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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2575

03/18/2019 Authored by Pinto
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to human services; modifying provisions governing children and families
1.3 services; appropriating money; amending Minnesota Statutes 2018, sections
1.4 119B.011, subdivisions 19, 20, by adding a subdivision; 119B.02, subdivision 7;
1.5 119B.025, subdivision 1; 119B.03, subdivision 9; 119B.09, subdivision 1;
1.6 119B.095, subdivision 2, by adding a subdivision; 119B.13, subdivision 1; 119B.16,
1.7 subdivisions 1, 1a, 1b, by adding subdivisions; 245E.06, subdivision 3; 245H.07;
1.8 proposing coding for new law in Minnesota Statutes, chapter 119B; repealing
1.9 Minnesota Statutes 2018, sections 119B.16, subdivision 2; 245E.06, subdivisions
1.10 2, 4, 5; Minnesota Rules, part 3400.0185, subpart 5.

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

1.12 Section 1. Minnesota Statutes 2018, section 119B.011, is amended by adding a subdivision
1.13 to read:

1.14 Subd. 13b. **Homeless.** "Homeless" means a self-declared housing status as defined in
1.15 the McKinney-Vento Homeless Assistance Act and United States Code, title 42, section
1.16 11302, paragraph (a).

1.17 **EFFECTIVE DATE.** This section is effective September 21, 2020.

1.18 Sec. 2. Minnesota Statutes 2018, section 119B.011, subdivision 19, is amended to read:

1.19 Subd. 19. **Provider.** "Provider" means:

1.20 (1) an individual or child care center or facility, ~~either licensed or unlicensed, providing~~
1.21 ~~legal child care services as defined~~ licensed to provide child care under section 245A.03
1.22 chapter 245A when operating within the terms of the license; ~~or~~

1.23 (2) a license exempt center required to be certified under chapter 245H;

2.1 (3) an individual or child care center or facility holding that: (i) holds a valid child care  
 2.2 license issued by another state or a tribe and providing; (ii) provides child care services in  
 2.3 the licensing state or in the area under the licensing tribe's jurisdiction; and (iii) is in  
 2.4 compliance with federal health and safety requirements as certified by the licensing state  
 2.5 or tribe, or as determined by receipt of child care development block grant funds in the  
 2.6 licensing state; or

2.7 (4) a legal nonlicensed child care provider as defined under section 119B.011, subdivision  
 2.8 16, providing legal child care services. A legally unlicensed family legal nonlicensed child  
 2.9 care provider must be at least 18 years of age, and not a member of the MFIP assistance  
 2.10 unit or a member of the family receiving child care assistance to be authorized under this  
 2.11 chapter.

2.12 **EFFECTIVE DATE.** This section is effective July 1, 2019.

2.13 Sec. 3. Minnesota Statutes 2018, section 119B.011, subdivision 20, is amended to read:

2.14 Subd. 20. **Transition year families.** "Transition year families" means families who have  
 2.15 received MFIP assistance, or who were eligible to receive MFIP assistance after choosing  
 2.16 to discontinue receipt of the cash portion of MFIP assistance under section 256J.31,  
 2.17 subdivision 12, or families who have received DWP assistance under section 256J.95 for  
 2.18 at least ~~three~~ one of the last six months before losing eligibility for MFIP or DWP.  
 2.19 Notwithstanding Minnesota Rules, parts 3400.0040, subpart 10, and 3400.0090, subpart 2,  
 2.20 transition year child care may be used to support employment, approved education or training  
 2.21 programs, or job search that meets the requirements of section 119B.10. Transition year  
 2.22 child care is not available to families who have been disqualified from MFIP or DWP due  
 2.23 to fraud.

2.24 **EFFECTIVE DATE.** This section is effective March 23, 2020.

2.25 Sec. 4. Minnesota Statutes 2018, section 119B.02, subdivision 7, is amended to read:

2.26 Subd. 7. **Child care market rate survey.** ~~Biennially,~~ The commissioner shall conduct  
 2.27 the next survey of prices charged by child care providers in Minnesota in state fiscal year  
 2.28 2021 and every three years thereafter to determine the 75th percentile for like-care  
 2.29 arrangements in county price clusters.

