to provide

37.20 geographic access, and shall ensure that at least one-half of the meetings are held at locations

37.21 outside of the seven-county metropolitan area.

37.22 (e) The commissioner of human services shall provide staff and administrative services

37.23 for the advisory council.

37.24 (f) The council is subject to chapter 13D.

37.25 Sec. 74. Minnesota Statutes 2020, section 256.042, subdivision 4, is amended to read:

37.26 Subd. 4. **Grants.** (a) The commissioner of human services shall submit a report of the

37.27 grants proposed by the advisory council to be awarded ~~for the upcoming fiscal year~~ to the

37.28 chairs and ranking minority members of the legislative committees with jurisdiction over

37.29 health and human services policy and finance, by ~~March~~ December 1 of each year, beginning

37.30 ~~March 1, 2020~~ December 1, 2021, or as soon as the information becomes available thereafter.

37.31 (b) The commissioner of human services shall award grants from the opiate epidemic

37.32 response fund under section 256.043. The grants shall be awarded to proposals selected by

38.1 the advisory council that address the priorities in subdivision 1, paragraph (a), clauses (1)
38.2 to (4), unless otherwise appropriated by the legislature. The council shall determine grant
38.3 awards and funding amounts. The commissioner of human services shall administer grants
38.4 from the opiate epidemic response fund in compliance with section 16B.97. No more than
38.5 three ten percent of the grant amount may be used by a grantee for administration.

38.6 Sec. 75. Minnesota Statutes 2020, section 256B.051, subdivision 1, is amended to read:

38.7 Subdivision 1. **Purpose.** Housing ~~support~~ stabilization services are established to provide
38.8 housing ~~support~~ stabilization services to an individual with a disability that limits the
38.9 individual's ability to obtain or maintain stable housing. The services support an individual's
38.10 transition to housing in the community and increase long-term stability in housing, to avoid
38.11 future periods of being at risk of homelessness or institutionalization.

38.12 Sec. 76. Minnesota Statutes 2020, section 256B.051, subdivision 3, is amended to read:

38.13 Subd. 3. **Eligibility.** An individual with a disability is eligible for housing ~~support~~
38.14 stabilization services if the individual:

38.15 (1) is 18 years of age or older;

38.16 (2) is enrolled in medical assistance;

38.17 (3) has an assessment of functional need that determines a need for services due to
38.18 limitations caused by the individual's disability;

38.19 (4) resides in or plans to transition to a community-based setting as defined in Code of
38.20 Federal Regulations, title 42, section 441.301 (c); and

38.21 (5) has housing instability evidenced by:

38.22 (i) being homeless or at-risk of homelessness;

38.23 (ii) being in the process of transitioning from, or having transitioned in the past six
38.24 months from, an institution or licensed or registered setting;

38.25 (iii) being eligible for waiver services under chapter 256S or section 256B.092 or
38.26 256B.49; or

38.27 (iv) having been identified by a long-term care consultation under section 256B.0911
38.28 as at risk of institutionalization.

- 39.1 Sec. 77. Minnesota Statutes 2020, section 256B.051, subdivision 5, is amended to read:
- 39.2 Subd. 5. **Housing ~~support~~ stabilization services.** (a) Housing ~~support~~ stabilization
- 39.3 services include housing transition services and housing and tenancy sustaining services.
- 39.4 (b) Housing transition services are defined as:
- 39.5 (1) tenant screening and housing assessment;
- 39.6 (2) assistance with the housing search and application process;
- 39.7 (3) identifying resources to cover onetime moving expenses;
- 39.8 (4) ensuring a new living arrangement is safe and ready for move-in;
- 39.9 (5) assisting in arranging for and supporting details of a move; and
- 39.10 (6) developing a housing support crisis plan.
- 39.11 (c) Housing and tenancy sustaining services include:
- 39.12 (1) prevention and early identification of behaviors that may jeopardize continued stable
- 39.13 housing;
- 39.14 (2) education and training on roles, rights, and responsibilities of the tenant and the
- 39.15 property manager;
- 39.16 (3) coaching to develop and maintain key relationships with property managers and
- 39.17 neighbors;
- 39.18 (4) advocacy and referral to community resources to prevent eviction when housing is
- 39.19 at risk;
- 39.20 (5) assistance with housing recertification process;
- 39.21 (6) coordination with the tenant to regularly review, update, and modify the housing
- 39.22 support and crisis plan; and
- 39.23 (7) continuing training on being a good tenant, lease compliance, and household
- 39.24 management.
- 39.25 (d) A housing ~~support~~ stabilization service may include person-centered planning for
- 39.26 people who are not eligible to receive person-centered planning through any other service,
- 39.27 if the person-centered planning is provided by a consultation service provider that is under
- 39.28 contract with the department and enrolled as a Minnesota health care program.

40.1 Sec. 78. Minnesota Statutes 2020, section 256B.051, subdivision 6, is amended to read:

40.2 Subd. 6. **Provider qualifications and duties.** A provider eligible for reimbursement
40.3 under this section shall:

40.4 (1) enroll as a medical assistance Minnesota health care program provider and meet all
40.5 applicable provider standards and requirements;

40.6 (2) demonstrate compliance with federal and state laws and policies for housing ~~support~~
40.7 stabilization services as determined by the commissioner;

40.8 (3) comply with background study requirements under chapter 245C and maintain
40.9 documentation of background study requests and results; ~~and~~

40.10 (4) directly provide housing ~~support~~ stabilization services and not use a subcontractor
40.11 or reporting agent; and

40.12 (5) complete annual vulnerable adult training.

40.13 Sec. 79. Minnesota Statutes 2020, section 256B.051, subdivision 7, is amended to read:

40.14 Subd. 7. **Housing support supplemental service rates.** Supplemental service rates for
40.15 individuals in settings according to sections 144D.025, 256I.04, subdivision 3, paragraph
40.16 (a), clause (3), and 256I.05, subdivision 1g, shall be reduced by one-half over a two-year
40.17 period. This reduction only applies to supplemental service rates for individuals eligible for
40.18 housing ~~support~~ stabilization services under this section.

40.19 Sec. 80. Minnesota Statutes 2020, section 256B.051, is amended by adding a subdivision
40.20 to read:

40.21 Subd. 8. **Home and community-based service documentation requirements.** (a)
40.22 Documentation may be collected and maintained electronically or in paper form by providers
40.23 and must be produced upon request by the commissioner.

40.24 (b) Documentation of a delivered service must be in English and must be legible according
40.25 to the standard of a reasonable person.

40.26 (c) If the service is reimbursed at an hourly or specified minute-based rate, each
40.27 documentation of the provision of a service, unless otherwise specified, must include:

40.28 (1) the date the documentation occurred;

40.29 (2) the day, month, and year the service was provided;

41.1 (3) the start and stop times with a.m. and p.m. designations, except for person-centered
 41.2 planning services described under subdivision 5, paragraph (d);

41.3 (4) the service name or description of the service provided; and

41.4 (5) the name, signature, and title, if any, of the provider of service. If the service is
 41.5 provided by multiple staff members, the provider may designate a staff member responsible
 41.6 for verifying services and completing the documentation required by this paragraph.

41.7 Sec. 81. Minnesota Statutes 2020, section 256B.0947, subdivision 6, is amended to read:

41.8 Subd. 6. **Service standards.** The standards in this subdivision apply to intensive
 41.9 nonresidential rehabilitative mental health services.

41.10 (a) The treatment team must use team treatment, not an individual treatment model.

41.11 (b) Services must be available at times that meet client needs.

41.12 (c) Services must be age-appropriate and meet the specific needs of the client.

41.13 (d) The initial functional assessment must be completed within ten days of intake and
 41.14 updated at least every six months or prior to discharge from the service, whichever comes
 41.15 first.

41.16 (e) An individual treatment plan must be completed for each client and must:

41.17 (1) be based on the information in the client's diagnostic assessment and baselines;

41.18 (2) identify goals and objectives of treatment, a treatment strategy, a schedule for
 41.19 accomplishing treatment goals and objectives, and the individuals responsible for providing
 41.20 treatment services and supports;

41.21 (3) be developed after completion of the client's diagnostic assessment by a mental health
 41.22 professional or clinical trainee and before the provision of children's therapeutic services
 41.23 and supports;

41.24 (4) be developed through a child-centered, family-driven, culturally appropriate planning
 41.25 process, including allowing parents and guardians to observe or participate in individual
 41.26 and family treatment services, assessments, and treatment planning;

41.27 (5) be reviewed at least once every six months and revised to document treatment progress
 41.28 on each treatment objective and next goals or, if progress is not documented, to document
 41.29 changes in treatment;

41.30 (6) be signed by the clinical supervisor and by the client or by the client's parent or other
 41.31 person authorized by statute to consent to mental health services for the client. A client's

42.1 parent may approve the client's individual treatment plan by secure electronic signature or
42.2 by documented oral approval that is later verified by written signature;

42.3 (7) be completed in consultation with the client's current therapist and key providers and
42.4 provide for ongoing consultation with the client's current therapist to ensure therapeutic
42.5 continuity and to facilitate the client's return to the community. For clients under the age of
42.6 18, the treatment team must consult with parents and guardians in developing the treatment
42.7 plan;

42.8 (8) if a need for substance use disorder treatment is indicated by validated assessment:

42.9 (i) identify goals, objectives, and strategies of substance use disorder treatment; develop
42.10 a schedule for accomplishing treatment goals and objectives; and identify the individuals
42.11 responsible for providing treatment services and supports;

42.12 (ii) be reviewed at least once every 90 days and revised, if necessary;

42.13 (9) be signed by the clinical supervisor and by the client and, if the client is a minor, by
42.14 the client's parent or other person authorized by statute to consent to mental health treatment
42.15 and substance use disorder treatment for the client; and

42.16 (10) provide for the client's transition out of intensive nonresidential rehabilitative mental
42.17 health services by defining the team's actions to assist the client and subsequent providers
42.18 in the transition to less intensive or "stepped down" services.

42.19 (f) The treatment team shall actively and assertively engage the client's family members
42.20 and significant others by establishing communication and collaboration with the family and
42.21 significant others and educating the family and significant others about the client's mental
42.22 illness, symptom management, and the family's role in treatment, unless the team knows or
42.23 has reason to suspect that the client has suffered or faces a threat of suffering any physical
42.24 or mental injury, abuse, or neglect from a family member or significant other.

42.25 (g) For a client age 18 or older, the treatment team may disclose to a family member,
42.26 other relative, or a close personal friend of the client, or other person identified by the client,
42.27 the protected health information directly relevant to such person's involvement with the
42.28 client's care, as provided in Code of Federal Regulations, title 45, part 164.502(b). If the
42.29 client is present, the treatment team shall obtain the client's agreement, provide the client
42.30 with an opportunity to object, or reasonably infer from the circumstances, based on the
42.31 exercise of professional judgment, that the client does not object. If the client is not present
42.32 or is unable, by incapacity or emergency circumstances, to agree or object, the treatment
42.33 team may, in the exercise of professional judgment, determine whether the disclosure is in

43.1 the best interests of the client and, if so, disclose only the protected health information that
 43.2 is directly relevant to the family member's, relative's, friend's, or client-identified person's
 43.3 involvement with the client's health care. The client may orally agree or object to the
 43.4 disclosure and may prohibit or restrict disclosure to specific individuals.

43.5 (h) The treatment team shall provide interventions to promote positive interpersonal
 43.6 relationships.

43.7 Sec. 82. Minnesota Statutes 2020, section 256B.4912, subdivision 13, is amended to read:

43.8 Subd. 13. **Waiver transportation documentation and billing requirements.** (a) A
 43.9 waiver transportation service must be a waiver transportation service that: (1) is not covered
 43.10 by medical transportation under the Medicaid state plan; and (2) is not included as a
 43.11 component of another waiver service.

