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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **1801**

02/27/2019 Authored by Pinto

The bill was read for the first time and referred to the Early Childhood Finance and Policy Division

04/01/2019 Adoption of Report: Amended and re-referred to the Health and Human Services Finance Division

1.1 A bill for an act

1.2 relating to early childhood; modifying various policy and finance provisions

1.3 governing child care, children and family services, licensing, and program integrity;

1.4 making appropriations; amending Minnesota Statutes 2018, sections 13.46,

1.5 subdivision 3; 15C.02; 119B.011, subdivisions 19, 20, by adding a subdivision;

1.6 119B.02, subdivisions 3, 6, 7; 119B.025, subdivision 1, by adding a subdivision;

1.7 119B.03, subdivision 9; 119B.09, subdivisions 1, 7; 119B.095, subdivision 2, by

1.8 adding a subdivision; 119B.125, subdivision 6; 119B.13, subdivisions 1, 6, 7;

1.9 119B.16, subdivisions 1, 1a, 1b, by adding subdivisions; 124D.142; 124D.165,

1.10 subdivision 4; 144.966, subdivision 2; 245.095; 245A.02, subdivisions 3, 8, 9, 12,

1.11 14, by adding subdivisions; 245A.03, subdivisions 1, 3; 245A.04, subdivisions 1,

1.12 2, 4, 6, 7, 10, by adding a subdivision; 245A.05; 245A.07, subdivisions 1, 2, 2a,

1.13 3; 245A.14, by adding a subdivision; 245A.145, subdivisions 1, 2; 245A.41,

1.14 subdivision 3; 245A.50, by adding a subdivision; 245A.51, subdivision 3; 245E.01,

1.15 subdivision 8; 245E.02, by adding subdivisions; 245E.06, subdivision 3; 245H.07;

1.16 245H.15, subdivision 1; 256.046, subdivision 1; 256B.02, subdivision 7; 256B.064,

1.17 subdivisions 1a, 1b, 2, by adding subdivisions; 256B.0651, subdivision 17;

1.18 256B.0659, subdivision 12; 256B.27, subdivision 3; 256B.4912, by adding

1.19 subdivisions; proposing coding for new law in Minnesota Statutes, chapters 119B;

1.20 145; 245A; 256B; 609; repealing Minnesota Statutes 2018, sections 119B.16,

1.21 subdivision 2; 245E.06, subdivisions 2, 4, 5; Minnesota Rules, part 3400.0185,

1.22 subpart 5.

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

1.24 **ARTICLE 1**

1.25 **APPROPRIATIONS**

1.26 Section 1. **HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

1.27 The sums shown in the columns marked "Appropriations" are appropriated, or subtracted

1.28 from base appropriations if shown in parentheses, to the agencies and for the purposes

1.29 specified in this article. The appropriations are from the general fund, or another named

1.30 fund, and are available for the fiscal years indicated for each purpose. The figures "2020"

1.31 and "2021" used in this article mean that the appropriations listed under them are available

2.1 for the fiscal year ending June 30, 2020, or June 30, 2021, respectively. "The first year" is
 2.2 fiscal year 2020. "The second year" is fiscal year 2021. "The biennium" is fiscal years 2020
 2.3 and 2021.

2.4 **APPROPRIATIONS**

2.5 **Available for the Year**

2.6 **Ending June 30**

2.7 **2020**

2021

2.8 **Sec. 2. COMMISSIONER OF HUMAN**
 2.9 **SERVICES**

2.10 Subdivision 1. Total Appropriation \$ **13,693,000** \$ **34,468,000**

2.11 Appropriations by Fund

	<u>2020</u>	<u>2021</u>
2.12 <u>General</u>	<u>13,616,000</u>	<u>34,402,000</u>
2.13 <u>State Government</u>		
2.14 <u>Special Revenue</u>	<u>84,000</u>	<u>75,000</u>
2.15 <u>Health Care Access</u>	<u>(7,000)</u>	<u>(9,000)</u>

2.17 The appropriations in this section are to the
 2.18 commissioner of human services. Each
 2.19 appropriation is in addition to base
 2.20 appropriations. The amounts that may be spent
 2.21 for each purpose are specified in the following
 2.22 subdivisions.

2.23 **Subd. 2. Central Office; Operations**

2.24 Appropriations by Fund

	<u>2020</u>	<u>2021</u>
2.25 <u>General</u>	<u>3,432,000</u>	<u>3,051,000</u>
2.26 <u>State Government</u>		
2.27 <u>Special Revenue</u>	<u>84,000</u>	<u>75,000</u>

2.29 **(a) Child Care Licensing Inspections.**

2.30 \$673,000 in fiscal year 2020 and \$722,000 in
 2.31 fiscal year 2021 are to add eight child care
 2.32 licensing staff for the purpose of increasing
 2.33 the frequency of inspections of child care

3.1 centers to ensure the health and safety of
3.2 children in care, provide technical assistance
3.3 to newly-licensed programs, and monitor
3.4 struggling programs more closely to evaluate
3.5 whether the program should be referred to the
3.6 Office of Inspector General for a potential
3.7 fraud investigation.

3.8 **(b) Child Care Assistance Programs - Fraud**
3.9 **and Abuse Data Analysts.** \$317,000 in fiscal
3.10 year 2020 and \$339,000 in fiscal year 2021
3.11 are to add two data analysts to strengthen the
3.12 commissioner's ability to identify, detect, and
3.13 prevent fraud and abuse in the child care
3.14 assistance programs under Minnesota Statutes,
3.15 chapter 119B.

3.16 **(c) Office of Inspector General**
3.17 **Investigators.** \$418,000 in fiscal year 2020
3.18 and \$483,000 in fiscal year 2021 are to add
3.19 four investigators to the Office of Inspector
3.20 General to detect, prevent, and make
3.21 recoveries from fraudulent activities among
3.22 providers in the medical assistance program
3.23 under Minnesota Statutes, chapter 256B.

3.24 **(d) Office of Inspector General Tracking**
3.25 **System.** \$355,000 in fiscal year 2020 and
3.26 \$105,000 in fiscal year 2021 are to purchase
3.27 a system to record, track, and report on
3.28 investigative activity for the Office of
3.29 Inspector General to strengthen fraud
3.30 prevention and investigation activities for child
3.31 care assistance programs under Minnesota
3.32 Statutes, chapter 119B.

3.33 **(e) Fraud Prevention Investigation Grant**
3.34 **Program.** \$529,000 in fiscal year 2020 and
3.35 \$546,000 in fiscal year 2021 are for the fraud

4.1 prevention investigation grant program under
 4.2 Minnesota Statutes, section 256.983. Of this
 4.3 amount, the commissioner may use up to
 4.4 \$104,000 in the first year and up to \$121,000
 4.5 in the second year to add one permanent
 4.6 full-time equivalent employee to support the
 4.7 grant program.

4.8 **(f) Child Care Assistance Programs - Law**
 4.9 **Enforcement.** \$350,000 in fiscal year 2020
 4.10 and \$350,000 in fiscal year 2021 are to add
 4.11 two additional law enforcement officers under
 4.12 contract with the Bureau of Criminal
 4.13 Apprehension, to conduct criminal
 4.14 investigations in child care assistance program
 4.15 cases.

4.16 **(g) Base Level Adjustment.** The general fund
 4.17 base is increased by \$3,191,000 in fiscal year
 4.18 2022 and \$3,190,000 in fiscal year 2023.

4.19	<u>Subd. 3. Central Office; Children and Families</u>	<u>105,000</u>	<u>120,000</u>
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4.20 **Child Care Assistance Programs -**
 4.21 **Improvements.** \$71,000 in fiscal year 2020
 4.22 and \$82,000 in fiscal year 2021 are to add one
 4.23 temporary staff to plan for improvements to
 4.24 provider registration and oversight for the
 4.25 child care assistance programs under
 4.26 Minnesota Statutes, chapter 119B. This is a
 4.27 onetime appropriation.

4.28	<u>Subd. 4. Forecasted Programs; MFIP/DWP</u>	<u>(118,000)</u>	<u>(157,000)</u>
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4.29	<u>Subd. 5. Forecasted Programs; MFIP Child Care</u>		
4.30	<u>Assistance</u>	<u>(304,000)</u>	<u>10,206,000</u>

4.31	<u>Subd. 6. Forecasted Programs; General</u>		
4.32	<u>Assistance</u>	<u>(26,000)</u>	<u>(34,000)</u>

4.33	<u>Subd. 7. Forecasted Programs; Minnesota</u>		
4.34	<u>Supplemental Aid</u>	<u>(22,000)</u>	<u>(29,000)</u>

5.1	<u>Subd. 8. Forecasted Programs; Housing Support</u>	<u>(88,000)</u>	<u>(117,000)</u>
5.2	<u>Subd. 9. Forecasted Programs; MinnesotaCare</u>	<u>(7,000)</u>	<u>(9,000)</u>
5.3	<u>Generally. This reduction is from the health</u>		
5.4	<u>care access fund.</u>		
5.5	<u>Subd. 10. Forecasted Programs; Medical</u>		
5.6	<u>Assistance</u>	<u>(210,000)</u>	<u>(280,000)</u>
5.7	<u>Subd. 11. Grant Programs; Basic Sliding Fee</u>		
5.8	<u>Child Care Assistance Grants</u>	<u>9,987,000</u>	<u>21,042,000</u>
5.9	<u>(a) Basic Sliding Fee Waiting List</u>		
5.10	<u>Allocation. Notwithstanding Minnesota</u>		
5.11	<u>Statutes, section 119B.03, this appropriation</u>		
5.12	<u>is to reduce the basic sliding fee program</u>		
5.13	<u>waiting list as follows:</u>		
5.14	<u>(1) the calendar year 2020 allocation must be</u>		
5.15	<u>increased to serve families on the waiting list.</u>		
5.16	<u>To receive funds appropriated for this purpose,</u>		
5.17	<u>a county must have a waiting list in the most</u>		
5.18	<u>recent published waiting list month;</u>		
5.19	<u>(2) funds must be distributed proportionately</u>		
5.20	<u>based on the average of the most recent six</u>		
5.21	<u>months of published waiting lists to counties</u>		
5.22	<u>that meet the criteria in clause (1);</u>		
5.23	<u>(3) allocations in calendar years 2021 and</u>		
5.24	<u>beyond must be calculated using the allocation</u>		
5.25	<u>formula in Minnesota Statutes, section</u>		
5.26	<u>119B.03; and</u>		
5.27	<u>(4) the guaranteed floor for calendar year 2021</u>		
5.28	<u>must be based on the revised calendar year</u>		
5.29	<u>2020 allocation.</u>		
5.30	<u>(b) Basic Sliding Fee 2020 Allocation.</u>		
5.31	<u>Notwithstanding Minnesota Statutes, section</u>		
5.32	<u>119B.03, subdivisions 6, 6a, and 6b, the</u>		
5.33	<u>commissioner must allocate the additional</u>		
5.34	<u>basic sliding fee child care funds for calendar</u>		

6.1 year 2020 to counties for updated maximum
 6.2 rates based on relative need to cover maximum
 6.3 rate increases. In distributing the additional
 6.4 funds, the commissioner shall consider the
 6.5 following factors by county:

- 6.6 (1) number of children;
- 6.7 (2) provider type;
- 6.8 (3) age of children; and
- 6.9 (4) amount of the increase in maximum rates.

6.10 (c) **Base Level Adjustment.** The general fund
 6.11 base is increased by \$25,817,000 in fiscal year
 6.12 2022 and \$32,788,000 in fiscal year 2023.

6.13 <u>Subd. 12. Grant Programs; Child Care</u>		
6.14 <u>Development Grants</u>	<u>600,000</u>	<u>600,000</u>

6.15 (a) **First Children's Finance Child Care Site**
 6.16 **Assistance Grant.** \$500,000 in each year is
 6.17 for a grant to First Children's Finance as
 6.18 provided under section 4. This is a onetime
 6.19 appropriation.

6.20 (b) **REETAIN Grant.** \$100,000 in each year
 6.21 is for the REETAIN grant program under
 6.22 Minnesota Statutes, section 119B.195. The
 6.23 unencumbered balance in the first year does
 6.24 not cancel but is available for the second year.
 6.25 The base for this program is \$100,000 in each
 6.26 year for fiscal years 2022 and 2023.

6.27 <u>Subd. 13. Grant Programs; Children and</u>		
6.28 <u>Economic Support Grants</u>	<u>260,000</u>	<u>0</u>

6.29 **Food Shelf Programs.** This appropriation is
 6.30 for food shelf programs under Minnesota
 6.31 Statutes, section 256E.34, to purchase diapers.
 6.32 Hunger Solutions must establish an application
 6.33 process for food shelves and determine the
 6.34 allocation of money to food shelves. This

8.1 (b) First Children's Finance must establish the terms and conditions for loans and loan
 8.2 guarantees including interest rates, repayment agreements, private match requirements, and
 8.3 conditions for loan forgiveness. A minimum interest rate for loans must be established to
 8.4 ensure that necessary loan administration costs are covered. Interest earnings may be used
 8.5 for administrative expenses.

8.6 Subd. 3. **Reporting.** First Children's Finance must:

8.7 (1) by September 30, 2020, and September 30, 2021, report to the commissioner of
 8.8 human services the purposes for which the money was used during the past fiscal year,
 8.9 including a description of projects supported by the financing, an account of loans made
 8.10 during the calendar year, the financing program's assets and liabilities, and an explanation
 8.11 of administrative expenses; and

8.12 (2) submit to the commissioner of human services a copy of the report of an independent
 8.13 audit performed in accordance with generally accepted accounting practices and auditing
 8.14 standards, for each fiscal year in which grants are received.

8.15 **ARTICLE 2**

8.16 **EARLY CARE FINANCE AND POLICY**

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

8.19 Subd. 13b. **Homeless.** "Homeless" means a self-declared housing status as defined in
 8.20 the McKinney-Vento Homeless Assistance Act and United States Code, title 42, section
 8.21 11302, paragraph (a).