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

3.1 Sec. 5. Minnesota Statutes 2018, section 119B.025, subdivision 1, is amended to read:

3.2 Subdivision 1. **Applications.** (a) Except as provided in paragraph (c), clause (4), the  
3.3 county shall verify the following at all initial child care applications using the universal  
3.4 application:

3.5 (1) identity of adults;

3.6 (2) presence of the minor child in the home, if questionable;

3.7 (3) relationship of minor child to the parent, stepparent, legal guardian, eligible relative  
3.8 caretaker, or the spouses of any of the foregoing;

3.9 (4) age;

3.10 (5) immigration status, if related to eligibility;

3.11 (6) Social Security number, if given;

3.12 (7) counted income;

3.13 (8) spousal support and child support payments made to persons outside the household;

3.14 (9) residence; and

3.15 (10) inconsistent information, if related to eligibility.

3.16 (b) The county must mail a notice of approval or denial of assistance to the applicant  
3.17 within 30 calendar days after receiving the application. The county may extend the response  
3.18 time by 15 calendar days if the applicant is informed of the extension.

3.19 (c) For an applicant who declares that the applicant is homeless and who meets the  
3.20 definition of homeless in section 119B.011, subdivision 13b, the county must:

3.21 (1) if information is needed to determine eligibility, send a request for information to  
3.22 the applicant within five working days after receiving the application;

3.23 (2) if the applicant is eligible, send a notice of approval of assistance within five working  
3.24 days after receiving the application;

3.25 (3) if the applicant is ineligible, send a notice of denial of assistance within 30 days after  
3.26 receiving the application. The county may extend the response time by 15 calendar days if  
3.27 the applicant is informed of the extension;

3.28 (4) not require verifications required by paragraph (a) before issuing the notice of approval  
3.29 or denial; and

4.1 (5) follow limits set by the commissioner for how frequently expedited application  
 4.2 processing may be used for an applicant under this paragraph.

4.3 (d) An applicant who declares that the applicant is homeless must submit proof of  
 4.4 eligibility within three months of the date the application was received. If proof of eligibility  
 4.5 is not submitted within three months, eligibility ends. A 15-day adverse action notice is  
 4.6 required to end eligibility.

4.7 **EFFECTIVE DATE.** This section is effective September 21, 2020.

4.8 Sec. 6. Minnesota Statutes 2018, section 119B.03, subdivision 9, is amended to read:

4.9 Subd. 9. **Portability pool.** (a) The commissioner shall establish a pool of up to five  
 4.10 percent of the annual appropriation for the basic sliding fee program to provide continuous  
 4.11 child care assistance for eligible families who move between Minnesota counties. At the  
 4.12 end of each allocation period, any unspent funds in the portability pool must be used for  
 4.13 assistance under the basic sliding fee program. If expenditures from the portability pool  
 4.14 exceed the amount of money available, the reallocation pool must be reduced to cover these  
 4.15 shortages.

4.16 (b) ~~To be eligible for portable basic sliding fee assistance,~~ A family that has moved from  
 4.17 a county in which it was receiving basic sliding fee assistance to a county with a waiting  
 4.18 list for the basic sliding fee program must:

4.19 (1) meet the income and eligibility guidelines for the basic sliding fee program; and

4.20 (2) ~~notify the new county of residence within 60 days of moving and submit information~~  
 4.21 ~~to the new county of residence to verify eligibility for the basic sliding fee program~~ the  
 4.22 family's previous county of residence of the family's move to a new county of residence.

4.23 (c) The receiving county must:

4.24 (1) accept administrative responsibility for applicants for portable basic sliding fee  
 4.25 assistance at the end of the two months of assistance under the Unitary Residency Act;

4.26 (2) continue portability pool basic sliding fee assistance ~~for the lesser of six months or~~  
 4.27 until the family is able to receive assistance under the county's regular basic sliding program;  
 4.28 and

4.29 (3) notify the commissioner through the quarterly reporting process of any family that  
 4.30 meets the criteria of the portable basic sliding fee assistance pool.

4.31 **EFFECTIVE DATE.** This section is effective December 2, 2019.

5.1 Sec. 7. Minnesota Statutes 2018, section 119B.09, subdivision 1, is amended to read:

5.2 Subdivision 1. **General eligibility requirements.** (a) Child care services must be  
5.3 available to families who need child care to find or keep employment or to obtain the training  
5.4 or education necessary to find employment and who:

5.5 (1) have household income less than or equal to 67 percent of the state median income,  
5.6 adjusted for family size, at application and redetermination, and meet the requirements of  
5.7 section 119B.05; receive MFIP assistance; and are participating in employment and training  
5.8 services under chapter 256J; or

5.9 (2) have household income less than or equal to 47 percent of the state median income,  
5.10 adjusted for family size, at application and less than or equal to 67 percent of the state  
5.11 median income, adjusted for family size, at redetermination.

5.12 (b) Child care services must be made available as in-kind services.