43.12 (b) In addition to the documentation requirements in subdivision 12, a waiver
 43.13 transportation service provider must maintain:

43.14 (1) odometer and other records pursuant to section 256B.0625, subdivision 17b, paragraph
 43.15 (b), clause (3), sufficient to distinguish an individual trip with a specific vehicle and driver
 43.16 for a waiver transportation service that is billed directly by the mile. A common carrier as
 43.17 defined by Minnesota Rules, part 9505.0315, subpart 1, item B, or a publicly operated transit
 43.18 system provider are exempt from this clause; and

43.19 (2) documentation demonstrating that a vehicle and a driver meet the ~~standards determined~~
 43.20 ~~by the Department of Human Services on vehicle and driver qualifications in section~~
 43.21 ~~256B.0625, subdivision 17, paragraph (e)~~ transportation waiver service provider standards
 43.22 and qualifications according to the federally approved waiver plan.

43.23 Sec. 83. Minnesota Statutes 2020, section 256B.69, subdivision 5a, is amended to read:

43.24 Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and
 43.25 section 256L.12 shall be entered into or renewed on a calendar year basis. The commissioner
 43.26 may issue separate contracts with requirements specific to services to medical assistance
 43.27 recipients age 65 and older.

43.28 (b) A prepaid health plan providing covered health services for eligible persons pursuant
 43.29 to chapters 256B and 256L is responsible for complying with the terms of its contract with
 43.30 the commissioner. Requirements applicable to managed care programs under chapters 256B
 43.31 and 256L established after the effective date of a contract with the commissioner take effect
 43.32 when the contract is next issued or renewed.

44.1 (c) The commissioner shall withhold five percent of managed care plan payments under
44.2 this section and county-based purchasing plan payments under section 256B.692 for the
44.3 prepaid medical assistance program pending completion of performance targets. Each
44.4 performance target must be quantifiable, objective, measurable, and reasonably attainable,
44.5 except in the case of a performance target based on a federal or state law or rule. Criteria
44.6 for assessment of each performance target must be outlined in writing prior to the contract
44.7 effective date. Clinical or utilization performance targets and their related criteria must
44.8 consider evidence-based research and reasonable interventions when available or applicable
44.9 to the populations served, and must be developed with input from external clinical experts
44.10 and stakeholders, including managed care plans, county-based purchasing plans, and
44.11 providers. The managed care or county-based purchasing plan must demonstrate, to the
44.12 commissioner's satisfaction, that the data submitted regarding attainment of the performance
44.13 target is accurate. The commissioner shall periodically change the administrative measures
44.14 used as performance targets in order to improve plan performance across a broader range
44.15 of administrative services. The performance targets must include measurement of plan
44.16 efforts to contain spending on health care services and administrative activities. The
44.17 commissioner may adopt plan-specific performance targets that take into account factors
44.18 affecting only one plan, including characteristics of the plan's enrollee population. The
44.19 withheld funds must be returned no sooner than July of the following year if performance
44.20 targets in the contract are achieved. The commissioner may exclude special demonstration
44.21 projects under subdivision 23.

44.22 (d) The commissioner shall require that managed care plans use the assessment and
44.23 authorization processes, forms, timelines, standards, documentation, and data reporting
44.24 requirements, protocols, billing processes, and policies consistent with medical assistance
44.25 fee-for-service or the Department of Human Services contract requirements for all personal
44.26 care assistance services under section 256B.0659 and community first services and supports
44.27 under section 256B.85.

44.28 (e) Effective for services rendered on or after January 1, 2012, the commissioner shall
44.29 include as part of the performance targets described in paragraph (c) a reduction in the health
44.30 plan's emergency department utilization rate for medical assistance and MinnesotaCare
44.31 enrollees, as determined by the commissioner. For 2012, the reduction shall be based on
44.32 the health plan's utilization in 2009. To earn the return of the withhold each subsequent
44.33 year, the managed care plan or county-based purchasing plan must achieve a qualifying
44.34 reduction of no less than ten percent of the plan's emergency department utilization rate for
44.35 medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described

45.1 in subdivisions 23 and 28, compared to the previous measurement year until the final
45.2 performance target is reached. When measuring performance, the commissioner must
45.3 consider the difference in health risk in a managed care or county-based purchasing plan's
45.4 membership in the baseline year compared to the measurement year, and work with the
45.5 managed care or county-based purchasing plan to account for differences that they agree
45.6 are significant.

45.7 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
45.8 the following calendar year if the managed care plan or county-based purchasing plan
45.9 demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate
45.10 was achieved. The commissioner shall structure the withhold so that the commissioner
45.11 returns a portion of the withheld funds in amounts commensurate with achieved reductions
45.12 in utilization less than the targeted amount.

45.13 The withhold described in this paragraph shall continue for each consecutive contract
45.14 period until the plan's emergency room utilization rate for state health care program enrollees
45.15 is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance
45.16 and MinnesotaCare enrollees for calendar year 2009. Hospitals shall cooperate with the
45.17 health plans in meeting this performance target and shall accept payment withholds that
45.18 may be returned to the hospitals if the performance target is achieved.

45.19 (f) Effective for services rendered on or after January 1, 2012, the commissioner shall
45.20 include as part of the performance targets described in paragraph (c) a reduction in the plan's
45.21 hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as
45.22 determined by the commissioner. To earn the return of the withhold each year, the managed
45.23 care plan or county-based purchasing plan must achieve a qualifying reduction of no less
45.24 than five percent of the plan's hospital admission rate for medical assistance and
45.25 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and
45.26 28, compared to the previous calendar year until the final performance target is reached.
45.27 When measuring performance, the commissioner must consider the difference in health risk
45.28 in a managed care or county-based purchasing plan's membership in the baseline year
45.29 compared to the measurement year, and work with the managed care or county-based
45.30 purchasing plan to account for differences that they agree are significant.

45.31 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
45.32 the following calendar year if the managed care plan or county-based purchasing plan
45.33 demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization
45.34 rate was achieved. The commissioner shall structure the withhold so that the commissioner

46.1 returns a portion of the withheld funds in amounts commensurate with achieved reductions
46.2 in utilization less than the targeted amount.

46.3 The withhold described in this paragraph shall continue until there is a 25 percent
46.4 reduction in the hospital admission rate compared to the hospital admission rates in calendar
46.5 year 2011, as determined by the commissioner. The hospital admissions in this performance
46.6 target do not include the admissions applicable to the subsequent hospital admission
46.7 performance target under paragraph (g). Hospitals shall cooperate with the plans in meeting
46.8 this performance target and shall accept payment withholds that may be returned to the
46.9 hospitals if the performance target is achieved.

46.10 (g) Effective for services rendered on or after January 1, 2012, the commissioner shall
46.11 include as part of the performance targets described in paragraph (c) a reduction in the plan's
46.12 hospitalization admission rates for subsequent hospitalizations within 30 days of a previous
46.13 hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare
46.14 enrollees, as determined by the commissioner. To earn the return of the withhold each year,
46.15 the managed care plan or county-based purchasing plan must achieve a qualifying reduction
46.16 of the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees,
46.17 excluding enrollees in programs described in subdivisions 23 and 28, of no less than five
46.18 percent compared to the previous calendar year until the final performance target is reached.

46.19 The withheld funds must be returned no sooner than July 1 and no later than July 31 of
46.20 the following calendar year if the managed care plan or county-based purchasing plan
46.21 demonstrates to the satisfaction of the commissioner that a qualifying reduction in the
46.22 subsequent hospitalization rate was achieved. The commissioner shall structure the withhold
46.23 so that the commissioner returns a portion of the withheld funds in amounts commensurate
46.24 with achieved reductions in utilization less than the targeted amount.

46.25 The withhold described in this paragraph must continue for each consecutive contract
46.26 period until the plan's subsequent hospitalization rate for medical assistance and
46.27 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and
46.28 28, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year
46.29 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall
46.30 accept payment withholds that must be returned to the hospitals if the performance target
46.31 is achieved.

46.32 (h) Effective for services rendered on or after January 1, 2013, through December 31,
46.33 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under
46.34 this section and county-based purchasing plan payments under section 256B.692 for the

47.1 prepaid medical assistance program. The withheld funds must be returned no sooner than
47.2 July 1 and no later than July 31 of the following year. The commissioner may exclude
47.3 special demonstration projects under subdivision 23.

47.4 (i) Effective for services rendered on or after January 1, 2014, the commissioner shall
47.5 withhold three percent of managed care plan payments under this section and county-based
47.6 purchasing plan payments under section 256B.692 for the prepaid medical assistance
47.7 program. The withheld funds must be returned no sooner than July 1 and no later than July
47.8 31 of the following year. The commissioner may exclude special demonstration projects
47.9 under subdivision 23.

47.10 (j) A managed care plan or a county-based purchasing plan under section 256B.692 may
47.11 include as admitted assets under section 62D.044 any amount withheld under this section
47.12 that is reasonably expected to be returned.

47.13 (k) Contracts between the commissioner and a prepaid health plan are exempt from the
47.14 set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and
47.15 7.

47.16 (l) The return of the withhold under paragraphs (h) and (i) is not subject to the
47.17 requirements of paragraph (c).

47.18 (m) Managed care plans and county-based purchasing plans shall maintain current and
47.19 fully executed agreements for all subcontractors, including bargaining groups, for
47.20 administrative services that are expensed to the state's public health care programs.
47.21 Subcontractor agreements determined to be material, as defined by the commissioner after
47.22 taking into account state contracting and relevant statutory requirements, must be in the
47.23 form of a written instrument or electronic document containing the elements of offer,
47.24 acceptance, consideration, payment terms, scope, duration of the contract, and how the
47.25 subcontractor services relate to state public health care programs. Upon request, the
47.26 commissioner shall have access to all subcontractor documentation under this paragraph.
47.27 Nothing in this paragraph shall allow release of information that is nonpublic data pursuant
47.28 to section 13.02.

47.29 Sec. 84. Minnesota Statutes 2020, section 256B.85, subdivision 1, is amended to read:

47.30 Subdivision 1. **Basis and scope.** (a) Upon federal approval, the commissioner shall
47.31 establish a state plan option for the provision of home and community-based personal
47.32 assistance service and supports called "community first services and supports (CFSS)."

48.1 (b) CFSS is a participant-controlled method of selecting and providing services and
 48.2 supports that allows the participant maximum control of the services and supports.
 48.3 Participants may choose the degree to which they direct and manage their supports by
 48.4 choosing to have a significant and meaningful role in the management of services and
 48.5 supports including by directly employing support workers with the necessary supports to
 48.6 perform that function.

48.7 (c) CFSS is available statewide to eligible people to assist with accomplishing activities
 48.8 of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related
 48.9 procedures and tasks through hands-on assistance to accomplish the task or constant
 48.10 supervision and cueing to accomplish the task; and to assist with acquiring, maintaining,
 48.11 and enhancing the skills necessary to accomplish ADLs, IADLs, and health-related
 48.12 procedures and tasks. CFSS allows payment for the participant for certain supports and
 48.13 goods such as environmental modifications and technology that are intended to replace or
 48.14 decrease the need for human assistance.

48.15 (d) Upon federal approval, CFSS will replace the personal care assistance program under
 48.16 sections 256.476, 256B.0625, subdivisions 19a and 19c, and 256B.0659.

48.17 (e) For the purposes of this section, notwithstanding the provisions of section 144A.43,
 48.18 subdivision 3, supports purchased under CFSS are not considered home care services.

48.19 Sec. 85. Minnesota Statutes 2020, section 256B.85, subdivision 2, is amended to read:

48.20 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this
 48.21 subdivision have the meanings given.