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

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

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

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

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

8.29 (3) an individual or child care center or facility ~~holding that:~~ (i) holds a valid child care
 8.30 license issued by another state or a tribe ~~and providing;~~ (ii) provides child care services in
 8.31 the licensing state or in the area under the licensing tribe's jurisdiction; and (iii) is in

9.1 compliance with federal health and safety requirements as certified by the licensing state
9.2 or tribe, or as determined by receipt of child care development block grant funds in the
9.3 licensing state; or

9.4 (4) a legal nonlicensed child care provider as defined under section 119B.011, subdivision
9.5 16, providing legal child care services. A ~~legally unlicensed family~~ legal nonlicensed child
9.6 care provider must be at least 18 years of age, and not a member of the MFIP assistance
9.7 unit or a member of the family receiving child care assistance to be authorized under this
9.8 chapter.

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

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

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

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

9.22 Sec. 4. Minnesota Statutes 2018, section 119B.02, subdivision 3, is amended to read:

9.23 Subd. 3. **Supervision of counties and providers.** (a) The commissioner shall supervise
9.24 child care programs administered by the counties through standard-setting, technical
9.25 assistance to the counties, approval of county child care fund plans, and distribution of
9.26 public money for services. The commissioner shall provide training and other support
9.27 services to assist counties in planning for and implementing child care assistance programs.
9.28 The commissioner shall adopt rules under chapter 14 that establish minimum administrative
9.29 standards for the provision of child care services by county boards of commissioners.

9.30 (b) The commissioner shall:

10.1 (1) provide technical assistance and training to support child care providers to ensure
10.2 proper billing and attendance records are submitted for reimbursement under this chapter;
10.3 and

10.4 (2) ensure that the training and technical assistance provided to child care providers is
10.5 linguistically and culturally accessible.

10.6 Sec. 5. Minnesota Statutes 2018, section 119B.02, subdivision 7, is amended to read:

10.7 Subd. 7. **Child care market rate survey.** ~~Biennially~~, The commissioner shall conduct
10.8 the next survey of prices charged by child care providers in Minnesota in state fiscal year
10.9 2021 and every three years thereafter to determine the 75th percentile for like-care
10.10 arrangements in county price clusters.

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

10.12 Sec. 6. Minnesota Statutes 2018, section 119B.025, subdivision 1, is amended to read:

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

10.16 (1) identity of adults;

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

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

10.20 (4) age;

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

10.22 (6) Social Security number, if given;

10.23 (7) counted income;

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

10.25 (9) residence; and

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

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

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

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

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

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

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

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

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

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

11.19 Sec. 7. Minnesota Statutes 2018, section 119B.025, is amended by adding a subdivision
11.20 to read:

11.21 Subd. 5. **Information to applicants; child care fraud.** At the time of initial application
11.22 and at redetermination, the county must provide written notice to the applicant or participant
11.23 listing the activities that constitute child care fraud and the consequences of committing
11.24 child care fraud. An applicant or participant shall acknowledge receipt of the child care
11.25 fraud notice in writing.

11.26 Sec. 8. Minnesota Statutes 2018, section 119B.03, subdivision 9, is amended to read:

11.27 Subd. 9. **Portability pool.** (a) The commissioner shall establish a pool of up to five
11.28 percent of the annual appropriation for the basic sliding fee program to provide continuous
11.29 child care assistance for eligible families who move between Minnesota counties. At the
11.30 end of each allocation period, any unspent funds in the portability pool must be used for
11.31 assistance under the basic sliding fee program. If expenditures from the portability pool

12.1 exceed the amount of money available, the reallocation pool must be reduced to cover these
12.2 shortages.

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

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

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

12.10 (c) The receiving county must:

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

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

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

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

12.19 Sec. 9. Minnesota Statutes 2018, section 119B.09, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

13.15 Sec. 10. Minnesota Statutes 2018, section 119B.095, subdivision 2, is amended to read:

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

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

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

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

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

13.30 (1) the child's school schedule;

13.31 (2) the custody schedule; or

13.32 (3) the provider's availability.

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

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

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

14.8 Sec. 11. Minnesota Statutes 2018, section 119B.095, is amended by adding a subdivision
14.9 to read:

14.10 Subd. 3. **Assistance for persons who are homeless.** An applicant who is homeless and
14.11 eligible for child care assistance is exempt from the activity participation requirements under
14.12 this chapter for three months. The applicant under this subdivision is eligible for 60 hours
14.13 of child care assistance per service period for three months from the date the county receives
14.14 the application. Additional hours may be authorized as needed based on the applicant's
14.15 participation in employment, education, or MFIP or DWP employment plan. To continue
14.16 receiving child care assistance after the initial three months, the applicant must verify that
14.17 the applicant meets eligibility and activity requirements for child care assistance under this
14.18 chapter.

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

14.20 Sec. 12. Minnesota Statutes 2018, section 119B.13, subdivision 1, is amended to read:

14.21 Subdivision 1. **Subsidy restrictions.** (a) ~~Beginning February 3, 2014,~~ The maximum
14.22 rate paid for child care assistance in any county or county price cluster under the child care
14.23 fund shall be the greater of (1) the 25th percentile of the ~~2014~~ 2018 child care provider rate
14.24 survey under section 119B.02, subdivision 7, or (2) the ~~maximum rate effective November~~
14.25 ~~28, 2014~~ rates in effect at the time of the update. For a child care provider located within
14.26 the boundaries of a city located in two or more of the counties of Benton, Sherburne, and
14.27 Stearns, the maximum rate paid for child care assistance shall be equal to the maximum
14.28 rate paid in the county with the highest maximum reimbursement rates or the provider's
14.29 charge, whichever is less. The commissioner may: (1) assign a county with no reported
14.30 provider prices to a similar price cluster; and (2) consider county level access when
14.31 determining final price clusters.

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

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

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

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

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

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

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

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

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

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

15.23 (i) ~~Notwithstanding Minnesota Rules, part 3400.0130, subpart 7, maximum registration~~
15.24 ~~fees in effect on January 1, 2013, shall remain in effect.~~ The maximum registration fee paid
15.25 for child care assistance in any county or county price cluster under the child care fund must
15.26 be the greater of (1) the 25th percentile of the 2018 child care provider rate survey under
15.27 section 119B.02, subdivision 7, or (2) the registration fee in effect at the time of the update.
15.28 Maximum registration fees must be set for licensed family child care and for child care
15.29 centers. For a child care provider located within the boundaries of a city located in two or
15.30 more of the counties of Benton, Sherburne, and Stearns, the maximum registration fee paid
15.31 for child care assistance must be equal to the maximum registration fee paid in the county
15.32 with the highest maximum registration fee or the provider's charge, whichever is less.

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

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

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

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

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

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

16.18 Sec. 14. Minnesota Statutes 2018, section 119B.16, subdivision 1a, is amended to read:

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

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

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

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

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

17.3 (3) establishes an overpayment for failure to comply with section 119B.125, subdivision
 17.4 6;

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

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

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

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

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

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

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

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

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

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

17.21 Sec. 15. Minnesota Statutes 2018, section 119B.16, subdivision 1b, is amended to read:

17.22 Subd. 1b. **Joint fair hearings.** ~~When a provider requests a fair hearing under subdivision~~
 17.23 ~~1a, the family in whose case the overpayment was created must be made a party to the fair~~
 17.24 ~~hearing. All other issues raised by the family must be resolved in the same proceeding.~~
 17.25 ~~When a family requests a fair hearing and claims that the county should have assigned~~
 17.26 ~~responsibility for an overpayment to a provider, the provider must be made a party to the~~
 17.27 ~~fair hearing. The human services judge assigned to a fair hearing may join a family or a~~
 17.28 ~~provider as a party to the fair hearing whenever joinder of that party is necessary to fully~~
 17.29 ~~and fairly resolve overpayment issues raised in the appeal.~~

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

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

18.3 Subd. 1c. **Notice to providers.** (a) Before taking an action appealable under subdivision
18.4 1a, paragraph (b), a county agency or the commissioner must mail written notice to the
18.5 provider against whom the action is being taken. Unless otherwise specified under chapter
18.6 119B or 245E or Minnesota Rules, chapter 3400, a county agency or the commissioner must
18.7 mail the written notice at least 15 calendar days before the adverse action's effective date.

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

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

18.13 Sec. 17. Minnesota Statutes 2018, section 119B.16, is amended by adding a subdivision
18.14 to read:

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

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

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

18.23 Sec. 18. Minnesota Statutes 2018, section 119B.16, is amended by adding a subdivision
18.24 to read:

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

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

18.29 Sec. 19. **[119B.161] ADMINISTRATIVE REVIEW.**

18.30 Subdivision 1. **Applicability.** A provider has the right to an administrative review under
18.31 this section if (1) a payment was suspended under chapter 245E, or (2) the provider's

19.1 authorization was denied or revoked under section 119B.13, subdivision 6, paragraph (d),
19.2 clause (1) or (2).

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

19.6 (b) The notice must:

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

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

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

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

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

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

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

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

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

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

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

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

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

20.12 Sec. 20. **[119B.195] RETAINING EARLY EDUCATORS THROUGH ATTAINING**
20.13 **INCENTIVES NOW (REETAIN) GRANT PROGRAM.**

20.14 Subdivision 1. **Establishment; purpose.** The retaining early educators through attaining
20.15 incentives now (REETAIN) grant program is established to provide competitive grants to
20.16 incentivize well-trained child care professionals to stay in the workforce to create more
20.17 consistent care for children over time.

20.18 Subd. 2. **Administration.** (a) The commissioner must administer the REETAIN grant
20.19 program, and must provide a grant to a nonprofit organization with demonstrated ability to
20.20 manage benefit programs for child care professionals.

20.21 (b) Up to ten percent of grant funds may be used for administration of the grant program.

20.22 Subd. 3. **Application.** Applicants must apply for the REETAIN grant program in the
20.23 manner and according to the timelines established by the commissioner.

20.24 Subd. 4. **Eligibility.** (a) Applicants must:

20.25 (1) be licensed to provide child care or work for a licensed child care program;

20.26 (2) work directly with children at least 30 hours per week;

20.27 (3) be in their current position for at least 12 months;

20.28 (4) be willing to stay in their current position for at least 12 months after receiving a
20.29 grant under this section;

20.30 (5) have a career lattice step of five or higher;

21.1 (6) have a current membership with the Minnesota quality improvement and registry
21.2 tool; and

21.3 (7) meet any other requirements established by the commissioner.

21.4 (b) Grant recipients must sign a contract agreeing to remain in their current position for
21.5 12 months.

21.6 Subd. 5. **Grant awards.** (a) To the extent that funding is available, a child care
21.7 professional's annual amount for the REETAIN grant must not exceed an amount determined
21.8 by the commissioner. A child care professional must apply each year to compete for an
21.9 award, and may receive up to one award per year.

21.10 (b) Grant funds may be used for program supplies, training, or personal expenses.

21.11 Subd. 6. **Report.** Annually by January 1, the commissioner must report to the legislative
21.12 committees with jurisdiction over early childhood on the number of grants awarded and
21.13 outcomes of the grant program.

21.14 **EFFECTIVE DATE; APPLICATION.** This section is effective July 1, 2019. The first
21.15 report under subdivision 6 is due by January 1, 2021.

21.16 Sec. 21. Minnesota Statutes 2018, section 144.966, subdivision 2, is amended to read:

21.17 Subd. 2. **Newborn Hearing Screening Advisory Committee.** (a) The commissioner
21.18 of health shall establish a Newborn Hearing Screening Advisory Committee to advise and
21.19 assist the Department of Health and the Department of Education in:

21.20 (1) developing protocols and timelines for screening, rescreening, and diagnostic
21.21 audiological assessment and early medical, audiological, and educational intervention
21.22 services for children who are deaf or hard-of-hearing;

21.23 (2) designing protocols for tracking children from birth through age three that may have
21.24 passed newborn screening but are at risk for delayed or late onset of permanent hearing
21.25 loss;

21.26 (3) designing a technical assistance program to support facilities implementing the
21.27 screening program and facilities conducting rescreening and diagnostic audiological
21.28 assessment;

21.29 (4) designing implementation and evaluation of a system of follow-up and tracking; and

21.30 (5) evaluating program outcomes to increase effectiveness and efficiency and ensure
21.31 culturally appropriate services for children with a confirmed hearing loss and their families.

- 22.1 (b) The commissioner of health shall appoint at least one member from each of the
22.2 following groups with no less than two of the members being deaf or hard-of-hearing:
- 22.3 (1) a representative from a consumer organization representing culturally deaf persons;
- 22.4 (2) a parent with a child with hearing loss representing a parent organization;
- 22.5 (3) a consumer from an organization representing oral communication options;
- 22.6 (4) a consumer from an organization representing cued speech communication options;
- 22.7 (5) an audiologist who has experience in evaluation and intervention of infants and
22.8 young children;
- 22.9 (6) a speech-language pathologist who has experience in evaluation and intervention of
22.10 infants and young children;
- 22.11 (7) two primary care providers who have experience in the care of infants and young
22.12 children, one of which shall be a pediatrician;
- 22.13 (8) a representative from the early hearing detection intervention teams;
- 22.14 (9) a representative from the Department of Education resource center for the deaf and
22.15 hard-of-hearing or the representative's designee;
- 22.16 (10) a representative of the Commission of the Deaf, DeafBlind and Hard of Hearing;
- 22.17 (11) a representative from the Department of Human Services Deaf and Hard-of-Hearing
22.18 Services Division;
- 22.19 (12) one or more of the Part C coordinators from the Department of Education, the
22.20 Department of Health, or the Department of Human Services or the department's designees;
- 22.21 (13) the Department of Health early hearing detection and intervention coordinators;
- 22.22 (14) two birth hospital representatives from one rural and one urban hospital;
- 22.23 (15) a pediatric geneticist;
- 22.24 (16) an otolaryngologist;
- 22.25 (17) a representative from the Newborn Screening Advisory Committee under this
22.26 subdivision; ~~and~~
- 22.27 (18) a representative of the Department of Education regional low-incidence facilitators;
- 22.28 (19) a representative from the deaf mentor program; and

23.1 (20) a representative of the Minnesota State Academy for the Deaf from the Minnesota
23.2 State Academies staff.