5.13 (c) All applicants for child care assistance and families currently receiving child care  
5.14 assistance must be assisted and required to cooperate in establishment of paternity and  
5.15 enforcement of child support obligations for all children in the family at application and  
5.16 redetermination as a condition of program eligibility. For purposes of this section, a family  
5.17 is considered to meet the requirement for cooperation when the family complies with the  
5.18 requirements of section 256.741.

5.19 (d) All applicants for child care assistance and families currently receiving child care  
5.20 assistance must pay the co-payment fee under section 119B.12, subdivision 2, as a condition  
5.21 of eligibility. The co-payment fee may include additional recoupment fees due to a child  
5.22 care assistance program overpayment.

5.23 (e) If a family has one child with a child care authorization and the child reaches 13  
5.24 years of age or the child has a disability and reaches 15 years of age, the family remains  
5.25 eligible until the redetermination.

5.26 **EFFECTIVE DATE.** This section is effective June 29, 2020.

5.27 Sec. 8. Minnesota Statutes 2018, section 119B.095, subdivision 2, is amended to read:

5.28 Subd. 2. **Maintain steady child care authorizations.** (a) Notwithstanding Minnesota  
5.29 Rules, chapter 3400, the amount of child care authorized under section 119B.10 for  
5.30 employment, education, or an MFIP or DWP employment plan shall continue at the same  
5.31 number of hours or more hours until redetermination, including:

6.1 (1) when the other parent moves in and is employed or has an education plan under  
6.2 section 119B.10, subdivision 3, or has an MFIP or DWP employment plan; or

6.3 (2) when the participant's work hours are reduced or a participant temporarily stops  
6.4 working or attending an approved education program. Temporary changes include, but are  
6.5 not limited to, a medical leave, seasonal employment fluctuations, or a school break between  
6.6 semesters.

6.7 (b) The county may increase the amount of child care authorized at any time if the  
6.8 participant verifies the need for increased hours for authorized activities.

6.9 (c) The county may reduce the amount of child care authorized if a parent requests a  
6.10 reduction or because of a change in:

6.11 (1) the child's school schedule;

6.12 (2) the custody schedule; or

6.13 (3) the provider's availability.

6.14 (d) The amount of child care authorized for a family subject to subdivision 1, paragraph  
6.15 (b), must change when the participant's activity schedule changes. Paragraph (a) does not  
6.16 apply to a family subject to subdivision 1, paragraph (b).

6.17 (e) When a child reaches 13 years of age or a child with a disability reaches 15 years of  
6.18 age, the amount of child care authorized shall continue at the same number of hours or more  
6.19 hours until redetermination.

6.20 **EFFECTIVE DATE.** This section is effective June 29, 2020.

6.21 Sec. 9. Minnesota Statutes 2018, section 119B.095, is amended by adding a subdivision  
6.22 to read:

6.23 **Subd. 3. Assistance for persons who are homeless.** An applicant who is homeless and  
6.24 eligible for child care assistance is exempt from the activity participation requirements under  
6.25 this chapter for three months. The applicant under this subdivision is eligible for 60 hours  
6.26 of child care assistance per service period for three months from the date the county receives  
6.27 the application. Additional hours may be authorized as needed based on the applicant's  
6.28 participation in employment, education, or MFIP or DWP employment plan. To continue  
6.29 receiving child care assistance after the initial three months, the applicant must verify that  
6.30 the applicant meets eligibility and activity requirements for child care assistance under this  
6.31 chapter.

6.32 **EFFECTIVE DATE.** This section is effective September 21, 2020.

7.1 Sec. 10. Minnesota Statutes 2018, section 119B.13, subdivision 1, is amended to read:

7.2 Subdivision 1. **Subsidy restrictions.** (a) ~~Beginning February 3, 2014,~~ The maximum  
7.3 rate paid for child care assistance in any county or county price cluster under the child care  
7.4 fund shall be the greater of the 25th percentile of the ~~2011~~ most recent child care provider  
7.5 rate survey under section 119B.02, subdivision 7, or the ~~maximum rate effective November~~  
7.6 ~~28, 2011~~ rates in effect at the time of the update. The first maximum rate update must be  
7.7 based on the 2018 rate survey and take effect September 20, 2019. Thereafter, maximum  
7.8 rate updates are effective the first biweekly period following September 1 after the most  
7.9 recent rate survey. For a child care provider located within the boundaries of a city located  
7.10 in two or more of the counties of Benton, Sherburne, and Stearns, the maximum rate paid  
7.11 for child care assistance shall be equal to the maximum rate paid in the county with the  
7.12 highest maximum reimbursement rates or the provider's charge, whichever is less. The  
7.13 commissioner may: (1) assign a county with no reported provider prices to a similar price  
7.14 cluster; and (2) consider county level access when determining final price clusters.