48.22 (b) "Activities of daily living" or "ADLs" means ~~eating, toileting, grooming, dressing,~~
 48.23 ~~bathing, mobility, positioning, and transferring.;~~

48.24 (1) dressing, including assistance with choosing, applying, and changing clothing and
 48.25 applying special appliances, wraps, or clothing;

48.26 (2) grooming, including assistance with basic hair care, oral care, shaving, applying
 48.27 cosmetics and deodorant, and care of eyeglasses and hearing aids. Grooming includes nail
 48.28 care, except for recipients who are diabetic or have poor circulation;

48.29 (3) bathing, including assistance with basic personal hygiene and skin care;

48.30 (4) eating, including assistance with hand washing and applying orthotics required for
 48.31 eating, transfers, or feeding;

49.1 (5) transfers, including assistance with transferring the participant from one seating or
49.2 reclining area to another;

49.3 (6) mobility, including assistance with ambulation and use of a wheelchair. Mobility
49.4 does not include providing transportation for a participant;

49.5 (7) positioning, including assistance with positioning or turning a participant for necessary
49.6 care and comfort; and

49.7 (8) toileting, including assistance with bowel or bladder elimination and care, transfers,
49.8 mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing
49.9 the perineal area, inspection of the skin, and adjusting clothing.

49.10 (c) "Agency-provider model" means a method of CFSS under which a qualified agency
49.11 provides services and supports through the agency's own employees and policies. The agency
49.12 must allow the participant to have a significant role in the selection and dismissal of support
49.13 workers of their choice for the delivery of their specific services and supports.

49.14 (d) "Behavior" means a description of a need for services and supports used to determine
49.15 the home care rating and additional service units. The presence of Level I behavior is used
49.16 to determine the home care rating.

49.17 (e) "Budget model" means a service delivery method of CFSS that allows the use of a
49.18 service budget and assistance from a financial management services (FMS) provider for a
49.19 participant to directly employ support workers and purchase supports and goods.

49.20 (f) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that
49.21 has been ordered by a physician, advanced practice registered nurse, or physician's assistant
49.22 and is specified in a community support plan, including:

49.23 (1) tube feedings requiring:

49.24 (i) a gastrojejunostomy tube; or

49.25 (ii) continuous tube feeding lasting longer than 12 hours per day;

49.26 (2) wounds described as:

49.27 (i) stage III or stage IV;

49.28 (ii) multiple wounds;

49.29 (iii) requiring sterile or clean dressing changes or a wound vac; or

49.30 (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized
49.31 care;

- 50.1 (3) parenteral therapy described as:
- 50.2 (i) IV therapy more than two times per week lasting longer than four hours for each
- 50.3 treatment; or
- 50.4 (ii) total parenteral nutrition (TPN) daily;
- 50.5 (4) respiratory interventions, including:
- 50.6 (i) oxygen required more than eight hours per day;
- 50.7 (ii) respiratory vest more than one time per day;
- 50.8 (iii) bronchial drainage treatments more than two times per day;
- 50.9 (iv) sterile or clean suctioning more than six times per day;
- 50.10 (v) dependence on another to apply respiratory ventilation augmentation devices such
- 50.11 as BiPAP and CPAP; and
- 50.12 (vi) ventilator dependence under section 256B.0651;
- 50.13 (5) insertion and maintenance of catheter, including:
- 50.14 (i) sterile catheter changes more than one time per month;
- 50.15 (ii) clean intermittent catheterization, and including self-catheterization more than six
- 50.16 times per day; or
- 50.17 (iii) bladder irrigations;
- 50.18 (6) bowel program more than two times per week requiring more than 30 minutes to
- 50.19 perform each time;
- 50.20 (7) neurological intervention, including:
- 50.21 (i) seizures more than two times per week and requiring significant physical assistance
- 50.22 to maintain safety; or
- 50.23 (ii) swallowing disorders diagnosed by a physician, advanced practice registered nurse,
- 50.24 or physician's assistant and requiring specialized assistance from another on a daily basis;
- 50.25 and
- 50.26 (8) other congenital or acquired diseases creating a need for significantly increased direct
- 50.27 hands-on assistance and interventions in six to eight activities of daily living.
- 50.28 (g) "Community first services and supports" or "CFSS" means the assistance and supports
- 50.29 program under this section needed for accomplishing activities of daily living, instrumental
- 50.30 activities of daily living, and health-related tasks through hands-on assistance to accomplish

51.1 the task or constant supervision and cueing to accomplish the task, or the purchase of goods
51.2 as defined in subdivision 7, clause (3), that replace the need for human assistance.

51.3 (h) "Community first services and supports service delivery plan" or "CFSS service
51.4 delivery plan" means a written document detailing the services and supports chosen by the
51.5 participant to meet assessed needs that are within the approved CFSS service authorization,
51.6 as determined in subdivision 8. Services and supports are based on the coordinated service
51.7 and support plan identified in ~~section~~ sections 256B.092, subdivision 1b, and 256S.10.

51.8 (i) "Consultation services" means a Minnesota health care program enrolled provider
51.9 organization that provides assistance to the participant in making informed choices about
51.10 CFSS services in general and self-directed tasks in particular, and in developing a
51.11 person-centered CFSS service delivery plan to achieve quality service outcomes.

51.12 (j) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

51.13 (k) "Dependency" in activities of daily living means a person requires hands-on assistance
51.14 or constant supervision and cueing to accomplish one or more of the activities of daily living
51.15 every day or on the days during the week that the activity is performed; however, a child
51.16 ~~may~~ must not be found to be dependent in an activity of daily living if, because of the child's
51.17 age, an adult would either perform the activity for the child or assist the child with the
51.18 activity and the assistance needed is the assistance appropriate for a typical child of the
51.19 same age.

51.20 (l) "Extended CFSS" means CFSS services and supports provided under CFSS that are
51.21 included in the CFSS service delivery plan through one of the home and community-based
51.22 services waivers and as approved and authorized under chapter 256S and sections 256B.092,
51.23 subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state
51.24 plan CFSS services for participants. Extended CFSS excludes the purchase of goods.

51.25 (m) "Financial management services provider" or "FMS provider" means a qualified
51.26 organization required for participants using the budget model under subdivision 13 that is
51.27 an enrolled provider with the department to provide vendor fiscal/employer agent financial
51.28 management services (FMS).

51.29 (n) "Health-related procedures and tasks" means procedures and tasks related to the
51.30 specific assessed health needs of a participant that can be taught or assigned by a
51.31 state-licensed health care or mental health professional and performed by a support worker.

51.32 (o) "Instrumental activities of daily living" means activities related to living independently
51.33 in the community, including but not limited to: meal planning, preparation, and cooking;

52.1 shopping for food, clothing, or other essential items; laundry; housecleaning; assistance
 52.2 with medications; managing finances; communicating needs and preferences during activities;
 52.3 arranging supports; and assistance with traveling around and participating in the community.

52.4 (p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, paragraph
 52.5 (e).

52.6 (q) "Legal representative" means parent of a minor, a court-appointed guardian, or
 52.7 another representative with legal authority to make decisions about services and supports
 52.8 for the participant. Other representatives with legal authority to make decisions include but
 52.9 are not limited to a health care agent or an attorney-in-fact authorized through a health care
 52.10 directive or power of attorney.

52.11 (r) "Level I behavior" means physical aggression ~~towards~~ toward self or others or
 52.12 destruction of property that requires the immediate response of another person.

52.13 (s) "Medication assistance" means providing verbal or visual reminders to take regularly
 52.14 scheduled medication, and includes any of the following supports listed in clauses (1) to
 52.15 (3) and other types of assistance, except that a support worker ~~may~~ must not determine
 52.16 medication dose or time for medication or inject medications into veins, muscles, or skin:

52.17 (1) under the direction of the participant or the participant's representative, bringing
 52.18 medications to the participant including medications given through a nebulizer, opening a
 52.19 container of previously set-up medications, emptying the container into the participant's
 52.20 hand, opening and giving the medication in the original container to the participant, or
 52.21 bringing to the participant liquids or food to accompany the medication;

52.22 (2) organizing medications as directed by the participant or the participant's representative;
 52.23 and

52.24 (3) providing verbal or visual reminders to perform regularly scheduled medications.

52.25 (t) "Participant" means a person who is eligible for CFSS.

52.26 (u) "Participant's representative" means a parent, family member, advocate, or other
 52.27 adult authorized by the participant or participant's legal representative, if any, to serve as a
 52.28 representative in connection with the provision of CFSS. ~~This authorization must be in
 52.29 writing or by another method that clearly indicates the participant's free choice and may be
 52.30 withdrawn at any time. The participant's representative must have no financial interest in
 52.31 the provision of any services included in the participant's CFSS service delivery plan and
 52.32 must be capable of providing the support necessary to assist the participant in the use of
 52.33 CFSS. If through the assessment process described in subdivision 5 a participant is~~

53.1 ~~determined to be in need of a participant's representative, one must be selected.~~ If the
 53.2 participant is unable to assist in the selection of a participant's representative, the legal
 53.3 representative shall appoint one. ~~Two persons may be designated as a participant's~~
 53.4 ~~representative for reasons such as divided households and court-ordered custodies. Duties~~
 53.5 ~~of a participant's representatives may include:~~

53.6 ~~(1) being available while services are provided in a method agreed upon by the participant~~
 53.7 ~~or the participant's legal representative and documented in the participant's CFSS service~~
 53.8 ~~delivery plan;~~

53.9 ~~(2) monitoring CFSS services to ensure the participant's CFSS service delivery plan is~~
 53.10 ~~being followed; and~~

53.11 ~~(3) reviewing and signing CFSS time sheets after services are provided to provide~~
 53.12 ~~verification of the CFSS services.~~

53.13 (v) "Person-centered planning process" means a process that is directed by the participant
 53.14 to plan for CFSS services and supports.

53.15 (w) "Service budget" means the authorized dollar amount used for the budget model or
 53.16 for the purchase of goods.

53.17 (x) "Shared services" means the provision of CFSS services by the same CFSS support
 53.18 worker to two or three participants who voluntarily enter into ~~an~~ a written agreement to
 53.19 receive services at the same time ~~and~~₂ in the same setting ~~by, and through~~ the same employer
 53.20 agency-provider or FMS provider.

53.21 (y) "Support worker" means a qualified and trained employee of the agency-provider
 53.22 as required by subdivision 11b or of the participant employer under the budget model as
 53.23 required by subdivision 14 who has direct contact with the participant and provides services
 53.24 as specified within the participant's CFSS service delivery plan.

53.25 (z) "Unit" means the increment of service based on hours or minutes identified in the
 53.26 service agreement.

53.27 (aa) "Vendor fiscal employer agent" means an agency that provides financial management
 53.28 services.

53.29 (bb) "Wages and benefits" means the hourly wages and salaries, the employer's share
 53.30 of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation,
 53.31 mileage reimbursement, health and dental insurance, life insurance, disability insurance,
 53.32 long-term care insurance, uniform allowance, contributions to employee retirement accounts,
 53.33 or other forms of employee compensation and benefits.

54.1 (cc) "Worker training and development" means services provided according to subdivision
 54.2 18a for developing workers' skills as required by the participant's individual CFSS service
 54.3 delivery plan that are arranged for or provided by the agency-provider or purchased by the
 54.4 participant employer. These services include training, education, direct observation and
 54.5 supervision, and evaluation and coaching of job skills and tasks, including supervision of
 54.6 health-related tasks or behavioral supports.

54.7 Sec. 86. Minnesota Statutes 2020, section 256B.85, subdivision 3, is amended to read:

54.8 Subd. 3. **Eligibility.** (a) CFSS is available to a person who ~~meets one of the following:~~

54.9 ~~(1) is an enrollee of medical assistance as determined under section 256B.055, 256B.056,~~
 54.10 ~~or 256B.057, subdivisions 5 and 9;~~

54.11 (1) is determined eligible for medical assistance under this chapter, excluding those
 54.12 under section 256B.057, subdivisions 3, 3a, 3b, and 4;

54.13 (2) is a participant in the alternative care program under section 256B.0913;

54.14 (3) is a waiver participant as defined under chapter 256S or section 256B.092, 256B.093,
 54.15 or 256B.49; or

54.16 (4) has medical services identified in a person's individualized education program and
 54.17 is eligible for services as determined in section 256B.0625, subdivision 26.