23.3 The commissioner must complete the initial appointments required under this subdivision
23.4 by September 1, 2007, and the initial appointments under clauses (19) and (20) by September
23.5 1, 2019.

23.6 (c) The Department of Health member shall chair the first meeting of the committee. At
23.7 the first meeting, the committee shall elect a chair from its membership. The committee
23.8 shall meet at the call of the chair, at least four times a year. The committee shall adopt
23.9 written bylaws to govern its activities. The Department of Health shall provide technical
23.10 and administrative support services as required by the committee. These services shall
23.11 include technical support from individuals qualified to administer infant hearing screening,
23.12 rescreening, and diagnostic audiological assessments.

23.13 Members of the committee shall receive no compensation for their service, but shall be
23.14 reimbursed as provided in section 15.059 for expenses incurred as a result of their duties
23.15 as members of the committee.

23.16 (d) By February 15, 2015, and by February 15 of the odd-numbered years after that date,
23.17 the commissioner shall report to the chairs and ranking minority members of the legislative
23.18 committees with jurisdiction over health and data privacy on the activities of the committee
23.19 that have occurred during the past two years.

23.20 (e) This subdivision expires June 30, ~~2019~~ 2025.

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

23.22 Sec. 22. **[145.87] HOME VISITING FOR PREGNANT WOMEN AND FAMILIES**
23.23 **WITH YOUNG CHILDREN.**

23.24 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

23.25 (b) "Evidence-based home visiting program" means a program that:

23.26 (1) is based on a clear, consistent program or model that is research-based and grounded
23.27 in relevant, empirically based knowledge;

23.28 (2) is linked to program-determined outcomes and is associated with a national
23.29 organization, institution of higher education, or national or state public health institute;

23.30 (3) has comprehensive home visitation standards that ensure high-quality service delivery
23.31 and continuous quality improvement;

24.1 (4) has demonstrated significant, sustained positive outcomes; and

24.2 (5) either (i) has been evaluated using rigorous, randomized controlled research designs
24.3 with the evaluations published in a peer-reviewed journal; or (ii) is based on
24.4 quasi-experimental research using two or more separate, comparable client samples.

24.5 (c) "Evidence-informed home visiting program" means a program that:

24.6 (1) has data or evidence demonstrating the program's effectiveness at achieving positive
24.7 outcomes for pregnant women and young children; and

24.8 (2) either has (i) an active evaluation of the program; or (ii) a plan and timeline for an
24.9 active evaluation of the program to be conducted.

24.10 (d) "Health equity" means every individual has a fair opportunity to attain the individual's
24.11 full health potential, and no individual is prevented from achieving this potential.

24.12 Subd. 2. **Grants for home visiting programs.** The commissioner shall award grants to
24.13 community health boards, nonprofit organizations, and tribal nations to start up or expand
24.14 home visiting programs serving pregnant women and families with young children. Home
24.15 visiting programs supported under this section shall provide home visits by early childhood
24.16 professionals or health professionals, including nurses, social workers, early childhood
24.17 educators, or trained paraprofessionals. Grant funds shall be used:

24.18 (1) to start up or expand evidence-based home visiting programs that address health
24.19 equity, or evidence-informed home visiting programs that address health equity; and

24.20 (2) to serve families with young children or pregnant women who are high risk or have
24.21 high needs. For purposes of this clause, high risk includes but is not limited to a family with
24.22 low income, or a parent or pregnant woman with mental illness or a substance use disorder
24.23 or experiencing domestic abuse.

24.24 Subd. 3. **Grant prioritization.** (a) In awarding grants, the commissioner shall give
24.25 priority to community health boards, nonprofit organizations, and tribal nations seeking to
24.26 expand home visiting services with community or regional partnerships.

24.27 (b) The commissioner shall allocate at least 75 percent of the grant funds awarded each
24.28 grant cycle to evidence-based home visiting programs that address health equity and up to
24.29 25 percent of the grant funds awarded each grant cycle to evidence-informed home visiting
24.30 programs that address health equity.

25.1 Subd. 4. **No supplanting of existing funds.** Funding awarded under this section shall
 25.2 only be used to supplement, and not to replace, funds being used for evidence-based home
 25.3 visiting programs or evidence-informed home visiting programs.

25.4 Subd. 5. **Administrative costs.** The commissioner may use up to ten percent of the
 25.5 annual appropriation under this section to provide training and technical assistance and to
 25.6 administer and evaluate the program. The commissioner may contract for training,
 25.7 capacity-building support for grantees or potential grantees, technical assistance, and
 25.8 evaluation support.

25.9 Sec. 23. Minnesota Statutes 2018, section 245E.06, subdivision 3, is amended to read:

25.10 Subd. 3. **Appeal of department sanction action.** (a) If the department does not pursue
 25.11 a criminal action against a provider, license holder, controlling individual, or recipient for
 25.12 financial misconduct, but the department imposes an administrative sanction under section
 25.13 245E.02, subdivision 4, paragraph (c), any individual or entity against whom the sanction
 25.14 was imposed may appeal the department's administrative sanction under this section pursuant
 25.15 to section 119B.16 or 256.045 with the additional requirements in clauses (1) to (4). An
 25.16 appeal must specify:

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

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

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

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

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

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

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

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

26.1 Sec. 24. Minnesota Statutes 2018, section 245H.07, is amended to read:

26.2 **245H.07 DECERTIFICATION.**

26.3 Subdivision 1. Generally. (a) The commissioner may decertify a center if a certification
26.4 holder:

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

26.6 (2) knowingly withheld relevant information from or gave false or misleading information
26.7 to the commissioner in connection with an application for certification, in connection with
26.8 the background study status of an individual, during an investigation, or regarding compliance
26.9 with applicable laws or rules; or

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

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

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

26.16 Subd. 2. Reconsideration. (a) The certification holder may request reconsideration of
26.17 the decertification by notifying the commissioner by certified mail or personal service. The
26.18 request must be made in writing. If sent by certified mail, the request must be postmarked
26.19 and sent to the commissioner within ten calendar days after the certification holder received
26.20 the order. If a request is made by personal service, it must be received by the commissioner
26.21 within ten calendar days after the certification holder received the order. The certification
26.22 holder may submit with the request for reconsideration written argument or evidence in
26.23 support of the request for reconsideration.

26.24 (b) If the commissioner decertifies a center pursuant to subdivision 1, paragraph (a),
26.25 clause (3), and if the center appeals the revocation of the center's authorization to receive
26.26 child care assistance payments, the final decertification determination is stayed until the
26.27 appeal of the center's authorization under chapter 119B is resolved. If the center also requests
26.28 reconsideration of the decertification, the center must do so according to paragraph (a). The
26.29 final decision on reconsideration is stayed until the appeal of the center's authorization under
26.30 chapter 119B is resolved.

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

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

27.2 Sec. 25. **DIRECTION TO COMMISSIONER.**

27.3 (a) The commissioner of human services shall:

27.4 (1) develop equity and implicit bias training for state and county child care licensors
27.5 and require all licensors to receive this training within 30 days of initial hiring and once
27.6 every two years thereafter. The training must be offered at no cost to the lead agencies or
27.7 licensors;

27.8 (2) actively recruit child care licensors to more accurately reflect the racial and ethnic
27.9 diversity of families participating in child care assistance programs; and

27.10 (3) create an accountability process for child care providers to submit complaints about
27.11 a licensor.

27.12 (b) By January 1, 2020, the commissioner shall report to the chairs, ranking minority
27.13 members, and staff of the legislative committees with jurisdiction over early childhood and
27.14 human services on the implementation of the directions under paragraph (a).

27.15 Sec. 26. **REPEALER.**

27.16 Minnesota Statutes 2018, sections 119B.16, subdivision 2; and 245E.06, subdivisions
27.17 2, 4, and 5, and Minnesota Rules, part 3400.0185, subpart 5, are repealed effective February
27.18 26, 2021.

27.19 **ARTICLE 3**

27.20 **LICENSING**

27.21 Section 1. Minnesota Statutes 2018, section 245A.04, subdivision 4, is amended to read:

27.22 Subd. 4. **Inspections; waiver.** (a) Before issuing an initial license, the commissioner
27.23 shall conduct an inspection of the program. The inspection must include but is not limited
27.24 to:

27.25 (1) an inspection of the physical plant;

27.26 (2) an inspection of records and documents;

27.27 (3) an evaluation of the program by consumers of the program;

27.28 (4) observation of the program in operation; and

28.1 (5) an inspection for the health, safety, and fire standards in licensing requirements for
28.2 a child care license holder.

28.3 For the purposes of this subdivision, "consumer" means a person who receives the
28.4 services of a licensed program, the person's legal guardian, or the parent or individual having
28.5 legal custody of a child who receives the services of a licensed program.

28.6 (b) The evaluation required in paragraph (a), clause (3), or the observation in paragraph
28.7 (a), clause (4), is not required prior to issuing an initial license under subdivision 7. If the
28.8 commissioner issues an initial license under subdivision 7, these requirements must be
28.9 completed within one year after the issuance of an initial license.

28.10 (c) Before completing a licensing inspection in a family child care program or child care
28.11 center, the licensing agency must offer the license holder an exit interview to discuss
28.12 violations or potential violations of law or rule observed during the inspection and offer
28.13 technical assistance on how to comply with applicable laws and rules. ~~Nothing in this~~
28.14 ~~paragraph limits the ability of the commissioner to issue a correction order or negative~~
28.15 ~~action for violations of law or rule not discussed in an exit interview or in the event that a~~
28.16 ~~license holder chooses not to participate in an exit interview.~~ The commissioner shall not
28.17 issue a correction order or negative licensing action for violations of law or rule not discussed
28.18 in an exit interview, unless a license holder chooses not to participate in an exit interview.
28.19 If the license holder is unable to complete the exit interview, the licensing agency must
28.20 offer an alternate time for the license holder to complete the exit interview.

28.21 (d) If a family child care license holder disputes a county licenser's interpretation of a
28.22 licensing requirement during a licensing inspection or exit interview, the license holder
28.23 may, within five business days after the exit interview or licensing inspection, request
28.24 clarification from the commissioner, in writing, in a manner prescribed by the commissioner.
28.25 The license holder's request must describe the county licenser's interpretation of the licensing
28.26 requirement at issue, and explain why the license holder believes the county licenser's
28.27 interpretation is inaccurate. The commissioner and the county must include the license
28.28 holder in all correspondence regarding the disputed interpretation, and must provide an
28.29 opportunity for the license holder to contribute relevant information that may impact the
28.30 commissioner's decision. The commissioner or county licenser must not issue a correction
28.31 order related to the disputed licensing requirement until the commissioner has provided
28.32 clarification to the license holder about the licensing requirement.

29.1 ~~(d)~~ (e) The commissioner or the county shall inspect at least annually a child care provider
29.2 licensed under this chapter and Minnesota Rules, chapter 9502 or 9503, for compliance
29.3 with applicable licensing standards.

29.4 ~~(e)~~ (f) No later than November 19, 2017, the commissioner shall make publicly available
29.5 on the department's website the results of inspection reports of all child care providers
29.6 licensed under this chapter and under Minnesota Rules, chapter 9502 or 9503, and the
29.7 number of deaths, serious injuries, and instances of substantiated child maltreatment that
29.8 occurred in licensed child care settings each year.

29.9 Sec. 2. Minnesota Statutes 2018, section 245A.14, is amended by adding a subdivision to
29.10 read:

29.11 Subd. 16. Reusable water bottles or cups. Notwithstanding any law to the contrary, a
29.12 child care center that meets the standards in Minnesota Rules, chapter 9503, may provide
29.13 drinking water to a child in a reusable water bottle or reusable cup if the center develops
29.14 and ensures implementation of a written policy that at a minimum includes the following
29.15 procedures:

29.16 (1) each day the water bottle or cup is used, the child care center cleans and sanitizes
29.17 the water bottle or cup using procedures that comply with the Food Code under Minnesota
29.18 Rules, chapter 4626;

29.19 (2) a water bottle or cup is assigned to a specific child and labeled with the child's first
29.20 and last name;

29.21 (3) water bottles and cups are stored in a manner that reduces the risk of a child using
29.22 the wrong water bottle or cup; and

29.23 (4) a water bottle or cup is used only for water.

29.24 **EFFECTIVE DATE.** This section is effective September 30, 2019.

29.25 Sec. 3. Minnesota Statutes 2018, section 245A.145, subdivision 1, is amended to read:

29.26 Subdivision 1. **Policies and procedures.** ~~(a) All licensed child care providers~~ The
29.27 Department of Human Services must develop policies and procedures for reporting suspected
29.28 child maltreatment that fulfill the requirements in section 626.556 and ~~must develop policies~~
29.29 ~~and procedures for reporting complaints about the operation of a child care program. The~~
29.30 ~~policies and procedures must include the telephone numbers of the local county child~~
29.31 ~~protection agency for reporting suspected maltreatment; the county licensing agency for~~
29.32 ~~family and group family child care providers; and the state licensing agency for child care~~

30.1 ~~centers.~~ provide the policies and procedures to all licensed child care providers. The policies
 30.2 and procedures must be written in plain language.

30.3 (b) The policies and procedures required in paragraph (a) must:

30.4 (1) be provided to the parents of all children at the time of enrollment in the child care
 30.5 program; and

30.6 (2) be made available upon request.

30.7 Sec. 4. Minnesota Statutes 2018, section 245A.145, subdivision 2, is amended to read:

30.8 Subd. 2. **Licensing agency phone number displayed.** ~~By July 1, 2002,~~ A new or
 30.9 renewed child care license must include the licensing agency's telephone number and a
 30.10 statement that informs parents who have concerns questions about their child's care that
 30.11 they may call the licensing agency. ~~The commissioner shall print the telephone number for~~
 30.12 ~~the licensing agency in bold and large font on the license issued to child care providers.~~

30.13 Sec. 5. **[245A.149] SUPERVISION OF FAMILY CHILD CARE LICENSE**
 30.14 **HOLDER'S OWN CHILD.**

30.15 Notwithstanding Minnesota Rules, part 9502.0365, subpart 5, an individual may supervise
 30.16 the family child care license holder's own child both inside and outside of the licensed space,
 30.17 and is exempt from the requirements of this chapter and Minnesota Rules, chapter 9502, if
 30.18 the individual:

30.19 (1) is related to the license holder, as defined in section 245A.02, subdivision 13;

30.20 (2) is not a designated caregiver, helper, or substitute for the licensed program; and

30.21 (3) is involved only in the care of the license holder's own child.