7.15 (b) A rate which includes a special needs rate paid under subdivision 3 may be in excess  
7.16 of the maximum rate allowed under this subdivision.

7.17 (c) The department shall monitor the effect of this paragraph on provider rates. The  
7.18 county shall pay the provider's full charges for every child in care up to the maximum  
7.19 established. The commissioner shall determine the maximum rate for each type of care on  
7.20 an hourly, full-day, and weekly basis, including special needs and disability care.

7.21 (d) If a child uses one provider, the maximum payment for one day of care must not  
7.22 exceed the daily rate. The maximum payment for one week of care must not exceed the  
7.23 weekly rate.

7.24 (e) If a child uses two providers under section 119B.097, the maximum payment must  
7.25 not exceed:

7.26 (1) the daily rate for one day of care;

7.27 (2) the weekly rate for one week of care by the child's primary provider; and

7.28 (3) two daily rates during two weeks of care by a child's secondary provider.

7.29 (f) Child care providers receiving reimbursement under this chapter must not be paid  
7.30 activity fees or an additional amount above the maximum rates for care provided during  
7.31 nonstandard hours for families receiving assistance.

8.1 (g) If the provider charge is greater than the maximum provider rate allowed, the parent  
 8.2 is responsible for payment of the difference in the rates in addition to any family co-payment  
 8.3 fee.

8.4 (h) All maximum provider rates changes shall be implemented on the Monday following  
 8.5 the effective date of the maximum provider rate.

8.6 (i) ~~Notwithstanding Minnesota Rules, part 3400.0130, subpart 7, maximum registration~~  
 8.7 ~~fees in effect on January 1, 2013, shall remain in effect.~~ The maximum registration fee paid  
 8.8 for child care assistance in any county or county price cluster under the child care fund shall  
 8.9 be the greater of the 25th percentile of the most recent child care provider rate survey under  
 8.10 section 119B.02, subdivision 7, or the registration fee in effect at the time of the update.  
 8.11 The first maximum registration fee update must be based on the 2018 rate survey and is  
 8.12 effective September 23, 2019. Thereafter, maximum registration fee updates are effective  
 8.13 the first biweekly period following September 1 after the most recent rate survey. Maximum  
 8.14 registration fees must be set for licensed family child care and for child care centers. For a  
 8.15 child care provider located within the boundaries of a city located in two or more of the  
 8.16 counties of Benton, Sherburne, and Stearns, the maximum registration fee paid for child  
 8.17 care assistance shall be equal to the maximum registration fee paid in the county with the  
 8.18 highest maximum registration fee or the provider's charge, whichever is less.

8.19 **EFFECTIVE DATE.** Paragraph (a) is effective September 20, 2019. Paragraph (i) is  
 8.20 effective September 23, 2019.

8.21 Sec. 11. Minnesota Statutes 2018, section 119B.16, subdivision 1, is amended to read:

8.22 Subdivision 1. **Fair hearing allowed for applicants and recipients.** (a) An applicant  
 8.23 or recipient adversely affected by an action of a county agency ~~action~~ or the commissioner,  
 8.24 for an action taken directly against the applicant or recipient, may request and receive a fair  
 8.25 hearing in accordance with this subdivision and section 256.045. An applicant or recipient  
 8.26 does not have a right to a fair hearing if a county agency or the commissioner takes action  
 8.27 against a provider.

8.28 (b) A county agency must offer an informal conference to an applicant or recipient who  
 8.29 is entitled to a fair hearing under this section. A county agency must advise an applicant or  
 8.30 recipient that a request for a conference is optional and does not delay or replace the right  
 8.31 to a fair hearing.

9.1 (c) If a provider's authorization is suspended, denied, or revoked, a county agency or  
 9.2 the commissioner must mail notice to each child care assistance program recipient receiving  
 9.3 care from the provider.

9.4 **EFFECTIVE DATE.** This section is effective February 26, 2021.

9.5 Sec. 12. Minnesota Statutes 2018, section 119B.16, subdivision 1a, is amended to read:

9.6 Subd. 1a. **Fair hearing allowed for providers.** (a) This subdivision applies to providers  
 9.7 caring for children receiving child care assistance.