54.18 (b) In addition to meeting the eligibility criteria in paragraph (a), a person must also
 54.19 meet all of the following:

54.20 (1) require assistance and be determined dependent in one activity of daily living or
 54.21 Level I behavior based on assessment under section 256B.0911; and

54.22 (2) is not a participant under a family support grant under section 252.32.

54.23 (c) A pregnant woman eligible for medical assistance under section 256B.055, subdivision
 54.24 6, is eligible for CFSS without federal financial participation if the woman: (1) is eligible
 54.25 for CFSS under paragraphs (a) and (b); and (2) does not meet institutional level of care, as
 54.26 determined under section 256B.0911.

54.27 Sec. 87. Minnesota Statutes 2020, section 256B.85, subdivision 4, is amended to read:

54.28 Subd. 4. **Eligibility for other services.** Selection of CFSS by a participant must not
 54.29 restrict access to other medically necessary care and services furnished under the state plan
 54.30 benefit or other services available through the alternative care program.

55.1 Sec. 88. Minnesota Statutes 2020, section 256B.85, subdivision 5, is amended to read:

55.2 Subd. 5. **Assessment requirements.** (a) The assessment of functional need must:

55.3 (1) be conducted by a certified assessor according to the criteria established in section
55.4 256B.0911, subdivision 3a;

55.5 (2) be conducted face-to-face, initially and at least annually thereafter, or when there is
55.6 a significant change in the participant's condition or a change in the need for services and
55.7 supports, or at the request of the participant when the participant experiences a change in
55.8 condition or needs a change in the services or supports; and

55.9 (3) be completed using the format established by the commissioner.

55.10 (b) The results of the assessment and any recommendations and authorizations for CFSS
55.11 must be determined and communicated in writing by the lead agency's ~~certified~~ assessor as
55.12 defined in section 256B.0911 to the participant ~~and the agency provider or FMS provider~~
55.13 ~~chosen by the participant~~ or the participant's representative and chosen CFSS providers
55.14 ~~within 40 calendar~~ ten business days and must include the participant's right to appeal the
55.15 assessment under section 256.045, subdivision 3.

55.16 (c) The lead agency assessor may authorize a temporary authorization for CFSS services
55.17 to be provided under the agency-provider model. The lead agency assessor may authorize
55.18 a temporary authorization for CFSS services to be provided under the agency-provider
55.19 model without using the assessment process described in this subdivision. Authorization
55.20 for a temporary level of CFSS services under the agency-provider model is limited to the
55.21 time specified by the commissioner, but shall not exceed 45 days. The level of services
55.22 authorized under this paragraph shall have no bearing on a future authorization. ~~Participants~~
55.23 ~~approved for a temporary authorization shall access the consultation service~~ For CFSS
55.24 services needed beyond the 45-day temporary authorization, the lead agency must conduct
55.25 an assessment as described in this subdivision and participants must use consultation services
55.26 to complete their orientation and selection of a service model.

55.27 Sec. 89. Minnesota Statutes 2020, section 256B.85, subdivision 6, is amended to read:

55.28 Subd. 6. **Community first services and supports service delivery plan.** (a) The CFSS
55.29 service delivery plan must be developed and evaluated through a person-centered planning
55.30 process by the participant, or the participant's representative or legal representative who
55.31 may be assisted by a consultation services provider. The CFSS service delivery plan must
55.32 reflect the services and supports that are important to the participant and for the participant
55.33 to meet the needs assessed by the certified assessor and identified in the coordinated service

56.1 and support plan identified in ~~section~~ sections 256B.092, subdivision 1b, and 256S.10. The
56.2 CFSS service delivery plan must be reviewed by the participant, the consultation services
56.3 provider, and the agency-provider or FMS provider prior to starting services and at least
56.4 annually upon reassessment, or when there is a significant change in the participant's
56.5 condition, or a change in the need for services and supports.

56.6 (b) The commissioner shall establish the format and criteria for the CFSS service delivery
56.7 plan.

56.8 (c) The CFSS service delivery plan must be person-centered and:

56.9 (1) specify the consultation services provider, agency-provider, or FMS provider selected
56.10 by the participant;

56.11 (2) reflect the setting in which the participant resides that is chosen by the participant;

56.12 (3) reflect the participant's strengths and preferences;

56.13 (4) include the methods and supports used to address the needs as identified through an
56.14 assessment of functional needs;

56.15 (5) include the participant's identified goals and desired outcomes;

56.16 (6) reflect the services and supports, paid and unpaid, that will assist the participant to
56.17 achieve identified goals, including the costs of the services and supports, and the providers
56.18 of those services and supports, including natural supports;

56.19 (7) identify the amount and frequency of face-to-face supports and amount and frequency
56.20 of remote supports and technology that will be used;

56.21 (8) identify risk factors and measures in place to minimize them, including individualized
56.22 backup plans;

56.23 (9) be understandable to the participant and the individuals providing support;

56.24 (10) identify the individual or entity responsible for monitoring the plan;

56.25 (11) be finalized and agreed to in writing by the participant and signed by ~~all~~ individuals
56.26 and providers responsible for its implementation;

56.27 (12) be distributed to the participant and other people involved in the plan;

56.28 (13) prevent the provision of unnecessary or inappropriate care;

56.29 (14) include a detailed budget for expenditures for budget model participants or
56.30 participants under the agency-provider model if purchasing goods; and

57.1 (15) include a plan for worker training and development provided according to
 57.2 subdivision 18a detailing what service components will be used, when the service components
 57.3 will be used, how they will be provided, and how these service components relate to the
 57.4 participant's individual needs and CFSS support worker services.

57.5 (d) The CFSS service delivery plan must describe the units or dollar amount available
 57.6 to the participant. The total units of agency-provider services or the service budget amount
 57.7 for the budget model include both annual totals and a monthly average amount that cover
 57.8 the number of months of the service agreement. The amount used each month may vary,
 57.9 but additional funds must not be provided above the annual service authorization amount,
 57.10 determined according to subdivision 8, unless a change in condition is assessed and
 57.11 authorized by the certified assessor and documented in the coordinated service and support
 57.12 plan and CFSS service delivery plan.

57.13 (e) In assisting with the development or modification of the CFSS service delivery plan
 57.14 during the authorization time period, the consultation services provider shall:

57.15 (1) consult with the FMS provider on the spending budget when applicable; and

57.16 (2) consult with the participant or participant's representative, agency-provider, and case
 57.17 manager ~~or~~ or care coordinator.

57.18 (f) The CFSS service delivery plan must be approved by the consultation services provider
 57.19 for participants without a case manager or care coordinator who is responsible for authorizing
 57.20 services. A case manager or care coordinator must approve the plan for a waiver or alternative
 57.21 care program participant.

57.22 Sec. 90. Minnesota Statutes 2020, section 256B.85, subdivision 7, is amended to read:

57.23 Subd. 7. **Community first services and supports; covered services.** Services and
 57.24 supports covered under CFSS include:

57.25 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities of
 57.26 daily living (IADLs), and health-related procedures and tasks through hands-on assistance
 57.27 to accomplish the task or constant supervision and cueing to accomplish the task;

57.28 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to
 57.29 accomplish activities of daily living, instrumental activities of daily living, or health-related
 57.30 tasks;

57.31 (3) expenditures for items, services, supports, environmental modifications, or goods,
 57.32 including assistive technology. These expenditures must:

58.1 (i) relate to a need identified in a participant's CFSS service delivery plan; and
 58.2 (ii) increase independence or substitute for human assistance, to the extent that
 58.3 expenditures would otherwise be made for human assistance for the participant's assessed
 58.4 needs;

58.5 (4) observation and redirection for behavior or symptoms where there is a need for
 58.6 assistance;

58.7 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices,
 58.8 to ensure continuity of the participant's services and supports;

58.9 (6) services provided by a consultation services provider as defined under subdivision
 58.10 17, that is under contract with the department and enrolled as a Minnesota health care
 58.11 program provider;

58.12 (7) services provided by an FMS provider as defined under subdivision 13a, that is an
 58.13 enrolled provider with the department;

58.14 (8) CFSS services provided by a support worker who is a parent, stepparent, or legal
 58.15 guardian of a participant under age 18, or who is the participant's spouse. These support
 58.16 workers shall not:

58.17 (i) provide any medical assistance home and community-based services in excess of 40
 58.18 hours per seven-day period regardless of the number of parents providing services,
 58.19 combination of parents and spouses providing services, or number of children who receive
 58.20 medical assistance services; and

58.21 (ii) have a wage that exceeds the current rate for a CFSS support worker including the
 58.22 wage, benefits, and payroll taxes; and

58.23 (9) worker training and development services as described in subdivision 18a.

58.24 Sec. 91. Minnesota Statutes 2020, section 256B.85, subdivision 8, is amended to read:

58.25 Subd. 8. **Determination of CFSS service authorization amount.** (a) All community
 58.26 first services and supports must be authorized by the commissioner or the commissioner's
 58.27 designee before services begin. The authorization for CFSS must be completed as soon as
 58.28 possible following an assessment but no later than 40 calendar days from the date of the
 58.29 assessment.

58.30 (b) The amount of CFSS authorized must be based on the participant's home care rating
 58.31 described in paragraphs (d) and (e) and any additional service units for which the participant
 58.32 qualifies as described in paragraph (f).

59.1 (c) The home care rating shall be determined by the commissioner or the commissioner's
59.2 designee based on information submitted to the commissioner identifying the following for
59.3 a participant:

59.4 (1) the total number of dependencies of activities of daily living;

59.5 (2) the presence of complex health-related needs; and

59.6 (3) the presence of Level I behavior.

59.7 (d) The methodology to determine the total service units for CFSS for each home care
59.8 rating is based on the median paid units per day for each home care rating from fiscal year
59.9 2007 data for the PCA program.

59.10 (e) Each home care rating is designated by the letters P through Z and EN and has the
59.11 following base number of service units assigned:

59.12 (1) P home care rating requires Level I behavior or one to three dependencies in ADLs
59.13 and qualifies the person for five service units;

59.14 (2) Q home care rating requires Level I behavior and one to three dependencies in ADLs
59.15 and qualifies the person for six service units;

59.16 (3) R home care rating requires a complex health-related need and one to three
59.17 dependencies in ADLs and qualifies the person for seven service units;

59.18 (4) S home care rating requires four to six dependencies in ADLs and qualifies the person
59.19 for ten service units;

59.20 (5) T home care rating requires four to six dependencies in ADLs and Level I behavior
59.21 and qualifies the person for 11 service units;

59.22 (6) U home care rating requires four to six dependencies in ADLs and a complex
59.23 health-related need and qualifies the person for 14 service units;

59.24 (7) V home care rating requires seven to eight dependencies in ADLs and qualifies the
59.25 person for 17 service units;

59.26 (8) W home care rating requires seven to eight dependencies in ADLs and Level I
59.27 behavior and qualifies the person for 20 service units;

59.28 (9) Z home care rating requires seven to eight dependencies in ADLs and a complex
59.29 health-related need and qualifies the person for 30 service units; and

59.30 (10) EN home care rating includes ventilator dependency as defined in section 256B.0651,
59.31 subdivision 1, paragraph (g). A person who meets the definition of ventilator-dependent

60.1 and the EN home care rating and utilize a combination of CFSS and home care nursing
 60.2 services is limited to a total of 96 service units per day for those services in combination.
 60.3 Additional units may be authorized when a person's assessment indicates a need for two
 60.4 staff to perform activities. Additional time is limited to 16 service units per day.