30.22 **EFFECTIVE DATE.** This section is effective September 30, 2019.

30.23 Sec. 6. Minnesota Statutes 2018, section 245A.41, subdivision 3, is amended to read:

30.24 Subd. 3. **Emergency preparedness.** (a) ~~No later than September 30, 2017,~~ A licensed
 30.25 child care center must have a written emergency plan for emergencies that require evacuation,
 30.26 sheltering, or other protection of a child, such as fire, natural disaster, intruder, or other
 30.27 threatening situation that may pose a health or safety hazard to a child. The plan must be
 30.28 written on a form developed by the commissioner and must include:

30.29 (1) procedures for an evacuation, relocation, shelter-in-place, or lockdown;

30.30 (2) a designated relocation site and evacuation route;

31.1 (3) procedures for notifying a child's parent or legal guardian of the evacuation, relocation,
31.2 shelter-in-place, or lockdown, including procedures for reunification with families;

31.3 (4) accommodations for a child with a disability or a chronic medical condition;

31.4 (5) procedures for storing a child's medically necessary medicine that facilitates easy
31.5 removal during an evacuation or relocation;

31.6 (6) procedures for continuing operations in the period during and after a crisis; ~~and~~

31.7 (7) procedures for communicating with local emergency management officials, law
31.8 enforcement officials, or other appropriate state or local authorities; and

31.9 (8) accommodations for infants and toddlers.

31.10 (b) The license holder must train staff persons on the emergency plan at orientation,
31.11 when changes are made to the plan, and at least once each calendar year. Training must be
31.12 documented in each staff person's personnel file.

31.13 (c) The license holder must conduct drills according to the requirements in Minnesota
31.14 Rules, part 9503.0110, subpart 3. The date and time of the drills must be documented.

31.15 (d) The license holder must review and update the emergency plan annually.
31.16 Documentation of the annual emergency plan review shall be maintained in the program's
31.17 administrative records.

31.18 (e) The license holder must include the emergency plan in the program's policies and
31.19 procedures as specified under section 245A.04, subdivision 14. The license holder must
31.20 provide a physical or electronic copy of the emergency plan to the child's parent or legal
31.21 guardian upon enrollment.

31.22 (f) The relocation site and evacuation route must be posted in a visible place as part of
31.23 the written procedures for emergencies and accidents in Minnesota Rules, part 9503.0140,
31.24 subpart 21.

31.25 **EFFECTIVE DATE.** This section is effective September 30, 2019.

31.26 Sec. 7. Minnesota Statutes 2018, section 245A.50, is amended by adding a subdivision to
31.27 read:

31.28 **Subd. 12. Training exemption.** An individual who is related to the license holder, as
31.29 defined in section 245A.02, subdivision 13, who is involved only in the care of the family
31.30 child care license holder's own child and who is not a designated caregiver, helper, or
31.31 substitute for the licensed program is exempt from the training requirements in this section.

32.1 **EFFECTIVE DATE.** This section is effective September 30, 2019.

32.2 Sec. 8. Minnesota Statutes 2018, section 245A.51, subdivision 3, is amended to read:

32.3 Subd. 3. **Emergency preparedness plan.** (a) ~~No later than September 30, 2017,~~ a
32.4 licensed family child care provider must have a written emergency preparedness plan for
32.5 emergencies that require evacuation, sheltering, or other protection of children, such as fire,
32.6 natural disaster, intruder, or other threatening situation that may pose a health or safety
32.7 hazard to children. The plan must be written on a form developed by the commissioner and
32.8 updated at least annually. The plan must include:

32.9 (1) procedures for an evacuation, relocation, shelter-in-place, or lockdown;

32.10 (2) a designated relocation site and evacuation route;

32.11 (3) procedures for notifying a child's parent or legal guardian of the evacuation,
32.12 shelter-in-place, or lockdown, including procedures for reunification with families;

32.13 (4) accommodations for a child with a disability or a chronic medical condition;

32.14 (5) procedures for storing a child's medically necessary medicine that facilitate easy
32.15 removal during an evacuation or relocation;

32.16 (6) procedures for continuing operations in the period during and after a crisis; ~~and~~

32.17 (7) procedures for communicating with local emergency management officials, law
32.18 enforcement officials, or other appropriate state or local authorities; and

32.19 (8) accommodations for infants and toddlers.

32.20 (b) The license holder must train caregivers before the caregiver provides care and at
32.21 least annually on the emergency preparedness plan and document completion of this training.

32.22 (c) The license holder must conduct drills according to the requirements in Minnesota
32.23 Rules, part 9502.0435, subpart 8. The date and time of the drills must be documented.

32.24 (d) The license holder must have the emergency preparedness plan available for review
32.25 and posted in a prominent location. The license holder must provide a physical or electronic
32.26 copy of the plan to the child's parent or legal guardian upon enrollment.

32.27 **EFFECTIVE DATE.** This section is effective September 30, 2019.

33.1 Sec. 9. [245A.53] SUBSTITUTE CAREGIVERS AND REPLACEMENTS IN
33.2 FAMILY CHILD CARE.

33.3 Subdivision 1. Total hours allowed. Notwithstanding Minnesota Rules, part 9502.0365,
33.4 subpart 5, the use of a substitute caregiver in a licensed family child care program must be
33.5 limited to a cumulative total of not more than 400 hours in a calendar year. The license
33.6 holder must document the name, dates, and number of hours of the substitute who provided
33.7 care.

33.8 Subd. 2. Emergency replacement supervision. (a) A license holder may allow an adult
33.9 who has not completed the training requirements under this chapter or the background study
33.10 requirements under chapter 245C to supervise children in a family child care program in
33.11 an emergency. For purposes of this subdivision, an emergency is a situation in which:

33.12 (1) the license holder has begun operating the family child care program for the day and
33.13 for reasons beyond the license holder's control, including, but not limited to a serious illness
33.14 or injury, accident, or situation requiring the license holder's immediate attention, the license
33.15 holder needs to leave the licensed space and close the program for the day; and

33.16 (2) the parents or guardians of the children attending the program are contacted to pick
33.17 up their children as soon as is practicable.

33.18 (b) The license holder must make reasonable efforts to minimize the time the emergency
33.19 replacement has unsupervised contact with the children in care, not to exceed 24 hours per
33.20 emergency incident.

33.21 (c) The license holder shall not knowingly use a person as an emergency replacement
33.22 who has committed an action or has been convicted of a crime that would cause the person
33.23 to be disqualified from providing care to children, if a background study was conducted
33.24 under chapter 245C.

33.25 (d) To the extent practicable, the license holder must attempt to arrange for emergency
33.26 care by a substitute caregiver before using an emergency replacement.

33.27 (e) To the extent practicable, the license holder must notify the county licensing agency
33.28 within seven days that an emergency replacement was used, and specify the circumstances
33.29 that led to the use of the emergency replacement. The county licensing agency must notify
33.30 the commissioner within three business days after receiving the license holder's notice that
33.31 an emergency replacement was used, and specify the circumstances that led to the use of
33.32 the emergency replacement.

34.1 (f) Notwithstanding the requirements in Minnesota Rules, part 9502.0405, a license
34.2 holder is not required to provide the names of persons who may be used as substitutes or
34.3 replacements in emergencies to parents or the county licensing agency.

34.4 **EFFECTIVE DATE.** This section is effective September 30, 2019.

34.5 Sec. 10. Minnesota Statutes 2018, section 245H.15, subdivision 1, is amended to read:

34.6 Subdivision 1. **Written emergency plan.** (a) A certified center must have a written
34.7 emergency plan for emergencies that require evacuation, sheltering, or other protection of
34.8 children, such as fire, natural disaster, intruder, or other threatening situation that may pose
34.9 a health or safety hazard to children. The plan must be written on a form developed by the
34.10 commissioner and reviewed and updated at least once each calendar year. The annual review
34.11 of the emergency plan must be documented.

34.12 (b) The plan must include:

34.13 (1) procedures for an evacuation, relocation, shelter-in-place, or lockdown;

34.14 (2) a designated relocation site and evacuation route;

34.15 (3) procedures for notifying a child's parent or legal guardian of the relocation and
34.16 reunification with families;

34.17 (4) accommodations for a child with a disability or a chronic medical condition;

34.18 (5) procedures for storing a child's medically necessary medicine that facilitates easy
34.19 removal during an evacuation or relocation;

34.20 (6) procedures for continuing operations in the period during and after a crisis; ~~and~~

34.21 (7) procedures for communicating with local emergency management officials, law
34.22 enforcement officials, or other appropriate state or local authorities; and

34.23 (8) accommodations for infants and toddlers.

34.24 (c) The certification holder must have an emergency plan available for review upon
34.25 request by the child's parent or legal guardian.

34.26 **EFFECTIVE DATE.** This section is effective September 30, 2019.

ARTICLE 4

PROGRAM INTEGRITY

35.1
35.2
35.3 Section 1. Minnesota Statutes 2018, section 13.46, subdivision 3, is amended to read:

35.4 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of services,
35.5 licensees, and applicants that is collected, maintained, used, or disseminated by the welfare
35.6 system in an investigation, authorized by statute, and relating to the enforcement of rules
35.7 or law are confidential data on individuals pursuant to section 13.02, subdivision 3, or
35.8 protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and
35.9 shall not be disclosed except:

35.10 (1) pursuant to section 13.05;

35.11 (2) pursuant to statute or valid court order;

35.12 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for
35.13 preparation of defense; ~~or~~

35.14 (4) to an agent of the welfare system or an investigator acting on behalf of a county,
35.15 state, or federal government, including a law enforcement officer or attorney in the
35.16 investigation or prosecution of a criminal, civil, or administrative proceeding, unless the
35.17 commissioner of human services determines that disclosure may compromise a Department
35.18 of Human Services ongoing investigation; or

35.19 ~~(4)~~ (5) to provide notices required or permitted by statute.

35.20 The data referred to in this subdivision shall be classified as public data upon submission
35.21 to an administrative law judge or court in an administrative or judicial proceeding. Inactive
35.22 welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

35.23 (b) Notwithstanding any other provision in law, the commissioner of human services
35.24 shall provide all active and inactive investigative data, including the name of the reporter
35.25 of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental
35.26 health and developmental disabilities upon the request of the ombudsman.

35.27 (c) Notwithstanding paragraph (a) and section 13.39, the existence of an investigation
35.28 by the commissioner of human services of possible overpayments of public funds to a service
35.29 provider or recipient may be disclosed if the commissioner determines that it will not
35.30 compromise the investigation.

36.1 Sec. 2. Minnesota Statutes 2018, section 15C.02, is amended to read:

36.2 **15C.02 LIABILITY FOR CERTAIN ACTS.**

36.3 (a) A person who commits any act described in clauses (1) to (7) is liable to the state or
36.4 the political subdivision for a civil penalty of ~~not less than \$5,500 and not more than \$11,000~~
36.5 ~~per false or fraudulent claim~~ in the amounts set forth in the federal False Claims Act, United
36.6 States Code, title 31, section 3729, and as modified by the federal Civil Penalties Inflation
36.7 Adjustment Act Improvements Act of 2015, plus three times the amount of damages that
36.8 the state or the political subdivision sustains because of the act of that person, except as
36.9 otherwise provided in paragraph (b):

36.10 (1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment
36.11 or approval;

36.12 (2) knowingly makes or uses, or causes to be made or used, a false record or statement
36.13 material to a false or fraudulent claim;

36.14 (3) knowingly conspires to commit a violation of clause (1), (2), (4), (5), (6), or (7);

36.15 (4) has possession, custody, or control of property or money used, or to be used, by the
36.16 state or a political subdivision and knowingly delivers or causes to be delivered less than
36.17 all of that money or property;

36.18 (5) is authorized to make or deliver a document certifying receipt for money or property
36.19 used, or to be used, by the state or a political subdivision and, intending to defraud the state
36.20 or a political subdivision, makes or delivers the receipt without completely knowing that
36.21 the information on the receipt is true;

36.22 (6) knowingly buys, or receives as a pledge of an obligation or debt, public property
36.23 from an officer or employee of the state or a political subdivision who lawfully may not
36.24 sell or pledge the property; or

36.25 (7) knowingly makes or uses, or causes to be made or used, a false record or statement
36.26 material to an obligation to pay or transmit money or property to the state or a political
36.27 subdivision, or knowingly conceals or knowingly and improperly avoids or decreases an
36.28 obligation to pay or transmit money or property to the state or a political subdivision.

36.29 (b) Notwithstanding paragraph (a), the court may assess not less than two times the
36.30 amount of damages that the state or the political subdivision sustains because of the act of
36.31 the person if:

37.1 (1) the person committing a violation under paragraph (a) furnished an officer or
37.2 employee of the state or the political subdivision responsible for investigating the false or
37.3 fraudulent claim violation with all information known to the person about the violation
37.4 within 30 days after the date on which the person first obtained the information;

37.5 (2) the person fully cooperated with any investigation by the state or the political
37.6 subdivision of the violation; and

37.7 (3) at the time the person furnished the state or the political subdivision with information
37.8 about the violation, no criminal prosecution, civil action, or administrative action had been
37.9 commenced under this chapter with respect to the violation and the person did not have
37.10 actual knowledge of the existence of an investigation into the violation.

37.11 (c) A person violating this section is also liable to the state or the political subdivision
37.12 for the costs of a civil action brought to recover any penalty or damages.

37.13 (d) A person is not liable under this section for mere negligence, inadvertence, or mistake
37.14 with respect to activities involving a false or fraudulent claim.