9.8 ~~(b) A provider to whom a county agency has assigned responsibility for an overpayment~~  
 9.9 ~~may request a fair hearing in accordance with section 256.045 for the limited purpose of~~  
 9.10 ~~challenging the assignment of responsibility for the overpayment and the amount of the~~  
 9.11 ~~overpayment. The scope of the fair hearing does not include the issues of whether the~~  
 9.12 ~~provider wrongfully obtained public assistance in violation of section 256.98 or was properly~~  
 9.13 ~~disqualified under section 256.98, subdivision 8, paragraph (c), unless the fair hearing has~~  
 9.14 ~~been combined with an administrative disqualification hearing brought against the provider~~  
 9.15 ~~under section 256.046.~~

9.16 (b) A provider may request a fair hearing according to sections 256.045 and 256.046  
 9.17 only if a county agency or the commissioner:

9.18 (1) denies or revokes a provider's authorization, unless the action entitles the provider  
 9.19 to an administrative review under section 119B.161;

9.20 (2) assigns responsibility for an overpayment to a provider under section 119B.11,  
 9.21 subdivision 2a;

9.22 (3) establishes an overpayment for failure to comply with section 119B.125, subdivision  
 9.23 6;

9.24 (4) seeks monetary recovery or recoupment under section 245E.02, subdivision 4,  
 9.25 paragraph (c), clause (2);

9.26 (5) initiates an administrative fraud disqualification hearing; or

9.27 (6) issues a payment and the provider disagrees with the amount of the payment.

9.28 (c) A provider may request a fair hearing by submitting a written request to the  
 9.29 Department of Human Services, Appeals Division. A provider's request must be received  
 9.30 by the Appeals Division no later than 30 days after the date a county or the commissioner  
 9.31 mails the notice.

10.1 (d) The provider's appeal request must contain the following:

10.2 (1) each disputed item, the reason for the dispute, and, if applicable, an estimate of the  
 10.3 dollar amount involved for each disputed item;

10.4 (2) the computation the provider believes to be correct, if applicable;

10.5 (3) the statute or rule relied on for each disputed item; and

10.6 (4) the name, address, and telephone number of the person at the provider's place of  
 10.7 business with whom contact may be made regarding the appeal.

10.8 **EFFECTIVE DATE.** This section is effective February 26, 2021.

10.9 Sec. 13. Minnesota Statutes 2018, section 119B.16, subdivision 1b, is amended to read:

10.10 Subd. 1b. **Joint fair hearings.** ~~When a provider requests a fair hearing under subdivision~~  
 10.11 ~~1a, the family in whose case the overpayment was created must be made a party to the fair~~  
 10.12 ~~hearing. All other issues raised by the family must be resolved in the same proceeding.~~  
 10.13 ~~When a family requests a fair hearing and claims that the county should have assigned~~  
 10.14 ~~responsibility for an overpayment to a provider, the provider must be made a party to the~~  
 10.15 ~~fair hearing. The human services judge assigned to a fair hearing may join a family or a~~  
 10.16 ~~provider as a party to the fair hearing whenever joinder of that party is necessary to fully~~  
 10.17 ~~and fairly resolve overpayment issues raised in the appeal.~~

10.18 **EFFECTIVE DATE.** This section is effective February 26, 2021.

10.19 Sec. 14. Minnesota Statutes 2018, section 119B.16, is amended by adding a subdivision  
 10.20 to read:

10.21 Subd. 1c. **Notice to providers.** (a) Before taking an action appealable under subdivision  
 10.22 1a, paragraph (b), a county agency or the commissioner must mail written notice to the  
 10.23 provider against whom the action is being taken. Unless otherwise specified under chapter  
 10.24 119B or 245E or Minnesota Rules, chapter 3400, a county agency or the commissioner must  
 10.25 mail the written notice at least 15 calendar days before the adverse action's effective date.

10.26 (b) The notice shall state (1) the factual basis for the department's determination, (2) the  
 10.27 action the department intends to take, (3) the dollar amount of the monetary recovery or  
 10.28 recoupment, if known, and (4) the provider's right to appeal the department's proposed  
 10.29 action.

10.30 **EFFECTIVE DATE.** This section is effective February 26, 2021.

11.1 Sec. 15. Minnesota Statutes 2018, section 119B.16, is amended by adding a subdivision  
11.2 to read:

11.3 Subd. 3. **Fair hearing stayed.** (a) If a county agency or the commissioner denies or  
11.4 revokes a provider's authorization based on a licensing action under section 245A.07, and  
11.5 the provider appeals, the provider's fair hearing must be stayed until the commissioner issues  
11.6 an order as required under section 245A.08, subdivision 5.