60.5 (f) Additional service units are provided through the assessment and identification of
 60.6 the following:

60.7 (1) 30 additional minutes per day for a dependency in each critical activity of daily
 60.8 living;

60.9 (2) 30 additional minutes per day for each complex health-related need; and

60.10 (3) 30 additional minutes per day ~~when the~~ for each behavior under this clause that
 60.11 requires assistance at least four times per week ~~for one or more of the following behaviors:~~

60.12 (i) level I behavior that requires the immediate response of another person;

60.13 (ii) increased vulnerability due to cognitive deficits or socially inappropriate behavior;
 60.14 or

60.15 (iii) increased need for assistance for participants who are verbally aggressive or resistive
 60.16 to care so that the time needed to perform activities of daily living is increased.

60.17 (g) The service budget for budget model participants shall be based on:

60.18 (1) assessed units as determined by the home care rating; and

60.19 (2) an adjustment needed for administrative expenses.

60.20 Sec. 92. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision
 60.21 to read:

60.22 Subd. 8a. **Authorization; exceptions.** All CFSS services must be authorized by the
 60.23 commissioner or the commissioner's designee as described in subdivision 8 except when:

60.24 (1) the lead agency temporarily authorizes services in the agency-provider model as
 60.25 described in subdivision 5, paragraph (c);

60.26 (2) CFSS services in the agency-provider model were required to treat an emergency
 60.27 medical condition that if not immediately treated could cause a participant serious physical
 60.28 or mental disability, continuation of severe pain, or death. The CFSS agency provider must
 60.29 request retroactive authorization from the lead agency no later than five working days after
 60.30 providing the initial emergency service. The CFSS agency provider must be able to
 60.31 substantiate the emergency through documentation such as reports, notes, and admission

61.1 or discharge histories. A lead agency must follow the authorization process in subdivision
 61.2 5 after the lead agency receives the request for authorization from the agency provider;

61.3 (3) the lead agency authorizes a temporary increase to the amount of services authorized
 61.4 in the agency or budget model to accommodate the participant's temporary higher need for
 61.5 services. Authorization for a temporary level of CFSS services is limited to the time specified
 61.6 by the commissioner, but shall not exceed 45 days. The level of services authorized under
 61.7 this clause shall have no bearing on a future authorization;

61.8 (4) a participant's medical assistance eligibility has lapsed, is then retroactively reinstated,
 61.9 and an authorization for CFSS services is completed based on the date of a current
 61.10 assessment, eligibility, and request for authorization;

61.11 (5) a third-party payer for CFSS services has denied or adjusted a payment. Authorization
 61.12 requests must be submitted by the provider within 20 working days of the notice of denial
 61.13 or adjustment. A copy of the notice must be included with the request;

61.14 (6) the commissioner has determined that a lead agency or state human services agency
 61.15 has made an error; or

61.16 (7) a participant enrolled in managed care experiences a temporary disenrollment from
 61.17 a health plan, in which case the commissioner shall accept the current health plan
 61.18 authorization for CFSS services for up to 60 days. The request must be received within the
 61.19 first 30 days of the disenrollment. If the recipient's reenrollment in managed care is after
 61.20 the 60 days and before 90 days, the provider shall request an additional 30-day extension
 61.21 of the current health plan authorization, for a total limit of 90 days from the time of
 61.22 disenrollment.

61.23 Sec. 93. Minnesota Statutes 2020, section 256B.85, subdivision 9, is amended to read:

61.24 Subd. 9. **Noncovered services.** (a) Services or supports that are not eligible for payment
 61.25 under this section include those that:

61.26 (1) are not authorized by the certified assessor or included in the CFSS service delivery
 61.27 plan;

61.28 (2) are provided prior to the authorization of services and the approval of the CFSS
 61.29 service delivery plan;

61.30 (3) are duplicative of other paid services in the CFSS service delivery plan;

62.1 (4) supplant natural unpaid supports that appropriately meet a need in the CFSS service
62.2 delivery plan, are provided voluntarily to the participant, and are selected by the participant
62.3 in lieu of other services and supports;

62.4 (5) are not effective means to meet the participant's needs; and

62.5 (6) are available through other funding sources, including, but not limited to, funding
62.6 through title IV-E of the Social Security Act.

62.7 (b) Additional services, goods, or supports that are not covered include:

62.8 (1) those that are not for the direct benefit of the participant, except that services for
62.9 caregivers such as training to improve the ability to provide CFSS are considered to directly
62.10 benefit the participant if chosen by the participant and approved in the support plan;

62.11 (2) any fees incurred by the participant, such as Minnesota health care programs fees
62.12 and co-pays, legal fees, or costs related to advocate agencies;

62.13 (3) insurance, except for insurance costs related to employee coverage;

62.14 (4) room and board costs for the participant;

62.15 (5) services, supports, or goods that are not related to the assessed needs;

62.16 (6) special education and related services provided under the Individuals with Disabilities
62.17 Education Act and vocational rehabilitation services provided under the Rehabilitation Act
62.18 of 1973;

62.19 (7) assistive technology devices and assistive technology services other than those for
62.20 back-up systems or mechanisms to ensure continuity of service and supports listed in
62.21 subdivision 7;

62.22 (8) medical supplies and equipment covered under medical assistance;

62.23 (9) environmental modifications, except as specified in subdivision 7;

62.24 (10) expenses for travel, lodging, or meals related to training the participant or the
62.25 participant's representative or legal representative;

62.26 (11) experimental treatments;

62.27 (12) any service or good covered by other state plan services, including prescription and
62.28 over-the-counter medications, compounds, and solutions and related fees, including premiums
62.29 and co-payments;

62.30 (13) membership dues or costs, except when the service is necessary and appropriate to
62.31 treat a health condition or to improve or maintain the adult participant's health condition.

- 63.1 The condition must be identified in the participant's CFSS service delivery plan and
 63.2 monitored by a Minnesota health care program enrolled physician, advanced practice
 63.3 registered nurse, or physician's assistant;
- 63.4 (14) vacation expenses other than the cost of direct services;
- 63.5 (15) vehicle maintenance or modifications not related to the disability, health condition,
 63.6 or physical need;
- 63.7 (16) tickets and related costs to attend sporting or other recreational or entertainment
 63.8 events;
- 63.9 (17) services provided and billed by a provider who is not an enrolled CFSS provider;
- 63.10 (18) CFSS provided by a participant's representative or paid legal guardian;
- 63.11 (19) services that are used solely as a child care or babysitting service;
- 63.12 (20) services that are the responsibility or in the daily rate of a residential or program
 63.13 license holder under the terms of a service agreement and administrative rules;
- 63.14 (21) sterile procedures;
- 63.15 (22) giving of injections into veins, muscles, or skin;
- 63.16 (23) homemaker services that are not an integral part of the assessed CFSS service;
- 63.17 (24) home maintenance or chore services;
- 63.18 (25) home care services, including hospice services if elected by the participant, covered
 63.19 by Medicare or any other insurance held by the participant;
- 63.20 (26) services to other members of the participant's household;
- 63.21 (27) services not specified as covered under medical assistance as CFSS;
- 63.22 (28) application of restraints or implementation of deprivation procedures;
- 63.23 (29) assessments by CFSS provider organizations or by independently enrolled registered
 63.24 nurses;
- 63.25 (30) services provided in lieu of legally required staffing in a residential or child care
 63.26 setting; ~~and~~
- 63.27 (31) services provided by ~~the residential or program~~ a foster care license holder ~~in a~~
 63.28 ~~residence for more than four participants.~~ except when the home of the person receiving
 63.29 services is the licensed foster care provider's primary residence;

64.1 (32) services that are the responsibility of the foster care provider under the terms of the
 64.2 foster care placement agreement, assessment under sections 256N.24 and 260C.4411, and
 64.3 administrative rules under sections 256N.24 and 260C.4411;

64.4 (33) services in a setting that has a licensed capacity greater than six, unless all conditions
 64.5 for a variance under section 245A.04, subdivision 9a, are satisfied for a sibling, as defined
 64.6 in section 260C.007, subdivision 32;

64.7 (34) services from a provider who owns or otherwise controls the living arrangement,
 64.8 except when the provider of services is related by blood, marriage, or adoption or when the
 64.9 provider is a licensed foster care provider who is not prohibited from providing services
 64.10 under clauses (31) to (33);

64.11 (35) instrumental activities of daily living for children younger than 18 years of age,
 64.12 except when immediate attention is needed for health or hygiene reasons integral to an
 64.13 assessed need for assistance with activities of daily living, health-related procedures, and
 64.14 tasks or behaviors; or

64.15 (36) services provided to a resident of a nursing facility, hospital, intermediate care
 64.16 facility, or health care facility licensed by the commissioner of health.

64.17 Sec. 94. Minnesota Statutes 2020, section 256B.85, subdivision 10, is amended to read:

64.18 **Subd. 10. Agency-provider and FMS provider qualifications and duties. (a)**
 64.19 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision
 64.20 13a shall:

64.21 (1) enroll as a medical assistance Minnesota health care programs provider and meet all
 64.22 applicable provider standards and requirements including completion of required provider
 64.23 training as determined by the commissioner;

64.24 (2) demonstrate compliance with federal and state laws and policies for CFSS as
 64.25 determined by the commissioner;

64.26 (3) comply with background study requirements under chapter 245C and maintain
 64.27 documentation of background study requests and results;

64.28 (4) verify and maintain records of all services and expenditures by the participant,
 64.29 including hours worked by support workers;

64.30 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,
 64.31 or other electronic means to potential participants, guardians, family members, or participants'
 64.32 representatives;

- 65.1 (6) directly provide services and not use a subcontractor or reporting agent;
- 65.2 (7) meet the financial requirements established by the commissioner for financial
65.3 solvency;
- 65.4 (8) have never had a lead agency contract or provider agreement discontinued due to
65.5 fraud, or have never had an owner, board member, or manager fail a state or FBI-based
65.6 criminal background check while enrolled or seeking enrollment as a Minnesota health care
65.7 programs provider; and
- 65.8 (9) have an office located in Minnesota.
- 65.9 (b) In conducting general duties, agency-providers and FMS providers shall:
- 65.10 (1) pay support workers based upon actual hours of services provided;
- 65.11 (2) pay for worker training and development services based upon actual hours of services
65.12 provided or the unit cost of the training session purchased;
- 65.13 (3) withhold and pay all applicable federal and state payroll taxes;
- 65.14 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,
65.15 liability insurance, and other benefits, if any;
- 65.16 (5) enter into a written agreement with the participant, participant's representative, or
65.17 legal representative that assigns roles and responsibilities to be performed before services,
65.18 supports, or goods are provided and that meets the requirements of subdivisions 20a, 20b,
65.19 and 20c for agency-providers;
- 65.20 (6) report maltreatment as required under section 626.557 and chapter 260E;
- 65.21 (7) comply with the labor market reporting requirements described in section 256B.4912,
65.22 subdivision 1a;
- 65.23 (8) comply with any data requests from the department consistent with the Minnesota
65.24 Government Data Practices Act under chapter 13; ~~and~~
- 65.25 (9) maintain documentation for the requirements under subdivision 16, paragraph (e),
65.26 clause (2), to qualify for an enhanced rate under this section; and
- 65.27 (10) request reassessments 60 days before the end of the current authorization for CFSS
65.28 on forms provided by the commissioner.

66.1 Sec. 95. Minnesota Statutes 2020, section 256B.85, subdivision 11, is amended to read:

66.2 Subd. 11. **Agency-provider model.** (a) The agency-provider model includes services
66.3 provided by support workers and staff providing worker training and development services
66.4 who are employed by an agency-provider that meets the criteria established by the
66.5 commissioner, including required training.

66.6 (b) The agency-provider shall allow the participant to have a significant role in the
66.7 selection and dismissal of the support workers for the delivery of the services and supports
66.8 specified in the participant's CFSS service delivery plan. The agency must make a reasonable
66.9 effort to fulfill the participant's request for the participant's preferred worker.

66.10 (c) A participant may use authorized units of CFSS services as needed within a service
66.11 agreement that is not greater than 12 months. Using authorized units in a flexible manner
66.12 in either the agency-provider model or the budget model does not increase the total amount
66.13 of services and supports authorized for a participant or included in the participant's CFSS
66.14 service delivery plan.

