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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **13**

- 01/04/2023 Authored by Pinto, Keeler, Kotyza-Witthuhn, Pryor, Long and others  
The bill was read for the first time and referred to the Committee on Children and Families Finance and Policy
- 01/23/2023 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
- 02/08/2023 Adoption of Report: Placed on the General Register as Amended  
Read for the Second Time
- 02/13/2023 Calendar for the Day  
Read for the Third Time  
Passed by the House and transmitted to the Senate

1.1 A bill for an act

1.2 relating to child care assistance; modifying child care assistance rates and funding

1.3 priorities; modifying procedures for termination and disqualification of human

1.4 services providers and grant recipients; appropriating money for child care

1.5 assistance programs and grants; amending Minnesota Statutes 2022, sections

1.6 119B.03, subdivision 4a; 119B.13, subdivisions 1, 4; 245.095; repealing Minnesota

1.7 Statutes 2022, section 119B.03, subdivision 4.

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

1.9 Section 1. Minnesota Statutes 2022, section 119B.03, subdivision 4a, is amended to read:

1.10 Subd. 4a. ~~Temporary reprioritization~~ **Funding priorities.** (a) ~~Notwithstanding~~

1.11 ~~subdivision 4~~ In the event that inadequate funding necessitates the use of waiting lists,

1.12 priority for child care assistance under the basic sliding fee assistance program shall be

1.13 determined according to this subdivision ~~beginning July 1, 2021, through May 31, 2024.~~

1.14 (b) First priority must be given to eligible non-MFIP families who do not have a high

1.15 school diploma or commissioner of education-selected high school equivalency certification

1.16 or who need remedial and basic skill courses in order to pursue employment or to pursue

1.17 education leading to employment and who need child care assistance to participate in the

1.18 education program. This includes student parents as defined under section 119B.011,

1.19 subdivision 19b. Within this priority, the following subpriorities must be used:

- 1.20 (1) child care needs of minor parents;
- 1.21 (2) child care needs of parents under 21 years of age; and
- 1.22 (3) child care needs of other parents within the priority group described in this paragraph.

2.1 (c) Second priority must be given to families in which at least one parent is a veteran,  
2.2 as defined under section 197.447.

2.3 (d) Third priority must be given to eligible families who do not meet the specifications  
2.4 of paragraph (b), (c), (e), or (f).

2.5 (e) Fourth priority must be given to families who are eligible for portable basic sliding  
2.6 fee assistance through the portability pool under subdivision 9.

2.7 (f) Fifth priority must be given to eligible families receiving services under section  
2.8 119B.011, subdivision 20a, if the parents have completed their MFIP or DWP transition  
2.9 year, or if the parents are no longer receiving or eligible for DWP supports.

2.10 (g) Families under paragraph (f) must be added to the basic sliding fee waiting list on  
2.11 the date they complete their transition year under section 119B.011, subdivision 20.

2.12 **EFFECTIVE DATE.** This section is effective July 1, 2023.

2.13 Sec. 2. Minnesota Statutes 2022, section 119B.13, subdivision 1, is amended to read:

2.14 Subdivision 1. **Subsidy restrictions.** (a) Beginning ~~November 15~~ August 7, 2024 ~~2023~~,  
2.15 the maximum rate paid for child care assistance in any county or county price cluster under  
2.16 the child care fund shall be: the greater of the 75th percentile of the most recent child care  
2.17 provider rate survey or the rates in effect at the time of the update. Thereafter, each rate  
2.18 change is effective the first full service period on or after January 1 of the year following  
2.19 the provider rate survey.

2.20 ~~(1) for all infants and toddlers, the greater of the 40th percentile of the 2021 child care~~  
2.21 ~~provider rate survey or the rates in effect at the time of the update; and~~

2.22 ~~(2) for all preschool and school-age children, the greater of the 30th percentile of the~~  
2.23 ~~2021 child care provider rate survey or the rates in effect at the time of the update.~~

2.24 ~~(b) Beginning the first full service period on or after January 1, 2025, the maximum rate~~  
2.25 ~~paid for child care assistance in a county or county price cluster under the child care fund~~  
2.26 ~~shall be:~~

2.27 ~~(1) for all infants and toddlers, the greater of the 40th percentile of the 2024 child care~~  
2.28 ~~provider rate survey or the rates in effect at the time of the update; and~~

2.29 ~~(2) for all preschool and school-age children, the greater of the 30th percentile of the~~  
2.30 ~~2024 child care provider rate survey or the rates in effect at the time of the update.~~

2.31 The rates under paragraph (a) continue until the rates under this paragraph go into effect.

3.1 ~~(e)~~ (b) For a child care provider located within the boundaries of a city located in two  
3.2 or more of the counties of Benton, Sherburne, and Stearns, the maximum rate paid for child  
3.3 care assistance shall be equal to the maximum rate paid in the county with the highest  
3.4 maximum reimbursement rates or the provider's charge, whichever is less. The commissioner  
3.5 may: (1) assign a county with no reported provider prices to a similar price cluster; and (2)  
3.6 consider county level access when determining final price clusters.