11.7 (b) If the commissioner denies or revokes a provider's authorization based on  
11.8 decertification under section 245H.07, and the provider appeals, the provider's fair hearing  
11.9 must be stayed until the commissioner issues a final order as required under section 245H.07.

11.10 **EFFECTIVE DATE.** This section is effective February 26, 2021.

11.11 Sec. 16. Minnesota Statutes 2018, section 119B.16, is amended by adding a subdivision  
11.12 to read:

11.13 Subd. 4. **Final department action.** Unless the commissioner receives a timely and  
11.14 proper request for an appeal, a county agency's or the commissioner's action shall be  
11.15 considered a final department action.

11.16 **EFFECTIVE DATE.** This section is effective February 26, 2021.

11.17 Sec. 17. **[119B.161] ADMINISTRATIVE REVIEW.**

11.18 Subdivision 1. **Applicability.** A provider has the right to an administrative review under  
11.19 this section if (1) a payment was suspended under chapter 245E, or (2) the provider's  
11.20 authorization was denied or revoked under section 119B.13, subdivision 6, paragraph (d),  
11.21 clause (1) or (2).

11.22 Subd. 2. **Notice.** (a) A county agency or the commissioner must mail written notice to  
11.23 a provider within five days of suspending payment or denying or revoking the provider's  
11.24 authorization under subdivision 1.

11.25 (b) The notice must:

11.26 (1) state the provision under which a county agency or the commissioner is denying,  
11.27 revoking, or suspending the provider's authorization or suspending payment to the provider;

11.28 (2) set forth the general allegations leading to the denial, revocation, or suspension of  
11.29 the provider's authorization. The notice need not disclose any specific information concerning  
11.30 an ongoing investigation;

12.1 (3) state that the denial, revocation, or suspension of the provider's authorization is for  
12.2 a temporary period and explain the circumstances under which the action expires; and

12.3 (4) inform the provider of the right to submit written evidence and argument for  
12.4 consideration by the commissioner.

12.5 (c) Notwithstanding Minnesota Rules, part 3400.0185, if a county agency or the  
12.6 commissioner suspends payment to a provider under chapter 245E or denies or revokes a  
12.7 provider's authorization under section 119B.13, subdivision 6, paragraph (d), clause (1) or  
12.8 (2), a county agency or the commissioner must send notice of service authorization closure  
12.9 to each affected family. The notice sent to an affected family is effective on the date the  
12.10 notice is created.

12.11 Subd. 3. **Duration.** If a provider's payment is suspended under chapter 245E or a  
12.12 provider's authorization is denied or revoked under section 119B.13, subdivision 6, paragraph  
12.13 (d), clause (1) or (2), the provider's denial, revocation, temporary suspension, or payment  
12.14 suspension remains in effect until:

12.15 (1) the commissioner or a law enforcement authority determines that there is insufficient  
12.16 evidence warranting the action and a county agency or the commissioner does not pursue  
12.17 an additional administrative remedy under chapter 245E or section 256.98; or

12.18 (2) all criminal, civil, and administrative proceedings related to the provider's alleged  
12.19 misconduct conclude and any appeal rights are exhausted.

12.20 Subd. 4. **Good cause exception.** The commissioner may find that good cause exists not  
12.21 to deny, revoke, or suspend a provider's authorization, or not to continue a denial, revocation,  
12.22 or suspension of a provider's authorization if any of the following are applicable:

12.23 (1) a law enforcement authority specifically requested that a provider's authorization  
12.24 not be denied, revoked, or suspended because that action may compromise an ongoing  
12.25 investigation;

12.26 (2) the commissioner determines that the denial, revocation, or suspension should be  
12.27 removed based on the provider's written submission; or

12.28 (3) the commissioner determines that the denial, revocation, or suspension is not in the  
12.29 best interests of the program.

12.30 **EFFECTIVE DATE.** This section is effective February 26, 2021.

13.1 Sec. 18. Minnesota Statutes 2018, section 245E.06, subdivision 3, is amended to read:

13.2 Subd. 3. **Appeal of department sanction action.** ~~(a) If the department does not pursue~~  
 13.3 ~~a criminal action against a provider, license holder, controlling individual, or recipient for~~  
 13.4 ~~financial misconduct, but the department imposes an administrative sanction under section~~  
 13.5 ~~245E.02, subdivision 4, paragraph (c), any individual or entity against whom the sanction~~  
 13.6 ~~was imposed may appeal the department's administrative sanction under this section pursuant~~  
 13.7 ~~to section 119B.16 or 256.045 with the additional requirements in clauses (1) to (4). An~~  
 13.8 ~~appeal must specify:~~