66.15 (d) A participant may share CFSS services. Two or three CFSS participants may share
66.16 services at the same time provided by the same support worker.

66.17 (e) The agency-provider must use a minimum of 72.5 percent of the revenue generated
66.18 by the medical assistance payment for CFSS for support worker wages and benefits, except
66.19 all of the revenue generated by a medical assistance rate increase due to a collective
66.20 bargaining agreement under section 179A.54 must be used for support worker wages and
66.21 benefits. The agency-provider must document how this requirement is being met. The
66.22 revenue generated by the worker training and development services and the reasonable costs
66.23 associated with the worker training and development services must not be used in making
66.24 this calculation.

66.25 (f) The agency-provider model must be used by ~~individuals~~ participants who are restricted
66.26 by the Minnesota restricted recipient program under Minnesota Rules, parts 9505.2160 to
66.27 9505.2245.

66.28 (g) Participants purchasing goods under this model, along with support worker services,
66.29 must:

66.30 (1) specify the goods in the CFSS service delivery plan and detailed budget for
66.31 expenditures that must be approved by the consultation services provider, case manager, or
66.32 care coordinator; and

66.33 (2) use the FMS provider for the billing and payment of such goods.

67.1 Sec. 96. Minnesota Statutes 2020, section 256B.85, subdivision 11b, is amended to read:

67.2 Subd. 11b. **Agency-provider model; support worker competency.** (a) The
 67.3 agency-provider must ensure that support workers are competent to meet the participant's
 67.4 assessed needs, goals, and additional requirements as written in the CFSS service delivery
 67.5 plan. ~~Within 30 days of any support worker beginning to provide services for a participant,~~
 67.6 The agency-provider must evaluate the competency of the worker through direct observation
 67.7 of the support worker's performance of the job functions in a setting where the participant
 67.8 is using CFSS: within 30 days of:

67.9 (1) any support worker beginning to provide services for a participant; or

67.10 (2) any support worker beginning to provide shared services.

67.11 (b) The agency-provider must verify and maintain evidence of support worker
 67.12 competency, including documentation of the support worker's:

67.13 (1) education and experience relevant to the job responsibilities assigned to the support
 67.14 worker and the needs of the participant;

67.15 (2) relevant training received from sources other than the agency-provider;

67.16 (3) orientation and instruction to implement services and supports to participant needs
 67.17 and preferences as identified in the CFSS service delivery plan; ~~and~~

67.18 (4) orientation and instruction delivered by an individual competent to perform, teach,
 67.19 or assign the health-related tasks for tracheostomy suctioning and services to participants
 67.20 on ventilator support, including equipment operation and maintenance; and

67.21 ~~(4)~~ (5) periodic performance reviews completed by the agency-provider at least annually,
 67.22 including any evaluations required under subdivision 11a, paragraph (a). If a support worker
 67.23 is a minor, all evaluations of worker competency must be completed in person and in a
 67.24 setting where the participant is using CFSS.

67.25 (c) The agency-provider must develop a worker training and development plan with the
 67.26 participant to ensure support worker competency. The worker training and development
 67.27 plan must be updated when:

67.28 (1) the support worker begins providing services;

67.29 (2) the support worker begins providing shared services;

67.30 ~~(2)~~ (3) there is any change in condition or a modification to the CFSS service delivery
 67.31 plan; or

68.1 ~~(3)~~ (4) a performance review indicates that additional training is needed.

68.2 Sec. 97. Minnesota Statutes 2020, section 256B.85, subdivision 12, is amended to read:

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

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

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

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

68.17 (4) proof of workers' compensation insurance coverage;

68.18 (5) proof of liability insurance;

68.19 (6) a ~~description~~ copy of the CFSS agency-provider's ~~organization~~ organizational chart
68.20 identifying the names and roles of all owners, managing employees, staff, board of directors,
68.21 and ~~the~~ additional documentation reporting any affiliations of the directors and owners to
68.22 other service providers;

68.23 (7) ~~a copy of~~ proof that the CFSS ~~agency-provider's~~ agency-provider has written policies
68.24 and procedures including: hiring of employees; training requirements; service delivery; and
68.25 employee and consumer safety, including the process for notification and resolution of
68.26 participant grievances, incident response, identification and prevention of communicable
68.27 diseases, and employee misconduct;

68.28 (8) ~~copies of all other forms~~ proof that the CFSS agency-provider ~~uses in the course of~~
68.29 ~~daily business including, but not limited to~~ has all of the following forms and documents:

68.30 (i) a copy of the CFSS agency-provider's time sheet; and

68.31 (ii) a copy of the participant's individual CFSS service delivery plan;

69.1 (9) a list of all training and classes that the CFSS agency-provider requires of its staff
69.2 providing CFSS services;

69.3 (10) documentation that the CFSS agency-provider and staff have successfully completed
69.4 all the training required by this section;

69.5 (11) documentation of the agency-provider's marketing practices;

69.6 (12) disclosure of ownership, leasing, or management of all residential properties that
69.7 are used or could be used for providing home care services;

69.8 (13) documentation that the agency-provider will use at least the following percentages
69.9 of revenue generated from the medical assistance rate paid for CFSS services for CFSS
69.10 support worker wages and benefits: 72.5 percent of revenue from CFSS providers, except
69.11 100 percent of the revenue generated by a medical assistance rate increase due to a collective
69.12 bargaining agreement under section 179A.54 must be used for support worker wages and
69.13 benefits. The revenue generated by the worker training and development services and the
69.14 reasonable costs associated with the worker training and development services shall not be
69.15 used in making this calculation; and

69.16 (14) documentation that the agency-provider does not burden participants' free exercise
69.17 of their right to choose service providers by requiring CFSS support workers to sign an
69.18 agreement not to work with any particular CFSS participant or for another CFSS
69.19 agency-provider after leaving the agency and that the agency is not taking action on any
69.20 such agreements or requirements regardless of the date signed.

69.21 (b) CFSS agency-providers shall provide to the commissioner the information specified
69.22 in paragraph (a).

69.23 (c) All CFSS agency-providers shall require all employees in management and
69.24 supervisory positions and owners of the agency who are active in the day-to-day management
69.25 and operations of the agency to complete mandatory training as determined by the
69.26 commissioner. Employees in management and supervisory positions and owners who are
69.27 active in the day-to-day operations of an agency who have completed the required training
69.28 as an employee with a CFSS agency-provider do not need to repeat the required training if
69.29 they are hired by another agency, ~~if~~ and they have completed the training within the past
69.30 three years. CFSS agency-provider billing staff shall complete training about CFSS program
69.31 financial management. Any new owners or employees in management and supervisory
69.32 positions involved in the day-to-day operations are required to complete mandatory training
69.33 as a requisite of working for the agency.

70.1 ~~(d) The commissioner shall send annual review notifications to agency providers 30~~
 70.2 ~~days prior to renewal. The notification must:~~

70.3 ~~(1) list the materials and information the agency provider is required to submit;~~

70.4 ~~(2) provide instructions on submitting information to the commissioner; and~~

70.5 ~~(3) provide a due date by which the commissioner must receive the requested information.~~

70.6 ~~Agency providers shall submit all required documentation for annual review within 30 days~~
 70.7 ~~of notification from the commissioner. If an agency provider fails to submit all the required~~
 70.8 ~~documentation, the commissioner may take action under subdivision 23a.~~

70.9 (d) Agency providers shall submit all required documentation in this section within 30
 70.10 days of notification from the commissioner. If an agency provider fails to submit all the
 70.11 required documentation, the commissioner may take action under subdivision 23a.

70.12 Sec. 98. Minnesota Statutes 2020, section 256B.85, subdivision 12b, is amended to read:

70.13 Subd. 12b. **CFSS agency-provider requirements; notice regarding termination of**
 70.14 **services.** (a) An agency-provider must provide written notice when it intends to terminate
 70.15 services with a participant at least ~~ten~~ 30 calendar days before the proposed service
 70.16 termination is to become effective, except in cases where:

70.17 (1) the participant engages in conduct that significantly alters the terms of the CFSS
 70.18 service delivery plan with the agency-provider;

70.19 (2) the participant or other persons at the setting where services are being provided
 70.20 engage in conduct that creates an imminent risk of harm to the support worker or other
 70.21 agency-provider staff; or

70.22 (3) an emergency or a significant change in the participant's condition occurs within a
 70.23 24-hour period that results in the participant's service needs exceeding the participant's
 70.24 identified needs in the current CFSS service delivery plan so that the agency-provider cannot
 70.25 safely meet the participant's needs.

70.26 (b) When a participant initiates a request to terminate CFSS services with the
 70.27 agency-provider, the agency-provider must give the participant a written ~~acknowledgement~~
 70.28 acknowledgment of the participant's service termination request that includes the date the
 70.29 request was received by the agency-provider and the requested date of termination.

70.30 (c) The agency-provider must participate in a coordinated transfer of the participant to
 70.31 a new agency-provider to ensure continuity of care.

71.1 Sec. 99. Minnesota Statutes 2020, section 256B.85, subdivision 13, is amended to read:

71.2 Subd. 13. **Budget model.** (a) Under the budget model participants exercise responsibility
71.3 and control over the services and supports described and budgeted within the CFSS service
71.4 delivery plan. Participants must use services specified in subdivision 13a provided by an
71.5 FMS provider. Under this model, participants may use their approved service budget
71.6 allocation to:

71.7 (1) directly employ support workers, and pay wages, federal and state payroll taxes, and
71.8 premiums for workers' compensation, liability, and health insurance coverage; and

71.9 (2) obtain supports and goods as defined in subdivision 7.

71.10 (b) Participants who are unable to fulfill any of the functions listed in paragraph (a) may
71.11 authorize a legal representative or participant's representative to do so on their behalf.

71.12 (c) If two or more participants using the budget model live in the same household and
71.13 have the same worker, the participants must use the same FMS provider.

71.14 (d) If the FMS provider advises that there is a joint employer in the budget model, all
71.15 participants associated with that joint employer must use the same FMS provider.

71.16 ~~(e)~~ (e) The commissioner shall disenroll or exclude participants from the budget model
71.17 and transfer them to the agency-provider model under, but not limited to, the following
71.18 circumstances:

71.19 (1) when a participant has been restricted by the Minnesota restricted recipient program,
71.20 in which case the participant may be excluded for a specified time period under Minnesota
71.21 Rules, parts 9505.2160 to 9505.2245;

71.22 (2) when a participant exits the budget model during the participant's service plan year.
71.23 Upon transfer, the participant shall not access the budget model for the remainder of that
71.24 service plan year; or

71.25 (3) when the department determines that the participant or participant's representative
71.26 or legal representative is unable to fulfill the responsibilities under the budget model, as
71.27 specified in subdivision 14.

71.28 ~~(d)~~ (f) A participant may appeal in writing to the department under section 256.045,
71.29 subdivision 3, to contest the department's decision under paragraph ~~(e)~~ (e), clause (3), to
71.30 disenroll or exclude the participant from the budget model.