37.15 Sec. 3. Minnesota Statutes 2018, section 119B.02, subdivision 6, is amended to read:

37.16 Subd. 6. **Data.** (a) Data collected, maintained, used, or disseminated by the welfare
37.17 system pertaining to persons selected as legal nonlicensed child care providers by families
37.18 receiving child care assistance shall be treated as licensing data as provided in section 13.46,
37.19 subdivision 4.

37.20 (b) For purposes of this paragraph, "child care assistance program payment data" means
37.21 data for a specified time period showing (1) that a child care assistance program payment
37.22 under this chapter was made, and (2) the amount of child care assistance payments made
37.23 to a child care center. Child care assistance program payment data may include the number
37.24 of families and children on whose behalf payments were made for the specified time period.
37.25 Any child care assistance program payment data that may identify a specific child care
37.26 assistance recipient or benefit paid on behalf of a specific child care assistance recipient,
37.27 as determined by the commissioner, is private data on individuals as defined in section
37.28 13.02, subdivision 12. Data related to a child care assistance payment is public if the data
37.29 relates to a child care assistance payment made to a licensed child care center or a child
37.30 care center exempt from licensure and:

37.31 (1) the child care center receives payment of more than \$100,000 from the child care
37.32 assistance program under this chapter in a period of one year or less; or

37.33 (2) when the commissioner or county agency either:

38.1 (i) disqualified the center from receipt of a payment from the child care assistance
38.2 program under this chapter for wrongfully obtaining child care assistance under section
38.3 256.98, subdivision 8, paragraph (c);

38.4 (ii) refused a child care authorization, revoked a child care authorization, stopped
38.5 payment, or denied payment for a bill for the center under section 119B.13, subdivision 6,
38.6 paragraph (d); or

38.7 (iii) made a finding of financial misconduct under section 245E.02.

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

38.9 Sec. 4. Minnesota Statutes 2018, section 119B.09, subdivision 7, is amended to read:

38.10 Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care
38.11 assistance under this chapter is the later of the date the application was received by the
38.12 county; the beginning date of employment, education, or training; the date the infant is born
38.13 for applicants to the at-home infant care program; or the date a determination has been made
38.14 that the applicant is a participant in employment and training services under Minnesota
38.15 Rules, part 3400.0080, or chapter 256J.

38.16 (b) Payment ceases for a family under the at-home infant child care program when a
38.17 family has used a total of 12 months of assistance as specified under section 119B.035.
38.18 Payment of child care assistance for employed persons on MFIP is effective the date of
38.19 employment or the date of MFIP eligibility, whichever is later. Payment of child care
38.20 assistance for MFIP or DWP participants in employment and training services is effective
38.21 the date of commencement of the services or the date of MFIP or DWP eligibility, whichever
38.22 is later. Payment of child care assistance for transition year child care must be made
38.23 retroactive to the date of eligibility for transition year child care.

38.24 (c) Notwithstanding paragraph (b), payment of child care assistance for participants
38.25 eligible under section 119B.05 may only be made retroactive for a maximum of ~~six~~ three
38.26 months from the date of application for child care assistance.

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

38.28 Sec. 5. Minnesota Statutes 2018, section 119B.125, subdivision 6, is amended to read:

38.29 Subd. 6. **Record-keeping requirement.** (a) As a condition of payment, all providers
38.30 receiving child care assistance payments must:

39.1 (1) keep accurate and legible daily attendance records at the site where services are
 39.2 delivered for children receiving child care assistance; and

39.3 ~~must~~ (2) make those records available immediately to the county or the commissioner
 39.4 upon request. Any records not provided to a county or the commissioner at the date and
 39.5 time of the request are deemed inadmissible if offered as evidence by the provider in any
 39.6 proceeding to contest an overpayment or disqualification of the provider.

39.7 ~~The~~ (b) As a condition of payment, attendance records must be completed daily and
 39.8 include the date, the first and last name of each child in attendance, and the times when
 39.9 each child is dropped off and picked up. To the extent possible, the times that the child was
 39.10 dropped off to and picked up from the child care provider must be entered by the person
 39.11 dropping off or picking up the child. The daily attendance records must be retained at the
 39.12 site where services are delivered for six years after the date of service.

39.13 (c) A county or the commissioner may deny or revoke a provider's authorization as a
 39.14 ~~child care provider to any applicant, rescind authorization of any provider,~~ to receive child
 39.15 care assistance payments under section 119B.13, subdivision 6, paragraph (d), pursue a
 39.16 fraud disqualification under section 256.98, take an action against the provider under chapter
 39.17 245E, or establish an attendance record overpayment claim in the system under paragraph
 39.18 (d) against a current or former provider, when the county or the commissioner knows or
 39.19 has reason to believe that the provider has not complied with the record-keeping requirement
 39.20 in this subdivision. A provider's failure to produce attendance records as requested on more
 39.21 ~~than one occasion constitutes grounds for disqualification as a provider.~~

39.22 (d) To calculate an attendance record overpayment under this subdivision, the
 39.23 commissioner or county agency shall subtract the maximum daily rate from the total amount
 39.24 paid to a provider for each day that a child's attendance record is missing, unavailable,
 39.25 incomplete, inaccurate, or otherwise inadequate.

39.26 (e) The commissioner shall develop criteria for a county to determine an attendance
 39.27 record overpayment under this subdivision.

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

39.29 Sec. 6. Minnesota Statutes 2018, section 119B.13, subdivision 6, is amended to read:

39.30 Subd. 6. **Provider payments.** (a) A provider shall bill only for services documented
 39.31 according to section 119B.125, subdivision 6. The provider shall bill for services provided
 39.32 within ten days of the end of the service period. Payments under the child care fund shall

40.1 be made within 21 days of receiving a complete bill from the provider. Counties or the state
40.2 may establish policies that make payments on a more frequent basis.

40.3 (b) If a provider has received an authorization of care and been issued a billing form for
40.4 an eligible family, the bill must be submitted within 60 days of the last date of service on
40.5 the bill. A bill submitted more than 60 days after the last date of service must be paid if the
40.6 county determines that the provider has shown good cause why the bill was not submitted
40.7 within 60 days. Good cause must be defined in the county's child care fund plan under
40.8 section 119B.08, subdivision 3, and the definition of good cause must include county error.
40.9 Any bill submitted more than a year after the last date of service on the bill must not be
40.10 paid.

40.11 (c) If a provider provided care for a time period without receiving an authorization of
40.12 care and a billing form for an eligible family, payment of child care assistance may only be
40.13 made retroactively for a maximum of six months from the date the provider is issued an
40.14 authorization of care and billing form.

40.15 (d) A county or the commissioner may refuse to issue a child care authorization to a
40.16 licensed or legal nonlicensed provider, revoke an existing child care authorization to a
40.17 licensed or legal nonlicensed provider, stop payment issued to a licensed or legal nonlicensed
40.18 provider, or refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

40.19 (1) the provider admits to intentionally giving the county materially false information
40.20 on the provider's billing forms;

40.21 (2) a county or the commissioner finds by a preponderance of the evidence that the
40.22 provider intentionally gave the county materially false information on the provider's billing
40.23 forms, or provided false attendance records to a county or the commissioner;

40.24 (3) the provider is in violation of child care assistance program rules, until the agency
40.25 determines those violations have been corrected;

40.26 (4) the provider is operating after:

40.27 (i) an order of suspension of the provider's license issued by the commissioner;

40.28 (ii) an order of revocation of the provider's license; or

40.29 (iii) a final order of conditional license issued by the commissioner for as long as the
40.30 conditional license is in effect;

40.31 (5) the provider submits false attendance reports or refuses to provide documentation
40.32 of the child's attendance upon request; ~~or~~

41.1 (6) the provider gives false child care price information; or

41.2 (7) the provider fails to report decreases in a child's attendance, as required under section
41.3 119B.125, subdivision 9.

41.4 (e) For purposes of paragraph (d), clauses (3), (5), ~~and (6)~~, and (7), the county or the
41.5 commissioner may withhold the provider's authorization or payment for a period of time
41.6 not to exceed three months beyond the time the condition has been corrected.

41.7 (f) A county's payment policies must be included in the county's child care plan under
41.8 section 119B.08, subdivision 3. If payments are made by the state, in addition to being in
41.9 compliance with this subdivision, the payments must be made in compliance with section
41.10 16A.124.

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

41.12 Sec. 7. Minnesota Statutes 2018, section 119B.13, subdivision 7, is amended to read:

41.13 Subd. 7. **Absent days.** (a) Licensed child care providers and license-exempt centers
41.14 must not be reimbursed for more than 25 full-day absent days per child, excluding holidays,
41.15 in a ~~fiscal~~ calendar year, or for more than ten consecutive full-day absent days. "Absent
41.16 day" means any day that the child is authorized and scheduled to be in care with a licensed
41.17 provider or license-exempt center, and the child is absent from the care for the entire day.

41.18 Legal nonlicensed family child care providers must not be reimbursed for absent days. If a
41.19 child attends for part of the time authorized to be in care in a day, but is absent for part of
41.20 the time authorized to be in care in that same day, the absent time must be reimbursed but
41.21 the time must not count toward the absent days limit. Child care providers must only be
41.22 reimbursed for absent days if the provider has a written policy for child absences and charges
41.23 all other families in care for similar absences.

41.24 (b) Notwithstanding paragraph (a), children with documented medical conditions that
41.25 cause more frequent absences may exceed the 25 absent days limit, or ten consecutive
41.26 full-day absent days limit. Absences due to a documented medical condition of a parent or
41.27 sibling who lives in the same residence as the child receiving child care assistance do not
41.28 count against the absent days limit in a ~~fiscal~~ calendar year. Documentation of medical
41.29 conditions must be on the forms and submitted according to the timelines established by
41.30 the commissioner. A public health nurse or school nurse may verify the illness in lieu of a
41.31 medical practitioner. If a provider sends a child home early due to a medical reason,
41.32 including, but not limited to, fever or contagious illness, the child care center director or
41.33 lead teacher may verify the illness in lieu of a medical practitioner.

42.1 (c) Notwithstanding paragraph (a), children in families may exceed the absent days limit
42.2 if at least one parent: (1) is under the age of 21; (2) does not have a high school diploma or
42.3 commissioner of education-selected high school equivalency certification; and (3) is a
42.4 student in a school district or another similar program that provides or arranges for child
42.5 care, parenting support, social services, career and employment supports, and academic
42.6 support to achieve high school graduation, upon request of the program and approval of the
42.7 county. If a child attends part of an authorized day, payment to the provider must be for the
42.8 full amount of care authorized for that day.

42.9 (d) Child care providers must be reimbursed for up to ten federal or state holidays or
42.10 designated holidays per year when the provider charges all families for these days and the
42.11 holiday or designated holiday falls on a day when the child is authorized to be in attendance.
42.12 Parents may substitute other cultural or religious holidays for the ten recognized state and
42.13 federal holidays. Holidays do not count toward the absent days limit.

42.14 (e) A family or child care provider must not be assessed an overpayment for an absent
42.15 day payment unless (1) there was an error in the amount of care authorized for the family,
42.16 (2) all of the allowed full-day absent payments for the child have been paid, or (3) the family
42.17 or provider did not timely report a change as required under law.

42.18 (f) The provider and family shall receive notification of the number of absent days used
42.19 upon initial provider authorization for a family and ongoing notification of the number of
42.20 absent days used as of the date of the notification.

42.21 (g) For purposes of this subdivision, "absent days limit" means 25 full-day absent days
42.22 per child, excluding holidays, in a ~~fixed~~ calendar year; and ten consecutive full-day absent
42.23 days.

42.24 (h) For purposes of this subdivision, "holidays limit" means ten full-day holidays per
42.25 child, excluding absent days, in a calendar year.

42.26 (i) If a day meets the criteria of an absent day or a holiday under this subdivision, the
42.27 provider must bill that day as an absent day or holiday. A provider's failure to properly bill
42.28 an absent day or a holiday results in an overpayment, regardless of whether the child reached,
42.29 or is exempt from, the absent days limit or holidays limit for the calendar year.

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

43.1 Sec. 8. Minnesota Statutes 2018, section 124D.142, is amended to read:

43.2 **124D.142 QUALITY RATING AND IMPROVEMENT SYSTEM.**

43.3 (a) There is established a quality rating and improvement system (QRIS) framework to
43.4 ensure that Minnesota's children have access to high-quality early learning and care programs
43.5 in a range of settings so that they are fully ready for kindergarten by 2020. ~~Creation of a~~
43.6 The standards-based voluntary quality rating and improvement system includes:

43.7 (1) quality opportunities in order to improve the educational outcomes of children so
43.8 that they are ready for school. The framework shall be based on the Minnesota quality rating
43.9 system rating tool and a common set of child outcome and program standards and informed
43.10 by evaluation results;

43.11 (2) a tool to increase the number of publicly funded and regulated early learning and
43.12 care services in both public and private market programs that are high quality. If a program
43.13 or provider chooses to participate, the program or provider will be rated and may receive
43.14 public funding associated with the rating. The state shall develop a plan to link future early
43.15 learning and care state funding to the framework in a manner that complies with federal
43.16 requirements; and

43.17 (3) tracking progress toward statewide access to high-quality early learning and care
43.18 programs, progress toward the number of low-income children whose parents can access
43.19 quality programs, and progress toward increasing the number of children who are fully
43.20 prepared to enter kindergarten.

43.21 ~~(b) In planning a statewide quality rating and improvement system framework in~~
43.22 ~~paragraph (a), the state shall use evaluation results of the Minnesota quality rating system~~
43.23 ~~rating tool in use in fiscal year 2008 to recommend:~~

43.24 ~~(1) a framework of a common set of child outcome and program standards for a voluntary~~
43.25 ~~statewide quality rating and improvement system;~~

43.26 ~~(2) a plan to link future funding to the framework described in paragraph (a), clause (2);~~
43.27 ~~and~~

43.28 ~~(3) a plan for how the state will realign existing state and federal administrative resources~~
43.29 ~~to implement the voluntary quality rating and improvement system framework. The state~~
43.30 ~~shall provide the recommendation in this paragraph to the early childhood education finance~~
43.31 ~~committees of the legislature by March 15, 2011.~~

43.32 ~~(c) Prior to the creation of a statewide quality rating and improvement system in paragraph~~
43.33 ~~(a), the state shall employ the Minnesota quality rating system rating tool in use in fiscal~~

44.1 ~~year 2008 in the original Minnesota Early Learning Foundation pilot areas and additional~~
 44.2 ~~pilot areas supported by private or public funds with its modification as a result of the~~
 44.3 ~~evaluation results of the pilot project.~~

44.4 (b) A child care provider who has a quality rating under this section and is disqualified
 44.5 from receiving child care assistance program reimbursement under chapter 119B, as provided
 44.6 under section 256.98, subdivision 8, paragraph (c), must also have the quality rating
 44.7 rescinded.