13.9 ~~(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount~~  
 13.10 ~~involved for each disputed item, if appropriate;~~

13.11 ~~(2) the computation that is believed to be correct, if appropriate;~~

13.12 ~~(3) the authority in the statute or rule relied upon for each disputed item; and~~

13.13 ~~(4) the name, address, and phone number of the person at the provider's place of business~~  
 13.14 ~~with whom contact may be made regarding the appeal.~~

13.15 ~~(b) Notwithstanding section 245E.03, subdivision 4, an appeal is considered timely only~~  
 13.16 ~~if postmarked or received by the department's Appeals Division within 30 days after receiving~~  
 13.17 ~~a notice of department sanction.~~

13.18 ~~(c) Before the appeal hearing, the department may deny or terminate authorizations or~~  
 13.19 ~~payment to the entity or individual if the department determines that the action is necessary~~  
 13.20 ~~to protect the public welfare or the interests of the child care assistance program.~~

13.21 A provider's rights related to the department's action taken under this chapter against a  
 13.22 provider are established in sections 119B.16 and 119B.161.

13.23 **EFFECTIVE DATE.** This section is effective February 26, 2021.

13.24 Sec. 19. Minnesota Statutes 2018, section 245H.07, is amended to read:

13.25 **245H.07 DECERTIFICATION.**

13.26 Subdivision 1. **Generally.** (a) The commissioner may decertify a center if a certification  
 13.27 holder:

13.28 (1) failed to comply with an applicable law or rule; or

13.29 (2) knowingly withheld relevant information from or gave false or misleading information  
 13.30 to the commissioner in connection with an application for certification, in connection with

14.1 the background study status of an individual, during an investigation, or regarding compliance  
 14.2 with applicable laws or rules; or

14.3 (3) has authorization to receive child care assistance payments revoked pursuant to  
 14.4 chapter 119B.

14.5 (b) When considering decertification, the commissioner shall consider the nature,  
 14.6 chronicity, or severity of the violation of law or rule.

14.7 (c) When a center is decertified, the center is ineligible to receive a child care assistance  
 14.8 payment under chapter 119B.

14.9 Subd. 2. **Reconsideration.** (a) The certification holder may request reconsideration of  
 14.10 the decertification by notifying the commissioner by certified mail or personal service. The  
 14.11 request must be made in writing. If sent by certified mail, the request must be postmarked  
 14.12 and sent to the commissioner within ten calendar days after the certification holder received  
 14.13 the order. If a request is made by personal service, it must be received by the commissioner  
 14.14 within ten calendar days after the certification holder received the order. The certification  
 14.15 holder may submit with the request for reconsideration written argument or evidence in  
 14.16 support of the request for reconsideration.

14.17 (b) If the commissioner decertifies a center pursuant to subdivision 1, paragraph (a),  
 14.18 clause (3), and if the center appeals the revocation of the center's authorization to receive  
 14.19 child care assistance payments, the final decertification determination is stayed until the  
 14.20 appeal of the center's authorization under chapter 119B is resolved. If the center also requests  
 14.21 reconsideration of the decertification, the center must do so according to paragraph (a). The  
 14.22 final decision on reconsideration is stayed until the appeal of the center's authorization under  
 14.23 chapter 119B is resolved.

14.24 (c) The commissioner's disposition of a request for reconsideration is final and not subject  
 14.25 to appeal under chapter 14.

14.26 **EFFECTIVE DATE.** This section is effective February 26, 2021.

14.27 Sec. 20. **APPROPRIATION; BASIC SLIDING FEE WAITING LIST ALLOCATION.**

14.28 (a) Notwithstanding Minnesota Statutes, section 119B.03, \$8,676,000 in fiscal year 2020  
 14.29 and \$17,701,000 in fiscal year 2021 are appropriated from the general fund to the  
 14.30 commissioner of human services to reduce the basic sliding fee program waiting list as  
 14.31 follows:

15.1 (1) the calendar year 2020 allocation shall be increased to serve families on the waiting  
15.2 list. To receive funds appropriated for this purpose, a county must have a waiting list in the  
15.3 most recent published waiting list month;

15.4 (2) funds shall be distributed proportionately based on the average of the most recent  
15.5 six months of published waiting lists to counties that meet the criteria in clause (1);

15.6 (3) allocations in calendar years 2021 and beyond shall be calculated using the allocation  
15.7 formula in Minnesota Statutes, section 119B.03; and

15.8 (4) the guaranteed floor for calendar year 2021 shall be based on the revised calendar  
15.9 year 2020 allocation.