- 72.1 Sec. 100. Minnesota Statutes 2020, section 256B.85, subdivision 13a, is amended to read:
- 72.2 Subd. 13a. **Financial management services.** (a) Services provided by an FMS provider
72.3 include but are not limited to: filing and payment of federal and state payroll taxes on behalf
72.4 of the participant; initiating and complying with background study requirements under
72.5 chapter 245C and maintaining documentation of background study requests and results;
72.6 billing for approved CFSS services with authorized funds; monitoring expenditures;
72.7 accounting for and disbursing CFSS funds; providing assistance in obtaining and filing for
72.8 liability, workers' compensation, and unemployment coverage; and providing participant
72.9 instruction and technical assistance to the participant in fulfilling employer-related
72.10 requirements in accordance with section 3504 of the Internal Revenue Code and related
72.11 regulations and interpretations, including Code of Federal Regulations, title 26, section
72.12 31.3504-1.
- 72.13 (b) Agency-provider services shall not be provided by the FMS provider.
- 72.14 (c) The FMS provider shall provide service functions as determined by the commissioner
72.15 for budget model participants that include but are not limited to:
- 72.16 (1) assistance with the development of the detailed budget for expenditures portion of
72.17 the CFSS service delivery plan as requested by the consultation services provider or
72.18 participant;
- 72.19 (2) data recording and reporting of participant spending;
- 72.20 (3) other duties established by the department, including with respect to providing
72.21 assistance to the participant, participant's representative, or legal representative in performing
72.22 employer responsibilities regarding support workers. The support worker shall not be
72.23 considered the employee of the FMS provider; and
- 72.24 (4) billing, payment, and accounting of approved expenditures for goods.
- 72.25 (d) The FMS provider shall obtain an assurance statement from the participant employer
72.26 agreeing to follow state and federal regulations and CFSS policies regarding employment
72.27 of support workers.
- 72.28 (e) The FMS provider shall:
- 72.29 (1) not limit or restrict the participant's choice of service or support providers or service
72.30 delivery models consistent with any applicable state and federal requirements;

73.1 (2) provide the participant, consultation services provider, and case manager or care
 73.2 coordinator, if applicable, with a monthly written summary of the spending for services and
 73.3 supports that were billed against the spending budget;

73.4 (3) be knowledgeable of state and federal employment regulations, including those under
 73.5 the Fair Labor Standards Act of 1938, and comply with the requirements under section 3504
 73.6 of the Internal Revenue Code and related regulations and interpretations, including Code
 73.7 of Federal Regulations, title 26, section 31.3504-1, regarding agency employer tax liability
 73.8 for vendor fiscal/employer agent, and any requirements necessary to process employer and
 73.9 employee deductions, provide appropriate and timely submission of employer tax liabilities,
 73.10 and maintain documentation to support medical assistance claims;

73.11 (4) have current and adequate liability insurance and bonding and sufficient cash flow
 73.12 as determined by the commissioner and have on staff or under contract a certified public
 73.13 accountant or an individual with a baccalaureate degree in accounting;

73.14 (5) assume fiscal accountability for state funds designated for the program and be held
 73.15 liable for any overpayments or violations of applicable statutes or rules, including but not
 73.16 limited to the Minnesota False Claims Act, chapter 15C; ~~and~~

73.17 (6) maintain documentation of receipts, invoices, and bills to track all services and
 73.18 supports expenditures for any goods purchased and maintain time records of support workers.
 73.19 The documentation and time records must be maintained for a minimum of five years from
 73.20 the claim date and be available for audit or review upon request by the commissioner. Claims
 73.21 submitted by the FMS provider to the commissioner for payment must correspond with
 73.22 services, amounts, and time periods as authorized in the participant's service budget and
 73.23 service plan and must contain specific identifying information as determined by the
 73.24 commissioner; and

73.25 (7) provide written notice to the participant or the participant's representative at least 30
 73.26 calendar days before a proposed service termination becomes effective.

73.27 (f) The commissioner ~~of human services~~ shall:

73.28 (1) establish rates and payment methodology for the FMS provider;

73.29 (2) identify a process to ensure quality and performance standards for the FMS provider
 73.30 and ensure statewide access to FMS providers; and

73.31 (3) establish a uniform protocol for delivering and administering CFSS services to be
 73.32 used by eligible FMS providers.

74.1 Sec. 101. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision
74.2 to read:

74.3 Subd. 14a. **Participant's representative responsibilities.** (a) If a participant is unable
74.4 to direct the participant's own care, the participant must use a participant's representative
74.5 to receive CFSS services. A participant's representative is required if:

74.6 (1) the person is under 18 years of age;

74.7 (2) the person has a court-appointed guardian; or

74.8 (3) an assessment according to section 256B.0659, subdivision 3a, determines that the
74.9 participant is in need of a participant's representative.

74.10 (b) A participant's representative must:

74.11 (1) be at least 18 years of age;

74.12 (2) actively participate in planning and directing CFSS services;

74.13 (3) have sufficient knowledge of the participant's circumstances to use CFSS services
74.14 consistent with the participant's health and safety needs identified in the participant's service
74.15 delivery plan;

74.16 (4) not have a financial interest in the provision of any services included in the
74.17 participant's CFSS service delivery plan; and

74.18 (5) be capable of providing the support necessary to assist the participant in the use of
74.19 CFSS services.

74.20 (c) A participant's representative must not be the:

74.21 (1) support worker;

74.22 (2) worker training and development service provider;

74.23 (3) agency-provider staff, unless related to the participant by blood, marriage, or adoption;

74.24 (4) consultation service provider, unless related to the participant by blood, marriage,
74.25 or adoption;

74.26 (5) FMS staff, unless related to the participant by blood, marriage, or adoption;

74.27 (6) FMS owner or manager; or

74.28 (7) lead agency staff acting as part of employment.

75.1 (d) A licensed family foster parent who lives with the participant may be the participant's
75.2 representative if the family foster parent meets the other participant's representative
75.3 requirements.

75.4 (e) There may be two persons designated as the participant's representative, including
75.5 instances of divided households and court-ordered custodies. Each person named as the
75.6 participant's representative must meet the program criteria and responsibilities.

75.7 (f) The participant or the participant's legal representative shall appoint a participant's
75.8 representative. The participant's representative must be identified at the time of assessment
75.9 and listed on the participant's service agreement and CFSS service delivery plan.

75.10 (g) A participant's representative must enter into a written agreement with an
75.11 agency-provider or FMS on a form determined by the commissioner and maintained in the
75.12 participant's file, to:

75.13 (1) be available while care is provided using a method agreed upon by the participant
75.14 or the participant's legal representative and documented in the participant's service delivery
75.15 plan;

75.16 (2) monitor CFSS services to ensure the participant's service delivery plan is followed;

75.17 (3) review and sign support worker time sheets after services are provided to verify the
75.18 provision of services;

75.19 (4) review and sign vendor paperwork to verify receipt of goods; and

75.20 (5) in the budget model, review and sign documentation to verify worker training and
75.21 development expenditures.

75.22 (h) A participant's representative may delegate responsibility to another adult who is not
75.23 the support worker during a temporary absence of at least 24 hours but not more than six
75.24 months. To delegate responsibility, the participant's representative must:

75.25 (1) ensure that the delegate serving as the participant's representative satisfies the
75.26 requirements of the participant's representative;

75.27 (2) ensure that the delegate performs the functions of the participant's representative;

75.28 (3) communicate to the CFSS agency-provider or FMS provider about the need for a
75.29 delegate by updating the written agreement to include the name of the delegate and the
75.30 delegate's contact information; and

75.31 (4) ensure that the delegate protects the participant's privacy according to federal and
75.32 state data privacy laws.

- 76.1 (i) The designation of a participant's representative remains in place until:
- 76.2 (1) the participant revokes the designation;
- 76.3 (2) the participant's representative withdraws the designation or becomes unable to fulfill
- 76.4 the duties;
- 76.5 (3) the legal authority to act as a participant's representative changes; or
- 76.6 (4) the participant's representative is disqualified.
- 76.7 (j) A lead agency may disqualify a participant's representative who engages in conduct
- 76.8 that creates an imminent risk of harm to the participant, the support workers, or other staff.
- 76.9 A participant's representative who fails to provide support required by the participant must
- 76.10 be referred to the common entry point.

76.11 Sec. 102. Minnesota Statutes 2020, section 256B.85, subdivision 15, is amended to read:

76.12 Subd. 15. **Documentation of support services provided; time sheets.** (a) CFSS services

76.13 provided to a participant by a support worker employed by either an agency-provider or the

76.14 participant employer must be documented daily by each support worker, on a time sheet.

76.15 Time sheets may be created, submitted, and maintained electronically. Time sheets must

76.16 be submitted by the support worker at least once per month to the:

76.17 (1) agency-provider when the participant is using the agency-provider model. The

76.18 agency-provider must maintain a record of the time sheet and provide a copy of the time

76.19 sheet to the participant; or

76.20 (2) participant and the participant's FMS provider when the participant is using the

76.21 budget model. The participant and the FMS provider must maintain a record of the time

76.22 sheet.

76.23 (b) The documentation on the time sheet must correspond to the participant's assessed

76.24 needs within the scope of CFSS covered services. The accuracy of the time sheets must be

76.25 verified by the:

76.26 (1) agency-provider when the participant is using the agency-provider model; or

76.27 (2) participant employer and the participant's FMS provider when the participant is using

76.28 the budget model.

76.29 (c) The time sheet must document the time the support worker provides services to the

76.30 participant. The following elements must be included in the time sheet:

76.31 (1) the support worker's full name and individual provider number;

- 77.1 (2) the agency-provider's name and telephone numbers, when responsible for the CFSS
77.2 service delivery plan;
- 77.3 (3) the participant's full name;
- 77.4 (4) the dates within the pay period established by the agency-provider or FMS provider,
77.5 including month, day, and year, and arrival and departure times with a.m. or p.m. notations
77.6 for days worked within the established pay period;
- 77.7 (5) the covered services provided to the participant on each date of service;
- 77.8 (6) a the signature line for of the participant or the participant's representative and a
77.9 statement that the participant's or participant's representative's signature is verification of
77.10 the time sheet's accuracy;
- 77.11 (7) the ~~personal~~ signature of the support worker;
- 77.12 (8) any shared care provided, if applicable;
- 77.13 (9) a statement that it is a federal crime to provide false information on CFSS billings
77.14 for medical assistance payments; and
- 77.15 (10) dates and location of participant stays in a hospital, care facility, or incarceration
77.16 occurring within the established pay period.

77.17 Sec. 103. Minnesota Statutes 2020, section 256B.85, subdivision 17a, is amended to read:

77.18 Subd. 17a. **Consultation services provider qualifications and**
77.19 **requirements.** Consultation services providers must meet the following qualifications and
77.20 requirements:

- 77.21 (1) meet the requirements under subdivision 10, paragraph (a), excluding clauses (4)
77.22 and (5);
- 77.23 (2) are under contract with the department;
- 77.24 (3) are not the FMS provider, the lead agency, or the CFSS or home and community-based
77.25 services waiver vendor or agency-provider to the participant;
- 77.26 (4) meet the service standards as established by the commissioner;
- 77.27 (5) have proof of surety bond coverage. Upon new enrollment, or if the consultation
77.28 service provider's Medicaid revenue in the previous calendar year is less than or equal to
77.29 \$300,000, the consultation service provider must purchase a surety bond of \$50,000. If the
77.30 agency-provider's Medicaid revenue in the previous calendar year is greater than \$300,000,
77.31 the consultation service provider must purchase a surety bond of \$100,000. The surety bond

78.1 must be in a form approved by the commissioner, must be renewed annually, and must
 78.2 allow for recovery of costs and fees in pursuing a claim on the bond;

78.3 ~~(5)~~ (6) employ lead professional staff with a minimum of three years of experience in
 78.4 providing services such as support planning, support broker, case management or care
 78.5 coordination, or consultation services and consumer education to participants using a
 78.6 self-directed program using FMS under medical assistance;

78.7 (7) report maltreatment as required under chapter 260E and section 626.557;

78.8 ~~(6)~~ (8) comply with medical assistance provider requirements;

78.9 ~~(7)~~ (9) understand the CFSS program and its policies;

78.10 ~~(8)~~ (10) are knowledgeable about self-directed principles and the application of the
 78.11 person-centered planning process;

78.12 ~~(9)~~ (11) have general knowledge of the FMS provider duties and the vendor
 78.13 fiscal/employer agent model, including all applicable federal, state, and local laws and
 78.14 regulations regarding tax, labor, employment, and liability and workers' compensation
 78.15 coverage for household workers; and

78.16 ~~(10)~~ (12) have all employees, including lead professional staff, staff in management and
 78.17 supervisory positions, and owners of the agency who are active in the day-to-day management
 78.18 and operations of the agency, complete training as specified in the contract with the
 78.19 department.