44.8 Sec. 9. Minnesota Statutes 2018, section 124D.165, subdivision 4, is amended to read:

44.9 Subd. 4. **Early childhood program eligibility.** (a) In order to be eligible to accept an
 44.10 for early learning scholarship funds, a program must:

44.11 (1) participate in the quality rating and improvement system under section 124D.142;
 44.12 and

44.13 (2) beginning July 1, 2020, have a three- or four-star rating in the quality rating and
 44.14 improvement system.

44.15 (b) Any program accepting scholarships must use the revenue to supplement and not
 44.16 supplant federal funding.

44.17 (c) Notwithstanding paragraph (a), all Minnesota early learning foundation scholarship
 44.18 program pilot sites are eligible to accept an early learning scholarship under this section.

44.19 (d) A program is not eligible for early learning scholarship funds if:

44.20 (1) it is disqualified from receiving payment for child care services from the child care
 44.21 assistance program under chapter 119B, as provided under section 256.98, subdivision 8,
 44.22 paragraph (c); or

44.23 (2) the commissioner of human services refuses to issue a child care authorization,
 44.24 revokes an existing child care authorization, stops payment issued to a program, or refuses
 44.25 to pay a bill under section 119B.13, subdivision 6, paragraph (d), clause (2).

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

44.27 Sec. 10. Minnesota Statutes 2018, section 245.095, is amended to read:

44.28 **245.095 LIMITS ON RECEIVING PUBLIC FUNDS.**

44.29 Subdivision 1. **Prohibition.** (a) If a provider, vendor, or individual enrolled, licensed,
 44.30 or receiving funds under a grant contract, or registered in any program administered by the

45.1 commissioner, including under the commissioner's powers and authorities in section 256.01,
45.2 is excluded from any that program administered by the commissioner, including under the
45.3 commissioner's powers and authorities in section 256.01, the commissioner shall:

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

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

45.9 (b) The duration of this prohibition, disenrollment, revocation, suspension,
45.10 disqualification, or debarment must last for the longest applicable sanction or disqualifying
45.11 period in effect for the provider, vendor, or individual permitted by state or federal law.

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

45.14 (b) "Excluded" means disenrolled, ~~subject to license revocation or suspension,~~
45.15 ~~disqualified, or subject to vendor debarment~~ disqualified, having a license that has been
45.16 revoked or suspended under chapter 245A, or debarred or suspended under Minnesota Rules,
45.17 part 1230.1150, or excluded pursuant to section 256B.064, subdivision 3.

45.18 (c) "Individual" means a natural person providing products or services as a provider or
45.19 vendor.

45.20 (d) "Provider" ~~means~~ includes any entity or individual receiving payment from a program
45.21 administered by the Department of Human Services, and an owner, controlling individual,
45.22 license holder, director, or managerial official of an entity receiving payment from a program
45.23 administered by the Department of Human Services.

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

45.25 Sec. 11. Minnesota Statutes 2018, section 245A.02, subdivision 3, is amended to read:

45.26 Subd. 3. **Applicant.** "Applicant" means an individual, ~~corporation, partnership, voluntary~~
45.27 ~~association, controlling individual, or other~~ organization, or government entity, as defined
45.28 in section 13.02, subdivision 7a, that has applied for licensure under this chapter and the
45.29 rules of the commissioner is subject to licensure under this chapter and that has applied for
45.30 but not yet been granted a license under this chapter.

45.31 **EFFECTIVE DATE.** This section is effective January 1, 2020.

46.1 Sec. 12. Minnesota Statutes 2018, section 245A.02, is amended by adding a subdivision
46.2 to read:

46.3 Subd. 3b. **Authorized agent.** "Authorized agent" means the controlling individual
46.4 designated by the license holder responsible for communicating with the commissioner of
46.5 human services on all matters related to this chapter and on whom service of all notices and
46.6 orders must be made pursuant to section 245A.04, subdivision 1.

46.7 **EFFECTIVE DATE.** This section is effective January 1, 2020.

46.8 Sec. 13. Minnesota Statutes 2018, section 245A.02, subdivision 8, is amended to read:

46.9 Subd. 8. **License.** "License" means a certificate issued by the commissioner under section
46.10 245A.04 authorizing the license holder to provide a specified program for a specified period
46.11 of time and in accordance with the terms of the license and the rules of the commissioner.

46.12 **EFFECTIVE DATE.** This section is effective January 1, 2020.

46.13 Sec. 14. Minnesota Statutes 2018, section 245A.02, subdivision 9, is amended to read:

46.14 Subd. 9. **License holder.** "License holder" means an individual, ~~corporation, partnership,~~
46.15 ~~voluntary association, or other~~ organization, or government entity that is legally responsible
46.16 for the operation of the program or service, and has been granted a license by the
46.17 commissioner under this chapter ~~or chapter 245D~~ and the rules of the commissioner, ~~and~~
46.18 ~~is a controlling individual.~~

46.19 **EFFECTIVE DATE.** This section is effective January 1, 2020.

46.20 Sec. 15. Minnesota Statutes 2018, section 245A.02, is amended by adding a subdivision
46.21 to read:

46.22 Subd. 10c. **Organization.** "Organization" means a domestic or foreign corporation,
46.23 nonprofit corporation, limited liability company, partnership, limited partnership, limited
46.24 liability partnership, association, voluntary association, and any other legal or commercial
46.25 entity. For purposes of this chapter, organization does not include a government entity.

46.26 **EFFECTIVE DATE.** This section is effective January 1, 2020.

46.27 Sec. 16. Minnesota Statutes 2018, section 245A.02, subdivision 12, is amended to read:

46.28 Subd. 12. **Private agency.** "Private agency" means an ~~individual, corporation, partnership,~~
46.29 ~~voluntary association or other~~ organization, other than a county agency, or a court with

47.1 jurisdiction, that places persons who cannot remain in their own homes in residential
47.2 programs, foster care, or adoptive homes.

47.3 **EFFECTIVE DATE.** This section is effective January 1, 2020.

47.4 Sec. 17. Minnesota Statutes 2018, section 245A.02, subdivision 14, is amended to read:

47.5 Subd. 14. **Residential program.** (a) Except as provided in paragraph (b), "residential
47.6 program" means a program that provides 24-hour-a-day care, supervision, food, lodging,
47.7 rehabilitation, training, education, habilitation, or treatment outside a person's own home,
47.8 including a program in an intermediate care facility for four or more persons with
47.9 developmental disabilities; and chemical dependency or chemical abuse programs that are
47.10 located in a hospital or nursing home and receive public funds for providing chemical abuse
47.11 or chemical dependency treatment services under chapter 254B. Residential programs
47.12 include home and community-based services for persons with disabilities or persons age
47.13 65 and older that are provided in or outside of a person's own home under chapter 245D.

47.14 (b) For a residential program under chapter 245D, "residential program" means a single
47.15 or multifamily dwelling that is under the control, either directly or indirectly, of the service
47.16 provider licensed under chapter 245D and in which at least one person receives services
47.17 under chapter 245D, including residential supports and services under section 245D.03,
47.18 subdivision 1, paragraph (c), clause (3); out-of-home crisis respite services under section
47.19 245D.03, subdivision 1, paragraph (c), clause (1), item (ii); and out-of-home respite services
47.20 under section 245D.03, subdivision 1, paragraph (b), clause (1). A residential program does
47.21 not include out-of-home respite services when a case manager has determined that an
47.22 unlicensed site meets the assessed needs of the person. A residential program also does not
47.23 include multifamily dwellings where persons receive integrated community supports, even
47.24 if authorization to provide these supports is granted under chapter 245D and approved in
47.25 the federal waiver.

47.26 Sec. 18. Minnesota Statutes 2018, section 245A.03, subdivision 1, is amended to read:

47.27 Subdivision 1. **License required.** Unless licensed by the commissioner under this chapter,
47.28 an individual, corporation, partnership, voluntary association, other organization, or
47.29 controlling individual government entity must not:

47.30 (1) operate a residential or a nonresidential program;

47.31 (2) receive a child or adult for care, supervision, or placement in foster care or adoption;

48.1 (3) help plan the placement of a child or adult in foster care or adoption or engage in
 48.2 placement activities as defined in section 259.21, subdivision 9, in this state, whether or not
 48.3 the adoption occurs in this state; or

48.4 (4) advertise a residential or nonresidential program.

48.5 **EFFECTIVE DATE.** This section is effective January 1, 2020.

48.6 Sec. 19. Minnesota Statutes 2018, section 245A.03, subdivision 3, is amended to read:

48.7 Subd. 3. **Unlicensed programs.** (a) It is a misdemeanor for an individual, ~~corporation,~~
 48.8 ~~partnership, voluntary association, other organization, or a controlling individual~~ government
 48.9 entity to provide a residential or nonresidential program without a license issued under this
 48.10 chapter and in willful disregard of this chapter unless the program is excluded from licensure
 48.11 under subdivision 2.

48.12 (b) The commissioner may ask the appropriate county attorney or the attorney general
 48.13 to begin proceedings to secure a court order against the continued operation of the program,
 48.14 if an individual, ~~corporation, partnership, voluntary association, other organization, or~~
 48.15 ~~controlling individual~~ government entity has:

48.16 (1) failed to apply for a license under this chapter after receiving notice that a license is
 48.17 required or continues to operate without a license after receiving notice that a license is
 48.18 required;

48.19 (2) continued to operate without a license after ~~the~~ a license issued under this chapter
 48.20 has been revoked or suspended under section 245A.07 this chapter, and the commissioner
 48.21 has issued a final order affirming the revocation or suspension, or the license holder did not
 48.22 timely appeal the sanction; or

48.23 (3) continued to operate without a license after ~~the~~ a temporary immediate suspension
 48.24 of a license has been temporarily suspended under section 245A.07 issued under this chapter.

48.25 (c) The county attorney and the attorney general have a duty to cooperate with the
 48.26 commissioner.

48.27 **EFFECTIVE DATE.** This section is effective January 1, 2020.

48.28 Sec. 20. Minnesota Statutes 2018, section 245A.04, subdivision 1, is amended to read:

48.29 Subdivision 1. **Application for licensure.** (a) An individual, ~~corporation, partnership,~~
 48.30 ~~voluntary association, other organization or controlling individual,~~ or government entity
 48.31 that is subject to licensure under section 245A.03 must apply for a license. The application

49.1 must be made on the forms and in the manner prescribed by the commissioner. The
49.2 commissioner shall provide the applicant with instruction in completing the application and
49.3 provide information about the rules and requirements of other state agencies that affect the
49.4 applicant. An applicant seeking licensure in Minnesota with headquarters outside of
49.5 Minnesota must have a program office located within 30 miles of the Minnesota state border.
49.6 An applicant who intends to buy or otherwise acquire a program or services licensed under
49.7 this chapter that is owned by another license holder must apply for a license under this
49.8 chapter and comply with the application procedures in this section and section 245A.03.

49.9 The commissioner shall act on the application within 90 working days after a complete
49.10 application and any required reports have been received from other state agencies or
49.11 departments, counties, municipalities, or other political subdivisions. The commissioner
49.12 shall not consider an application to be complete until the commissioner receives all of the
49.13 ~~information required under section 245C.05~~ information.

49.14 When the commissioner receives an application for initial licensure that is incomplete
49.15 because the applicant failed to submit required documents or that is substantially deficient
49.16 because the documents submitted do not meet licensing requirements, the commissioner
49.17 shall provide the applicant written notice that the application is incomplete or substantially
49.18 deficient. In the written notice to the applicant the commissioner shall identify documents
49.19 that are missing or deficient and give the applicant 45 days to resubmit a second application
49.20 that is substantially complete. An applicant's failure to submit a substantially complete
49.21 application after receiving notice from the commissioner is a basis for license denial under
49.22 section 245A.05.

49.23 (b) An application for licensure must identify all controlling individuals as defined in
49.24 section 245A.02, subdivision 5a, and must ~~specify an~~ designate one individual to be the
49.25 authorized agent who is responsible for dealing with the commissioner of human services
49.26 ~~on all matters provided for in this chapter and on whom service of all notices and orders~~
49.27 ~~must be made.~~ The application must be signed by the authorized agent and must include
49.28 the authorized agent's first, middle, and last name; mailing address; and e-mail address. By
49.29 submitting an application for licensure, the authorized agent consents to electronic
49.30 communication with the commissioner throughout the application process. The authorized
49.31 agent must be authorized to accept service on behalf of all of the controlling individuals of
49.32 ~~the program.~~ A government entity that holds multiple licenses under this chapter may
49.33 designate one authorized agent for all licenses issued under this chapter or may designate
49.34 a different authorized agent for each license. Service on the authorized agent is service on
49.35 all of the controlling individuals ~~of the program.~~ It is not a defense to any action arising

50.1 under this chapter that service was not made on each controlling individual ~~of the program.~~
50.2 The designation of ~~one or more~~ a controlling ~~individuals~~ individual as ~~agents~~ the authorized
50.3 agent under this paragraph does not affect the legal responsibility of any other controlling
50.4 individual under this chapter.

50.5 (c) An applicant or license holder must have a policy that prohibits license holders,
50.6 employees, subcontractors, and volunteers, when directly responsible for persons served
50.7 by the program, from abusing prescription medication or being in any manner under the
50.8 influence of a chemical that impairs the individual's ability to provide services or care. The
50.9 license holder must train employees, subcontractors, and volunteers about the program's
50.10 drug and alcohol policy.