3.7 ~~(d)~~ (c) A rate which includes a special needs rate paid under subdivision 3 may be in  
3.8 excess of the maximum rate allowed under this subdivision.

3.9 ~~(e)~~ (d) The department shall monitor the effect of this paragraph on provider rates. The  
3.10 county shall pay the provider's full charges for every child in care up to the maximum  
3.11 established. The commissioner shall determine the maximum rate for each type of care on  
3.12 an hourly, full-day, and weekly basis, including special needs and disability care.

3.13 ~~(f)~~ (e) If a child uses one provider, the maximum payment for one day of care must not  
3.14 exceed the daily rate. The maximum payment for one week of care must not exceed the  
3.15 weekly rate.

3.16 ~~(g)~~ (f) If a child uses two providers under section 119B.097, the maximum payment  
3.17 must not exceed:

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

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

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

3.21 ~~(h)~~ (g) Child care providers receiving reimbursement under this chapter must not be  
3.22 paid activity fees or an additional amount above the maximum rates for care provided during  
3.23 nonstandard hours for families receiving assistance.

3.24 ~~(i)~~ (h) If the provider charge is greater than the maximum provider rate allowed, the  
3.25 parent is responsible for payment of the difference in the rates in addition to any family  
3.26 co-payment fee.

3.27 ~~(j)~~ (i) The maximum registration fee paid for child care assistance in any county or  
3.28 county price cluster under the child care fund shall be set as follows: ~~(1) beginning November~~  
3.29 ~~15, 2021, the greater of the 40th percentile of the 2021 child care provider rate survey or~~  
3.30 ~~the registration fee in effect at the time of the update; and (2) beginning the first full service~~  
3.31 ~~period on or after January 1, 2025, the maximum registration fee shall be the greater of the~~  
3.32 ~~40th percentile of the 2024 child care provider rate survey or the registration fee in effect~~  
3.33 ~~at the time of the update. The registration fees under clause (1) continue until the registration~~

4.1 ~~fees under clause (2) go into effect~~ the greater of the 75th percentile of the most recent child  
4.2 care provider rate survey or the registration fee in effect at the time of the update. Each  
4.3 maximum registration fee update must be implemented on the same schedule as maximum  
4.4 child care assistance rate increases under paragraph (a).

4.5 ~~(k)~~ (j) Maximum registration fees must be set for licensed family child care and for child  
4.6 care centers. For a child care provider located in the boundaries of a city located in two or  
4.7 more of the counties of Benton, Sherburne, and Stearns, the maximum registration fee paid  
4.8 for child care assistance shall be equal to the maximum registration fee paid in the county  
4.9 with the highest maximum registration fee or the provider's charge, whichever is less.

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

4.11 Sec. 3. Minnesota Statutes 2022, section 119B.13, subdivision 4, is amended to read:

4.12 Subd. 4. **Rates charged to publicly subsidized families.** Child care providers receiving  
4.13 reimbursement under this chapter may not charge a rate to clients receiving assistance under  
4.14 this chapter that is higher than the private, full-paying client rate. This subdivision shall not  
4.15 prohibit a child care provider receiving reimbursement under this chapter from providing  
4.16 discounts, scholarships, or other financial assistance to any clients.

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

4.18 Sec. 4. Minnesota Statutes 2022, section 245.095, is amended to read:

4.19 **245.095 LIMITS ON RECEIVING PUBLIC FUNDS.**

4.20 Subdivision 1. **Prohibition.** (a) If a provider, vendor, or individual enrolled, licensed,  
4.21 receiving funds under a grant contract, or registered in any program administered by the  
4.22 commissioner, including under the commissioner's powers and authorities in section 256.01,  
4.23 is excluded from that program, the commissioner shall:

4.24 (1) prohibit the excluded provider, vendor, or individual from enrolling, becoming  
4.25 licensed, receiving grant funds, or registering in any other program administered by the  
4.26 commissioner; and

4.27 (2) disenroll, revoke or suspend a license, disqualify, or debar the excluded provider,  
4.28 vendor, or individual in any other program administered by the commissioner.