15.10 (b) Notwithstanding Minnesota Statutes, section 119B.03, subdivisions 6, 6a, and 6b,  
15.11 the commissioner must allocate the additional basic sliding fee child care funds for calendar  
15.12 year 2020 to counties for updated maximum rates based on relative need to cover maximum  
15.13 rate increases. In distributing the additional funds, the commissioner shall consider the  
15.14 following factors by county:

15.15 (1) number of children;

15.16 (2) provider type;

15.17 (3) age of children; and

15.18 (4) amount of the increase in maximum rates.

15.19 **Sec. 21. REPEALER.**

15.20 Minnesota Statutes 2018, sections 119B.16, subdivision 2; and 245E.06, subdivisions  
15.21 2, 4, and 5, and Minnesota Rules, part 3400.0185, subpart 5, are repealed effective February  
15.22 26, 2021.

**119B.16 FAIR HEARING PROCESS.**

Subd. 2. **Informal conference.** The county agency shall offer an informal conference to applicants and recipients adversely affected by an agency action to attempt to resolve the dispute. The county agency shall offer an informal conference to providers to whom the county agency has assigned responsibility for an overpayment in an attempt to resolve the dispute. The county agency or the provider may ask the family in whose case the overpayment arose to participate in the informal conference, but the family may refuse to do so. The county agency shall advise adversely affected applicants, recipients, and providers that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing.

**245E.06 ADMINISTRATIVE SANCTIONS.**

Subd. 2. **Written notice of department sanction; sanction effective date; informal meeting.** (a) The department shall give notice in writing to a person of an administrative sanction that is to be imposed. The notice shall be sent by mail as defined in section 245E.01, subdivision 11.

(b) The notice shall state:

- (1) the factual basis for the department's determination;
- (2) the sanction the department intends to take;
- (3) the dollar amount of the monetary recovery or recoupment, if any;
- (4) how the dollar amount was computed;
- (5) the right to dispute the department's determination and to provide evidence;
- (6) the right to appeal the department's proposed sanction; and

(7) the option to meet informally with department staff, and to bring additional documentation or information, to resolve the issues.

(c) In cases of determinations resulting in denial or termination of payments, in addition to the requirements of paragraph (b), the notice must state:

- (1) the length of the denial or termination;
- (2) the requirements and procedures for reinstatement; and

(3) the provider's right to submit documents and written arguments against the denial or termination of payments for review by the department before the effective date of denial or termination.

(d) The submission of documents and written argument for review by the department under paragraph (b), clause (5) or (7), or paragraph (c), clause (3), does not stay the deadline for filing an appeal.

(e) Notwithstanding section 245E.03, subdivision 4, the effective date of the proposed sanction shall be 30 days after the license holder's, provider's, controlling individual's, or recipient's receipt of the notice, unless timely appealed. If a timely appeal is made, the proposed sanction shall be delayed pending the final outcome of the appeal. Implementation of a proposed sanction following the resolution of a timely appeal may be postponed if, in the opinion of the department, the delay of sanction is necessary to protect the health or safety of children in care. The department may consider the economic hardship of a person in implementing the proposed sanction, but economic hardship shall not be a determinative factor in implementing the proposed sanction.

(f) Requests for an informal meeting to attempt to resolve issues and requests for appeals must be sent or delivered to the department's Office of Inspector General, Financial Fraud and Abuse Division.

Subd. 4. **Consolidated hearings with licensing sanction.** If a financial misconduct sanction has an appeal hearing right and it is timely appealed, and a licensing sanction exists for which there is an appeal hearing right and the sanction is timely appealed, and the overpayment recovery action and licensing sanction involve the same set of facts, the overpayment recovery action and licensing sanction must be consolidated in the contested case hearing related to the licensing sanction.

APPENDIX  
Repealed Minnesota Statutes: 19-4694

Subd. 5. **Effect of department's administrative determination or sanction.** Unless a timely and proper appeal is received by the department, the department's administrative determination or sanction shall be considered a final department determination.

**3400.0185 TERMINATION AND ADVERSE ACTIONS; NOTICE REQUIRED.**

Subp. 5. **Notice to providers of actions adverse to the provider.** The county must give a provider written notice of the following actions adverse to the provider: a denial of authorization, a termination of authorization, a reduction in the number of hours of care with that provider, and a determination that the provider has an overpayment. The notice must include the following information:

- A. a description of the adverse action;
- B. the effective date of the adverse action; and

C. a statement that unless a family appeals the adverse action before the effective date or the provider appeals the overpayment determination, the adverse action will occur on the effective date. The notice must be mailed to the provider at least 15 calendar days before the effective date of the adverse action.