78.20 Sec. 104. Minnesota Statutes 2020, section 256B.85, subdivision 18a, is amended to read:

78.21 Subd. 18a. **Worker training and development services.** (a) The commissioner shall
 78.22 develop the scope of tasks and functions, service standards, and service limits for worker
 78.23 training and development services.

78.24 (b) Worker training and development costs are in addition to the participant's assessed
 78.25 service units or service budget. Services provided according to this subdivision must:

78.26 (1) help support workers obtain and expand the skills and knowledge necessary to ensure
 78.27 competency in providing quality services as needed and defined in the participant's CFSS
 78.28 service delivery plan and as required under subdivisions 11b and 14;

78.29 (2) be provided or arranged for by the agency-provider under subdivision 11, or purchased
 78.30 by the participant employer under the budget model as identified in subdivision 13; ~~and~~

79.1 (3) be delivered by an individual competent to perform, teach, or assign the tasks,
 79.2 including health-related tasks, identified in the plan through education, training, and work
 79.3 experience relevant to the person's assessed needs; and

79.4 ~~(3)~~ (4) be described in the participant's CFSS service delivery plan and documented in
 79.5 the participant's file.

79.6 (c) Services covered under worker training and development shall include:

79.7 (1) support worker training on the participant's individual assessed needs and condition,
 79.8 provided individually or in a group setting by a skilled and knowledgeable trainer beyond
 79.9 any training the participant or participant's representative provides;

79.10 (2) tuition for professional classes and workshops for the participant's support workers
 79.11 that relate to the participant's assessed needs and condition;

79.12 (3) direct observation, monitoring, coaching, and documentation of support worker job
 79.13 skills and tasks, beyond any training the participant or participant's representative provides,
 79.14 including supervision of health-related tasks or behavioral supports that is conducted by an
 79.15 appropriate professional based on the participant's assessed needs. These services must be
 79.16 provided at the start of services or the start of a new support worker except as provided in
 79.17 paragraph (d) and must be specified in the participant's CFSS service delivery plan; and

79.18 (4) the activities to evaluate CFSS services and ensure support worker competency
 79.19 described in subdivisions 11a and 11b.

79.20 (d) The services in paragraph (c), clause (3), are not required to be provided for a new
 79.21 support worker providing services for a participant due to staffing failures, unless the support
 79.22 worker is expected to provide ongoing backup staffing coverage.

79.23 (e) Worker training and development services shall not include:

79.24 (1) general agency training, worker orientation, or training on CFSS self-directed models;

79.25 (2) payment for preparation or development time for the trainer or presenter;

79.26 (3) payment of the support worker's salary or compensation during the training;

79.27 (4) training or supervision provided by the participant, the participant's support worker,
 79.28 or the participant's informal supports, including the participant's representative; or

79.29 (5) services in excess of ~~96 units~~ the rate set by the commissioner per annual service
 79.30 agreement, unless approved by the department.

80.1 Sec. 105. Minnesota Statutes 2020, section 256B.85, subdivision 20b, is amended to read:

80.2 Subd. 20b. **Service-related rights under an agency-provider.** A participant receiving
80.3 CFSS from an agency-provider has service-related rights to:

80.4 (1) participate in and approve the initial development and ongoing modification and
80.5 evaluation of CFSS services provided to the participant;

80.6 (2) refuse or terminate services and be informed of the consequences of refusing or
80.7 terminating services;

80.8 (3) before services are initiated, be told the limits to the services available from the
80.9 agency-provider, including the agency-provider's knowledge, skill, and ability to meet the
80.10 participant's needs identified in the CFSS service delivery plan;

80.11 (4) a coordinated transfer of services when there will be a change in the agency-provider;

80.12 (5) before services are initiated, be told what the agency-provider charges for the services;

80.13 (6) before services are initiated, be told to what extent payment may be expected from
80.14 health insurance, public programs, or other sources, if known; and what charges the
80.15 participant may be responsible for paying;

80.16 (7) receive services from an individual who is competent and trained, who has
80.17 professional certification or licensure, as required, and who meets additional qualifications
80.18 identified in the participant's CFSS service delivery plan;

80.19 (8) have the participant's preferences for support workers identified and documented,
80.20 and have those preferences met when possible; and

80.21 (9) before services are initiated, be told the choices that are available from the
80.22 agency-provider for meeting the participant's assessed needs identified in the CFSS service
80.23 delivery plan, including but not limited to which support worker staff will be providing
80.24 services ~~and~~, the proposed frequency and schedule of visits, and any agreements for shared
80.25 services.

80.26 Sec. 106. Minnesota Statutes 2020, section 256B.85, subdivision 23, is amended to read:

80.27 Subd. 23. **Commissioner's access.** (a) When the commissioner is investigating a possible
80.28 overpayment of Medicaid funds, the commissioner must be given immediate access without
80.29 prior notice to the agency-provider, consultation services provider, or FMS provider's office
80.30 during regular business hours and to documentation and records related to services provided
80.31 and submission of claims for services provided. ~~Denying the commissioner access to records~~
80.32 ~~is cause for immediate suspension of payment and terminating~~ If the agency-provider's

81.1 ~~enrollment or agency-provider, FMS provider's enrollment~~ provider, or consultation services
 81.2 provider denies the commissioner access to records, the provider's payment may be
 81.3 immediately suspended or the provider's enrollment may be terminated according to section
 81.4 256B.064 ~~or terminating the consultation services provider contract.~~

81.5 (b) The commissioner has the authority to request proof of compliance with laws, rules,
 81.6 and policies from agency-providers, consultation services providers, FMS providers, and
 81.7 participants.

81.8 (c) When relevant to an investigation conducted by the commissioner, the commissioner
 81.9 must be given access to the business office, documents, and records of the agency-provider,
 81.10 consultation services provider, or FMS provider, including records maintained in electronic
 81.11 format; participants served by the program; and staff during regular business hours. The
 81.12 commissioner must be given access without prior notice and as often as the commissioner
 81.13 considers necessary if the commissioner is investigating an alleged violation of applicable
 81.14 laws or rules. The commissioner may request and shall receive assistance from lead agencies
 81.15 and other state, county, and municipal agencies and departments. The commissioner's access
 81.16 includes being allowed to photocopy, photograph, and make audio and video recordings at
 81.17 the commissioner's expense.

81.18 Sec. 107. Minnesota Statutes 2020, section 256B.85, subdivision 23a, is amended to read:

81.19 Subd. 23a. **Sanctions; information for participants upon termination of services.** (a)
 81.20 The commissioner may withhold payment from the provider or suspend or terminate the
 81.21 provider enrollment number if the provider fails to comply fully with applicable laws or
 81.22 rules. The provider has the right to appeal the decision of the commissioner under section
 81.23 256B.064.

81.24 (b) Notwithstanding subdivision 13, paragraph (c), if a participant employer fails to
 81.25 comply fully with applicable laws or rules, the commissioner may disenroll the participant
 81.26 from the budget model. A participant may appeal in writing to the department under section
 81.27 256.045, subdivision 3, to contest the department's decision to disenroll the participant from
 81.28 the budget model.

81.29 (c) Agency-providers of CFSS services or FMS providers must provide each participant
 81.30 with a copy of participant protections in subdivision 20c at least 30 days prior to terminating
 81.31 services to a participant, if the termination results from sanctions under this subdivision or
 81.32 section 256B.064, such as a payment withhold or a suspension or termination of the provider
 81.33 enrollment number. If a CFSS agency-provider ~~or~~, FMS provider, or consultation services
 81.34 provider determines it is unable to continue providing services to a participant because of

82.1 an action under this subdivision or section 256B.064, the agency-provider ~~or~~, FMS provider,
 82.2 or consultation services provider must notify the participant, the participant's representative,
 82.3 and the commissioner 30 days prior to terminating services to the participant, and must
 82.4 assist the commissioner and lead agency in supporting the participant in transitioning to
 82.5 another CFSS agency-provider ~~or~~, FMS provider, or consultation services provider of the
 82.6 participant's choice.

82.7 (d) In the event the commissioner withholds payment from a CFSS agency-provider ~~or~~,
 82.8 FMS provider, or consultation services provider, or suspends or terminates a provider
 82.9 enrollment number of a CFSS agency-provider ~~or~~, FMS provider, or consultation services
 82.10 provider under this subdivision or section 256B.064, the commissioner may inform the
 82.11 Office of Ombudsman for Long-Term Care and the lead agencies for all participants with
 82.12 active service agreements with the agency-provider ~~or~~, FMS provider, or consultation
 82.13 services provider. At the commissioner's request, the lead agencies must contact participants
 82.14 to ensure that the participants are continuing to receive needed care, and that the participants
 82.15 have been given free choice of agency-provider ~~or~~, FMS provider, or consultation services
 82.16 provider if they transfer to another CFSS agency-provider ~~or~~, FMS provider, or consultation
 82.17 services provider. In addition, the commissioner or the commissioner's delegate may directly
 82.18 notify participants who receive care from the agency-provider ~~or~~, FMS provider, or
 82.19 consultation services provider that payments have been or will be withheld or that the
 82.20 provider's participation in medical assistance has been or will be suspended or terminated,
 82.21 if the commissioner determines that the notification is necessary to protect the welfare of
 82.22 the participants.

82.23 Sec. 108. **REVISOR INSTRUCTION.**

82.24 In Minnesota Statutes, sections 245A.191, paragraph (a); 245G.02, subdivision 3; 246.18,
 82.25 subdivision 2; 246.23, subdivision 2; 246.64, subdivision 3; 254A.03, subdivision 3; 254A.19,
 82.26 subdivision 4; 254B.03, subdivision 2; 254B.04, subdivision 1; 254B.05, subdivisions 1a
 82.27 and 4; 254B.051; 254B.06, subdivision 1; 254B.12, subdivisions 1 and 2; 254B.13,
 82.28 subdivisions 2a and 5; 254B.14, subdivision 5; 256L.03, subdivision 2; and 295.53,
 82.29 subdivision 1, the revisor of statutes must change the term "consolidated chemical
 82.30 dependency treatment fund" or similar terms to "behavioral health fund." The revisor may
 82.31 make grammatical changes related to the term change.

82.32 Sec. 109. **REPEALER.**

82.33 (a) Minnesota Statutes 2020, section 252.28, subdivisions 1 and 5, are repealed.

- 83.1 (b) Minnesota Statutes 2020, sections 252A.02, subdivisions 8 and 10; and 252A.21,
83.2 subdivision 3, are repealed.
- 83.3 **EFFECTIVE DATE.** Paragraph (a) is effective the day following final enactment.
83.4 Paragraph (b) is effective August 1, 2021.

252.28 COMMISSIONER OF HUMAN SERVICES; DUTIES.

Subdivision 1. **Determinations; redeterminations.** In conjunction with the appropriate county boards, the commissioner of human services shall determine, and shall redetermine at least every four years, the need, anticipated growth or decline in need until the next anticipated redetermination, location, size, and program of public and private day training and habilitation services for persons with developmental disabilities. This subdivision does not apply to semi-independent living services and residential-based habilitation services provided to four or fewer persons at a single site funded as home and community-based services. A determination of need shall not be required for a change in ownership.

Subd. 5. **Appeals.** A county may appeal a determination of need, size, location, or program according to chapter 14. Notice of appeals must be provided to the commissioner within 30 days after the receipt of the commissioner's determination.

252A.02 DEFINITIONS.

Subd. 8. **Public conservator.** "Public conservator" means the commissioner of human services when exercising some, but not all the powers designated in section 252A.111.

Subd. 10. **Conservatee.** "Conservatee" means a person with a developmental disability for whom the court has appointed a public conservator.

252A.21 GENERAL PROVISIONS.

Subd. 3. **Terminology.** Whenever the term "guardian" is used in sections 252A.01 to 252A.21, it shall include "conservator," and the term "ward" shall include "conservatee" unless another intention clearly appears from the context.