4.29 (b) If a provider, vendor, or individual enrolled, licensed, receiving funds under a grant  
4.30 contract, or registered in any program administered by the commissioner, including under

5.1 the commissioner's powers and authorities in section 256.01, is excluded from that program,  
5.2 the commissioner may:

5.3 (1) prohibit any associated entities or associated individuals from enrolling, becoming  
5.4 licensed, receiving grant funds, or registering in any other program administered by the  
5.5 commissioner; and

5.6 (2) disenroll, revoke or suspend a license of, disqualify, or debar any associated entities  
5.7 or associated individuals, in any other program administered by the commissioner.

5.8 (c) If a provider, vendor, or individual enrolled, licensed, or otherwise receiving funds  
5.9 under any contract or registered in any program administered by a Minnesota state or federal  
5.10 agency is excluded from that program, the commissioner of human services may:

5.11 (1) prohibit the excluded provider, vendor, or individual, or any associated entities or  
5.12 associated individuals from enrolling, becoming licensed, receiving grant funds, or registering  
5.13 in any program administered by the commissioner; and

5.14 (2) disenroll, revoke or suspend a license of, disqualify, or debar the excluded provider,  
5.15 vendor, or individual, or any associated entities or associated individuals, in any program  
5.16 administered by the commissioner.

5.17 ~~(b)~~ (d) The duration of this a prohibition, disenrollment, revocation, suspension,  
5.18 disqualification, or debarment under paragraph (a) must last for the longest applicable  
5.19 sanction or disqualifying period in effect for the provider, vendor, or individual permitted,  
5.20 as by state or federal law. The duration of a prohibition, disenrollment, revocation,  
5.21 suspension, disqualification, or debarment under paragraphs (b) and (c) may last up until  
5.22 the longest applicable sanction or disqualifying period in effect for the provider, vendor,  
5.23 individual, associated entity, or associated individual, as permitted by state or federal law.

5.24 Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions have the  
5.25 meanings given them.

5.26 (b) "Associated entity" means a provider or vendor owned or controlled by an excluded  
5.27 individual.

5.28 (c) "Associated individual" means an individual who owns or is an executive officer or  
5.29 board member of an excluded provider or vendor.

5.30 ~~(b)~~ (d) "Excluded" means disenrolled, disqualified, having a license that has been revoked  
5.31 or suspended under chapter 245A, or debarred or suspended under Minnesota Rules, part  
5.32 1230.1150, or excluded pursuant to section 256B.064, subdivision 3 removed under other

6.1 authorities from a program administered by a Minnesota state or federal agency, including  
6.2 a final determination to stop payments.

6.3 ~~(e)~~ (e) "Individual" means a natural person providing products or services as a provider  
6.4 or vendor.

6.5 ~~(d)~~ (f) "Provider" ~~includes any entity or individual receiving payment from a program~~  
6.6 ~~administered by the Department of Human Services, and an owner, controlling individual,~~  
6.7 ~~license holder, director, or managerial official of an entity receiving payment from a program~~  
6.8 ~~administered by the Department of Human Services~~ means any entity, individual, owner,  
6.9 controlling individual, license holder, director, or managerial official of an entity receiving  
6.10 payment from a program administered by a Minnesota state or federal agency.

6.11 Subd. 3. **Notice.** Within five days of taking an action under subdivision (1), paragraph  
6.12 (a), (b), or (c), against a provider, vendor, individual, associated individual, or associated  
6.13 entity, the commissioner must send notice of the action to the provider, vendor, individual,  
6.14 associated individual, or associated entity. The notice must state:

6.15 (1) the basis for the action;

6.16 (2) the effective date of the action;

6.17 (3) the right to appeal the action; and

6.18 (4) the requirements and procedures for reinstatement.

6.19 Subd. 4. **Appeal.** (a) Upon receipt of a notice under subdivision 3, a provider, vendor,  
6.20 individual, associated individual, or associated entity may request a contested case hearing,  
6.21 as defined in section 14.02, subdivision 3, by filing with the commissioner a written request  
6.22 of appeal. The scope of any contested case hearing shall be solely limited to action taken  
6.23 under this section. The commissioner must receive the appeal request no later than 30 days  
6.24 after the date the notice was mailed to the provider, vendor, individual, associated individual,  
6.25 or associated entity. The appeal request must specify:

6.26 (1) each disputed item and the reason for the dispute;

6.27 (2) the authority in statute or rule upon which the provider, vendor, individual, associated  
6.28 individual, or associated entity relies for each disputed item;

6.29 (3) the name and address of the person or entity with whom contacts may be made  
6.30 regarding the appeal; and

6.31 (4) any other information required by the commissioner.