50.11 (d) An applicant and license holder must have a program grievance procedure that permits
50.12 persons served by the program and their authorized representatives to bring a grievance to
50.13 the highest level of authority in the program.

50.14 (e) ~~The applicant must be able to demonstrate competent knowledge of the applicable~~
50.15 ~~requirements of this chapter and chapter 245C, and the requirements of other licensing~~
50.16 ~~statutes and rules applicable to the program or services for which the applicant is seeking~~
50.17 ~~to be licensed. Effective January 1, 2013, The commissioner may limit communication~~
50.18 during the application process to the authorized agent or the controlling individuals identified
50.19 on the license application and for whom a background study was initiated under chapter
50.20 245C. The commissioner may require the applicant, except for child foster care, to
50.21 demonstrate competence in the applicable licensing requirements by successfully completing
50.22 a written examination. The commissioner may develop a prescribed written examination
50.23 format.

50.24 (f) When an applicant is an individual, the ~~individual~~ applicant must provide:

50.25 (1) the applicant's taxpayer identification numbers including the Social Security number
50.26 or Minnesota tax identification number, and federal employer identification number if the
50.27 applicant has employees;

50.28 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
50.29 of state that includes the complete business name, if any, ~~and~~;

50.30 (3) if doing business under a different name, the doing business as (DBA) name, as
50.31 registered with the secretary of state; and

51.1 ~~(3) a notarized signature of the applicant.~~ (4) if applicable, the applicant's National
51.2 Provider Identifier (NPI) number and Unique Minnesota Provider Identifier (UMPI) number;
51.3 and

51.4 (5) at the request of the commissioner, the notarized signature of the applicant or
51.5 authorized agent.

51.6 (g) When an applicant is ~~a nonindividual~~ an organization, the applicant must provide
51.7 ~~the~~:

51.8 (1) the applicant's taxpayer identification numbers including the Minnesota tax
51.9 identification number and federal employer identification number;

51.10 (2) at the request of the commissioner, a copy of the most recent filing with the secretary
51.11 of state that includes the complete business name, and if doing business under a different
51.12 name, the doing business as (DBA) name, as registered with the secretary of state;

51.13 (3) the first, middle, and last name, and address for all individuals who will be controlling
51.14 individuals, including all officers, owners, and managerial officials as defined in section
51.15 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant
51.16 for each controlling individual; and

51.17 ~~(4) first, middle, and last name, mailing address, and notarized signature of the agent~~
51.18 ~~authorized by the applicant to accept service on behalf of the controlling individuals.~~

51.19 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
51.20 Minnesota Provider Identifier (UMPI) number;

51.21 (5) the documents that created the organization and that determine the organization's
51.22 internal governance and the relations among the persons that own the organization, have
51.23 an interest in the organization, or are members of the organization, in each case as provided
51.24 or authorized by the organization's governing statute, which may include a partnership
51.25 agreement, bylaws, articles of organization, organizational chart, and operating agreement,
51.26 or comparable documents as provided in the organization's governing statute; and

51.27 (6) the notarized signature of the applicant or authorized agent.

51.28 (h) When the applicant is a government entity, the applicant must provide:

51.29 (1) the name of the government agency, political subdivision, or other unit of government
51.30 seeking the license and the name of the program or services that will be licensed;

51.31 (2) the applicant's taxpayer identification numbers including the Minnesota tax
51.32 identification number and federal employer identification number;

52.1 (3) a letter signed by the manager, administrator, or other executive of the government
 52.2 entity authorizing the submission of the license application; and

52.3 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
 52.4 Minnesota Provider Identifier (UMPI) number.

52.5 ~~(h)~~ (i) At the time of application for licensure or renewal of a license under this chapter,
 52.6 the applicant or license holder must acknowledge on the form provided by the commissioner
 52.7 if the applicant or license holder elects to receive any public funding reimbursement from
 52.8 the commissioner for services provided under the license that:

52.9 (1) the applicant's or license holder's compliance with the provider enrollment agreement
 52.10 or registration requirements for receipt of public funding may be monitored by the
 52.11 commissioner as part of a licensing investigation or licensing inspection; and

52.12 (2) noncompliance with the provider enrollment agreement or registration requirements
 52.13 for receipt of public funding that is identified through a licensing investigation or licensing
 52.14 inspection, or noncompliance with a licensing requirement that is a basis of enrollment for
 52.15 reimbursement for a service, may result in:

52.16 (i) a correction order or a conditional license under section 245A.06, or sanctions under
 52.17 section 245A.07;

52.18 (ii) nonpayment of claims submitted by the license holder for public program
 52.19 reimbursement;

52.20 (iii) recovery of payments made for the service;

52.21 (iv) disenrollment in the public payment program; or

52.22 (v) other administrative, civil, or criminal penalties as provided by law.

52.23 **EFFECTIVE DATE.** This section is effective January 1, 2020.

52.24 Sec. 21. Minnesota Statutes 2018, section 245A.04, subdivision 2, is amended to read:

52.25 Subd. 2. **Notification of affected municipality.** The commissioner must not issue a
 52.26 license under this chapter without giving 30 calendar days' written notice to the affected
 52.27 municipality or other political subdivision unless the program is considered a permitted
 52.28 single-family residential use under sections 245A.11 and 245A.14. The commissioner may
 52.29 provide notice through electronic communication. The notification must be given before
 52.30 the first issuance of a license under this chapter and annually after that time if annual
 52.31 notification is requested in writing by the affected municipality or other political subdivision.
 52.32 State funds must not be made available to or be spent by an agency or department of state,

53.1 county, or municipal government for payment to a residential or nonresidential program
53.2 licensed under this chapter until the provisions of this subdivision have been complied with
53.3 in full. The provisions of this subdivision shall not apply to programs located in hospitals.

53.4 **EFFECTIVE DATE.** This section is effective January 1, 2020.

53.5 Sec. 22. Minnesota Statutes 2018, section 245A.04, subdivision 4, is amended to read:

53.6 Subd. 4. **Inspections; waiver.** (a) Before issuing ~~an initial~~ a license under this chapter,
53.7 the commissioner shall conduct an inspection of the program. The inspection must include
53.8 but is not limited to:

53.9 (1) an inspection of the physical plant;

53.10 (2) an inspection of records and documents;

53.11 ~~(3) an evaluation of the program by consumers of the program;~~

53.12 ~~(4)~~ observation of the program in operation; and

53.13 ~~(5)~~ (4) an inspection for the health, safety, and fire standards in licensing requirements
53.14 for a child care license holder.

53.15 ~~For the purposes of this subdivision, "consumer" means a person who receives the~~
53.16 ~~services of a licensed program, the person's legal guardian, or the parent or individual having~~
53.17 ~~legal custody of a child who receives the services of a licensed program.~~

53.18 (b) ~~The evaluation required in paragraph (a), clause (3), or the observation in paragraph~~
53.19 ~~(a), clause (4) (3), is not required prior to issuing an initial~~ a license under subdivision 7. If
53.20 the commissioner issues an initial ~~subdivision 7~~ this chapter, these
53.21 requirements must be completed within one year after the issuance of ~~an initial~~ the license.

53.22 (c) Before completing a licensing inspection in a family child care program or child care
53.23 center, the licensing agency must offer the license holder an exit interview to discuss
53.24 violations of law or rule observed during the inspection and offer technical assistance on
53.25 how to comply with applicable laws and rules. Nothing in this paragraph limits the ability
53.26 of the commissioner to issue a correction order or negative action for violations of law or
53.27 rule not discussed in an exit interview or in the event that a license holder chooses not to
53.28 participate in an exit interview.

53.29 (d) The commissioner or the county shall inspect at least annually a child care provider
53.30 licensed under this chapter and Minnesota Rules, chapter 9502 or 9503, for compliance
53.31 with applicable licensing standards.

54.1 (e) No later than November 19, 2017, the commissioner shall make publicly available
 54.2 on the department's website the results of inspection reports of all child care providers
 54.3 licensed under this chapter and under Minnesota Rules, chapter 9502 or 9503, and the
 54.4 number of deaths, serious injuries, and instances of substantiated child maltreatment that
 54.5 occurred in licensed child care settings each year.

54.6 **EFFECTIVE DATE.** This section is effective January 1, 2020.

54.7 Sec. 23. Minnesota Statutes 2018, section 245A.04, subdivision 6, is amended to read:

54.8 Subd. 6. **Commissioner's evaluation.** (a) Before issuing, denying, suspending, revoking,
 54.9 or making conditional a license, the commissioner shall evaluate information gathered under
 54.10 this section. The commissioner's evaluation shall consider the applicable requirements of
 54.11 statutes and rules for the program or services for which the applicant seeks a license,
 54.12 including the disqualification standards set forth in chapter 245C, and shall evaluate facts,
 54.13 conditions, or circumstances concerning:

54.14 (1) the program's operation;

54.15 (2) the well-being of persons served by the program;

54.16 (3) available consumer evaluations of the program, and by persons receiving services;

54.17 (4) information about the qualifications of the personnel employed by the applicant or
 54.18 license holder; and

54.19 (5) the applicant's or license holder's ability to demonstrate competent knowledge of the
 54.20 applicable requirements of statutes and rules including this chapter and chapter 245C for
 54.21 which the applicant seeks a license or the license holder is licensed.

54.22 (b) The commissioner shall also evaluate the results of the study required in subdivision
 54.23 3 and determine whether a risk of harm to the persons served by the program exists. In
 54.24 conducting this evaluation, the commissioner shall apply the disqualification standards set
 54.25 forth in chapter 245C.

54.26 **EFFECTIVE DATE.** This section is effective January 1, 2020.

54.27 Sec. 24. Minnesota Statutes 2018, section 245A.04, subdivision 7, is amended to read:

54.28 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that
 54.29 the program complies with all applicable rules and laws, the commissioner shall issue a
 54.30 license consistent with this section or, if applicable, a temporary change of ownership license
 54.31 under section 245A.043. At minimum, the license shall state:

- 55.1 (1) the name of the license holder;
- 55.2 (2) the address of the program;
- 55.3 (3) the effective date and expiration date of the license;
- 55.4 (4) the type of license;
- 55.5 (5) the maximum number and ages of persons that may receive services from the program;
- 55.6 and
- 55.7 (6) any special conditions of licensure.
- 55.8 (b) The commissioner may issue ~~an initial~~ a license for a period not to exceed two years
- 55.9 if:
- 55.10 (1) the commissioner is unable to conduct the evaluation or observation required by
- 55.11 subdivision 4, paragraph (a), ~~clauses (3) and~~ clause (4), because the program is not yet
- 55.12 operational;
- 55.13 (2) certain records and documents are not available because persons are not yet receiving
- 55.14 services from the program; and
- 55.15 (3) the applicant complies with applicable laws and rules in all other respects.
- 55.16 (c) A decision by the commissioner to issue a license does not guarantee that any person
- 55.17 or persons will be placed or cared for in the licensed program. ~~A license shall not be~~
- 55.18 ~~transferable to another individual, corporation, partnership, voluntary association, other~~
- 55.19 ~~organization, or controlling individual or to another location.~~
- 55.20 ~~(d) A license holder must notify the commissioner and obtain the commissioner's approval~~
- 55.21 ~~before making any changes that would alter the license information listed under paragraph~~
- 55.22 ~~(a).~~
- 55.23 ~~(e)~~ (d) Except as provided in paragraphs ~~(g)~~ (f) and ~~(h)~~ (g), the commissioner shall not
- 55.24 issue or reissue a license if the applicant, license holder, or controlling individual has:
- 55.25 (1) been disqualified and the disqualification was not set aside and no variance has been
- 55.26 granted;
- 55.27 (2) been denied a license under this chapter, within the past two years;
- 55.28 (3) had a license issued under this chapter revoked within the past five years;
- 55.29 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement
- 55.30 for which payment is delinquent; or

56.1 (5) failed to submit the information required of an applicant under subdivision 1,
56.2 paragraph (f) or (g), after being requested by the commissioner.

56.3 When a license issued under this chapter is revoked under clause (1) or (3), the license
56.4 holder and controlling individual may not hold any license under chapter 245A ~~or 245D~~ for
56.5 five years following the revocation, and other licenses held by the applicant, license holder,
56.6 or controlling individual shall also be revoked.

56.7 ~~(f)~~ (e) The commissioner shall not issue or reissue a license under this chapter if an
56.8 individual living in the household where the licensed services will be provided as specified
56.9 under section 245C.03, subdivision 1, has been disqualified and the disqualification has not
56.10 been set aside and no variance has been granted.

56.11 ~~(g)~~ (f) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued
56.12 under this chapter has been suspended or revoked and the suspension or revocation is under
56.13 appeal, the program may continue to operate pending a final order from the commissioner.
56.14 If the license under suspension or revocation will expire before a final order is issued, a
56.15 temporary provisional license may be issued provided any applicable license fee is paid
56.16 before the temporary provisional license is issued.

56.17 ~~(h)~~ (g) Notwithstanding paragraph ~~(g)~~ (f), when a revocation is based on the
56.18 disqualification of a controlling individual or license holder, and the controlling individual
56.19 or license holder is ordered under section 245C.17 to be immediately removed from direct
56.20 contact with persons receiving services or is ordered to be under continuous, direct
56.21 supervision when providing direct contact services, the program may continue to operate
56.22 only if the program complies with the order and submits documentation demonstrating
56.23 compliance with the order. If the disqualified individual fails to submit a timely request for
56.24 reconsideration, or if the disqualification is not set aside and no variance is granted, the
56.25 order to immediately remove the individual from direct contact or to be under continuous,
56.26 direct supervision remains in effect pending the outcome of a hearing and final order from
56.27 the commissioner.

56.28 ~~(i)~~ (h) For purposes of reimbursement for meals only, under the Child and Adult Care
56.29 Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A,
56.30 part 226, relocation within the same county by a licensed family day care provider, shall
56.31 be considered an extension of the license for a period of no more than 30 calendar days or
56.32 until the new license is issued, whichever occurs first, provided the county agency has
56.33 determined the family day care provider meets licensure requirements at the new location.

57.1 ~~(i)~~ (i) Unless otherwise specified by statute, all licenses issued under this chapter expire
57.2 at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must
57.3 apply for and be granted a new license to operate the program or the program must not be
57.4 operated after the expiration date.