7.1 (b) The action of the commissioner shall be considered final and binding on the effective  
7.2 date of the action as stated in the notice under subdivision 3, unless timely and proper appeal  
7.3 is received by the commissioner.

7.4 Subd. 5. **Withholding of payments.** (a) Except as otherwise provided by state or federal  
7.5 law, the commissioner may withhold payments to a provider, vendor, individual, associated  
7.6 individual, or associated entity in any program administered by the commissioner, if the  
7.7 commissioner determines there is a credible allegation of fraud for which an investigation  
7.8 is pending for a program administered by a Minnesota state or federal agency.

7.9 (b) For purposes of this subdivision, a "credible allegation of fraud" is an allegation  
7.10 which has been verified by the commissioner from any source, including but not limited  
7.11 to:

7.12 (1) fraud hotline complaints;

7.13 (2) claims data mining;

7.14 (3) patterns identified through provider audits, civil false claims cases, and law  
7.15 enforcement investigations; and

7.16 (4) court filings and other legal documents, including but not limited to police reports,  
7.17 complaints, indictments, informations, affidavits, declarations, and search warrants.

7.18 (c) The commissioner must send notice of the withholding of payments within five days  
7.19 of taking such action. The notice must:

7.20 (1) state that payments are being withheld according to this subdivision;

7.21 (2) set forth the general allegations related to the withholding action, except the notice  
7.22 need not disclose specific information concerning an ongoing investigation;

7.23 (3) state that the withholding is for a temporary period and cite the circumstances under  
7.24 which the withholding will be terminated; and

7.25 (4) inform the provider, vendor, individual, associated individual, or associated entity  
7.26 of the right to submit written evidence to contest the withholding action for consideration  
7.27 by the commissioner.

7.28 (d) The commissioner shall stop withholding payments if the commissioner determines  
7.29 there is insufficient evidence of fraud by the provider, vendor, individual, associated  
7.30 individual, or associated entity or when legal proceedings relating to the alleged fraud are  
7.31 completed, unless the commissioner has sent notice under subdivision 3 to the provider,  
7.32 vendor, individual, associated individual, or associated entity.

8.1 (e) The withholding of payments is a temporary action and shall not be subject to appeal  
8.2 under section 256.045 or chapter 14.

8.3 **Sec. 5. APPROPRIATIONS; DEPARTMENT OF HUMAN SERVICES.**

8.4 Subdivision 1. **MFIP child care assistance.** \$56,176,000 in fiscal year 2024 and  
8.5 \$147,153,000 in fiscal year 2025 are appropriated from the general fund to the commissioner  
8.6 of human services for child care grants.

8.7 Subd. 2. **Basic sliding fee child care grants.** \$62,834,000 in fiscal year 2024 and  
8.8 \$86,778,000 in fiscal year 2025 are appropriated from the general fund to the commissioner  
8.9 for child care grants. The general fund base for this appropriation is \$91,537,000 in fiscal  
8.10 year 2026 and \$88,318,000 in fiscal year 2027.

8.11 Subd. 3. **Central office operations.** (a) \$268,000 in fiscal year 2024 and \$4,000 in fiscal  
8.12 year 2025 are appropriated from the general fund to the commissioner for the state share  
8.13 of technology systems costs related to changes in this act. The general fund base for this  
8.14 appropriation is \$4,000 in fiscal year 2026 and \$4,000 in fiscal year 2027.

8.15 (b) \$573,000 in fiscal year 2024 and \$669,000 in fiscal year 2025 are appropriated from  
8.16 the general fund to the commissioner for staffing costs related to changes in this act. The  
8.17 general fund base for this appropriation is \$669,000 in fiscal year 2026 and \$669,000 in  
8.18 fiscal year 2027.

8.19 (c) \$50,000 in fiscal year 2024 and \$50,000 in fiscal year 2025 are appropriated from  
8.20 the general fund to the commissioner for appeals adjudication costs related to changes in  
8.21 this act. The general fund base for this appropriation is \$50,000 in fiscal year 2026 and  
8.22 \$50,000 in fiscal year 2027.

8.23 **Sec. 6. REPEALER.**

8.24 Minnesota Statutes 2022, section 119B.03, subdivision 4, is repealed effective July 1,  
8.25 2023.

**119B.03 BASIC SLIDING FEE PROGRAM.**

Subd. 4. **Funding priority.** (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-MFIP families who do not have a high school diploma or commissioner of education-selected high school equivalency certification or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. This includes student parents as defined under section 119B.011, subdivision 19b. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP or DWP transition year, or parents who are no longer receiving or eligible for diversionary work program supports.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Fourth priority must be given to families in which at least one parent is a veteran as defined under section 197.447.

(e) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.