57.5 ~~(j)~~ (j) The commissioner shall not issue or reissue a license under this chapter if it has
57.6 been determined that a tribal licensing authority has established jurisdiction to license the
57.7 program or service.

57.8 **EFFECTIVE DATE.** This section is effective January 1, 2020.

57.9 Sec. 25. Minnesota Statutes 2018, section 245A.04, is amended by adding a subdivision
57.10 to read:

57.11 Subd. 7a. **Notification required.** (a) A license holder must notify the commissioner, in
57.12 a manner prescribed by the commissioner, and obtain the commissioner's approval before
57.13 making any change that would alter the license information listed under subdivision 7,
57.14 paragraph (a).

57.15 (b) A license holder must also notify the commissioner, in a manner prescribed by the
57.16 commissioner, before making any change:

57.17 (1) to the license holder's authorized agent as defined in section 245A.02, subdivision
57.18 3b;

57.19 (2) to the license holder's controlling individual as defined in section 245A.02, subdivision
57.20 5a;

57.21 (3) to the license holder information on file with the secretary of state;

57.22 (4) in the location of the program or service licensed under this chapter; and

57.23 (5) in the federal or state tax identification number associated with the license holder.

57.24 (c) When, for reasons beyond the license holder's control, a license holder cannot provide
57.25 the commissioner with prior notice of the changes in paragraph (b), clauses (1) to (3), the
57.26 license holder must notify the commissioner by the tenth business day after the change and
57.27 must provide any additional information requested by the commissioner.

57.28 (d) When a license holder notifies the commissioner of a change to the license holder
57.29 information on file with the secretary of state, the license holder must provide amended
57.30 articles of incorporation and other documentation of the change.

57.31 **EFFECTIVE DATE.** This section is effective January 1, 2020.

58.1 Sec. 26. Minnesota Statutes 2018, section 245A.04, subdivision 10, is amended to read:

58.2 Subd. 10. **Adoption agency; additional requirements.** In addition to the other
58.3 requirements of this section, an individual, ~~corporation, partnership, voluntary association,~~
58.4 ~~other~~ or organization, or controlling individual applying for a license to place children for
58.5 adoption must:

58.6 (1) incorporate as a nonprofit corporation under chapter 317A;

58.7 (2) file with the application for licensure a copy of the disclosure form required under
58.8 section 259.37, subdivision 2;

58.9 (3) provide evidence that a bond has been obtained and will be continuously maintained
58.10 throughout the entire operating period of the agency, to cover the cost of transfer of records
58.11 to and storage of records by the agency which has agreed, according to rule established by
58.12 the commissioner, to receive the applicant agency's records if the applicant agency voluntarily
58.13 or involuntarily ceases operation and fails to provide for proper transfer of the records. The
58.14 bond must be made in favor of the agency which has agreed to receive the records; and

58.15 (4) submit a certified audit to the commissioner each year the license is renewed as
58.16 required under section 245A.03, subdivision 1.

58.17 **EFFECTIVE DATE.** This section is effective January 1, 2020.

58.18 Sec. 27. **[245A.043] LICENSE APPLICATION AFTER A CHANGE OF**
58.19 **OWNERSHIP.**

58.20 **Subdivision 1. Transfer prohibited.** A license issued under this chapter is only valid
58.21 for a premises and individual, organization, or government entity identified by the
58.22 commissioner on the license. A license is not transferable or assignable.

58.23 **Subd. 2. Change in ownership.** (a) If the commissioner determines that there is a change
58.24 in ownership, the commissioner shall require submission of a new license application. This
58.25 subdivision does not apply to a licensed program or service located in a home where the
58.26 license holder resides. A change in ownership occurs when:

58.27 (1) the license holder sells or transfers 100 percent of the property, stock, or assets;

58.28 (2) the license holder merges with another organization;

58.29 (3) the license holder consolidates with two or more organizations, resulting in the
58.30 creation of a new organization;

59.1 (4) there is a change in the federal tax identification number associated with the license
59.2 holder; or

59.3 (5) all controlling individuals associated with the original application have changed.

59.4 (b) Notwithstanding paragraph (a), clauses (1) and (5), no change in ownership has
59.5 occurred if at least one controlling individual has been listed as a controlling individual for
59.6 the license for at least the previous 12 months.

59.7 Subd. 3. **Change of ownership process.** (a) When a change in ownership is proposed
59.8 and the party intends to assume operation without an interruption in service longer than 60
59.9 days after acquiring the program or service, the license holder must provide the commissioner
59.10 with written notice of the proposed change on a form provided by the commissioner at least
59.11 60 days before the anticipated date of the change in ownership. For purposes of this
59.12 subdivision and subdivision 4, "party" means the party that intends to operate the service
59.13 or program.

59.14 (b) The party must submit a license application under this chapter on the form and in
59.15 the manner prescribed by the commissioner at least 30 days before the change in ownership
59.16 is complete, and must include documentation to support the upcoming change. The party
59.17 must comply with background study requirements under chapter 245C and shall pay the
59.18 application fee required under section 245A.10. A party that intends to assume operation
59.19 without an interruption in service longer than 60 days after acquiring the program or service
59.20 is exempt from the requirements of Minnesota Rules, part 9530.6800.

59.21 (c) The commissioner may streamline application procedures when the party is an existing
59.22 license holder under this chapter and is acquiring a program licensed under this chapter or
59.23 service in the same service class as one or more licensed programs or services the party
59.24 operates and those licenses are in substantial compliance. For purposes of this subdivision,
59.25 "substantial compliance" means within the previous 12 months the commissioner did not
59.26 (1) issue a sanction under section 245A.07 against a license held by the party, or (2) make
59.27 a license held by the party conditional according to section 245A.06.

59.28 (d) Except when a temporary change in ownership license is issued pursuant to
59.29 subdivision 4, the existing license holder is solely responsible for operating the program
59.30 according to applicable laws and rules until a license under this chapter is issued to the
59.31 party.

59.32 (e) If a licensing inspection of the program or service was conducted within the previous
59.33 12 months and the existing license holder's record demonstrates substantial compliance with
59.34 the applicable licensing requirements, the commissioner may waive the party's inspection

60.1 required by section 245A.04, subdivision 4. The party must submit to the commissioner (1)
60.2 proof that the premises was inspected by a fire marshal or that the fire marshal deemed an
60.3 inspection was not warranted, and (2) proof that the premises was inspected for compliance
60.4 with the building code or no inspection was deemed warranted.

60.5 (f) If the party is seeking a license for a program or service that has an outstanding action
60.6 under section 245A.06 or 245A.07, the party must submit a letter as part of the application
60.7 process identifying how the party has or will come into full compliance with the licensing
60.8 requirements.

60.9 (g) The commissioner shall evaluate the party's application according to section 245A.04,
60.10 subdivision 6. If the commissioner determines that the party has remedied or demonstrates
60.11 the ability to remedy the outstanding actions under section 245A.06 or 245A.07 and has
60.12 determined that the program otherwise complies with all applicable laws and rules, the
60.13 commissioner shall issue a license or conditional license under this chapter. The conditional
60.14 license remains in effect until the commissioner determines that the grounds for the action
60.15 are corrected or no longer exist.

60.16 (h) The commissioner may deny an application as provided in section 245A.05. An
60.17 applicant whose application was denied by the commissioner may appeal the denial according
60.18 to section 245A.05.

60.19 (i) This subdivision does not apply to a licensed program or service located in a home
60.20 where the license holder resides.

60.21 Subd. 4. **Temporary change in ownership license.** (a) After receiving the party's
60.22 application pursuant to subdivision 3, upon the written request of the existing license holder
60.23 and the party, the commissioner may issue a temporary change in ownership license to the
60.24 party while the commissioner evaluates the party's application. Until a decision is made to
60.25 grant or deny a license under this chapter, the existing license holder and the party shall
60.26 both be responsible for operating the program or service according to applicable laws and
60.27 rules, and the sale or transfer of the existing license holder's ownership interest in the licensed
60.28 program or service does not terminate the existing license.

60.29 (b) The commissioner may issue a temporary change in ownership license when a license
60.30 holder's death, divorce, or other event affects the ownership of the program and an applicant
60.31 seeks to assume operation of the program or service to ensure continuity of the program or
60.32 service while a license application is evaluated.

60.33 (c) This subdivision applies to any program or service licensed under this chapter.

61.1 **EFFECTIVE DATE.** This section is effective January 1, 2020.

61.2 Sec. 28. Minnesota Statutes 2018, section 245A.05, is amended to read:

61.3 **245A.05 DENIAL OF APPLICATION.**

61.4 (a) The commissioner may deny a license if an applicant or controlling individual:

61.5 (1) fails to submit a substantially complete application after receiving notice from the
61.6 commissioner under section 245A.04, subdivision 1;

61.7 (2) fails to comply with applicable laws or rules;

61.8 (3) knowingly withholds relevant information from or gives false or misleading
61.9 information to the commissioner in connection with an application for a license or during
61.10 an investigation;

61.11 (4) has a disqualification that has not been set aside under section 245C.22 and no
61.12 variance has been granted;

61.13 (5) has an individual living in the household who received a background study under
61.14 section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that
61.15 has not been set aside under section 245C.22, and no variance has been granted;

61.16 (6) is associated with an individual who received a background study under section
61.17 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to
61.18 children or vulnerable adults, and who has a disqualification that has not been set aside
61.19 under section 245C.22, and no variance has been granted; ~~or~~

61.20 (7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g);₂

61.21 (8) fails to demonstrate competent knowledge as required by section 245A.04, subdivision
61.22 6;

61.23 (9) has a history of noncompliance as a license holder or controlling individual with
61.24 applicable laws or rules including but not limited to this chapter and chapters 119B and
61.25 245C; or

61.26 (10) is prohibited from holding a license according to section 245.095.

61.27 (b) An applicant whose application has been denied by the commissioner must be given
61.28 notice of the denial, which must state the reasons for the denial in plain language. Notice
61.29 must be given by certified mail or personal service. The notice must state the reasons the
61.30 application was denied and must inform the applicant of the right to a contested case hearing
61.31 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may

62.1 appeal the denial by notifying the commissioner in writing by certified mail or personal
62.2 service. If mailed, the appeal must be postmarked and sent to the commissioner within 20
62.3 calendar days after the applicant received the notice of denial. If an appeal request is made
62.4 by personal service, it must be received by the commissioner within 20 calendar days after
62.5 the applicant received the notice of denial. Section 245A.08 applies to hearings held to
62.6 appeal the commissioner's denial of an application.

62.7 **EFFECTIVE DATE.** This section is effective January 1, 2020.

62.8 Sec. 29. **[245A.055] CLOSING A LICENSE.**

62.9 Subdivision 1. **Inactive programs.** The commissioner shall close a license if the
62.10 commissioner determines that a licensed program has not been serving any client for a
62.11 consecutive period of 12 months or longer. The license holder is not prohibited from
62.12 reapplying for a license if the license holder's license was closed under this chapter.

62.13 Subd. 2. **Reconsideration of closure.** If a license is closed, the commissioner must
62.14 notify the license holder of closure by certified mail or personal service. If mailed, the notice
62.15 of closure must be mailed to the last known address of the license holder and must inform
62.16 the license holder why the license was closed and that the license holder has the right to
62.17 request reconsideration of the closure. If the license holder believes that the license was
62.18 closed in error, the license holder may ask the commissioner to reconsider the closure. The
62.19 license holder's request for reconsideration must be made in writing and must include
62.20 documentation that the licensed program has served a client in the previous 12 months. The
62.21 request for reconsideration must be postmarked and sent to the commissioner within 20
62.22 calendar days after the license holder receives the notice of closure. A timely request for
62.23 reconsideration stays imposition of the license closure until the commissioner issues a
62.24 decision on the request for reconsideration.

62.25 Subd. 3. **Reconsideration final.** The commissioner's disposition of a request for
62.26 reconsideration is final and not subject to appeal under chapter 14.

62.27 **EFFECTIVE DATE.** This section is effective January 1, 2020.

62.28 Sec. 30. Minnesota Statutes 2018, section 245A.07, subdivision 1, is amended to read:

62.29 Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional
62.30 under section 245A.06, the commissioner may suspend or revoke the license, impose a fine,
62.31 or secure an injunction against the continuing operation of the program of a license holder
62.32 who does not comply with applicable law or rule. When applying sanctions authorized under

63.1 this section, the commissioner shall consider the nature, chronicity, or severity of the violation
63.2 of law or rule and the effect of the violation on the health, safety, or rights of persons served
63.3 by the program.

63.4 (b) If a license holder appeals the suspension or revocation of a license and the license
63.5 holder continues to operate the program pending a final order on the appeal, the commissioner
63.6 shall issue the license holder a temporary provisional license. Unless otherwise specified
63.7 by the commissioner, variances in effect on the date of the license sanction under appeal
63.8 continue under the temporary provisional license. If a license holder fails to comply with
63.9 applicable law or rule while operating under a temporary provisional license, the
63.10 commissioner may impose additional sanctions under this section and section 245A.06, and
63.11 may terminate any prior variance. If a temporary provisional license is set to expire, a new
63.12 temporary provisional license shall be issued to the license holder upon payment of any fee
63.13 required under section 245A.10. The temporary provisional license shall expire on the date
63.14 the final order is issued. If the license holder prevails on the appeal, a new nonprovisional
63.15 license shall be issued for the remainder of the current license period.

63.16 (c) If a license holder is under investigation and the license issued under this chapter is
63.17 due to expire before completion of the investigation, the program shall be issued a new
63.18 license upon completion of the reapplication requirements and payment of any applicable
63.19 license fee. Upon completion of the investigation, a licensing sanction may be imposed
63.20 against the new license under this section, section 245A.06, or 245A.08.

63.21 (d) Failure to reapply or closure of a license issued under this chapter by the license
63.22 holder prior to the completion of any investigation shall not preclude the commissioner
63.23 from issuing a licensing sanction under this section, or section 245A.06, ~~or 245A.08~~ at the
63.24 conclusion of the investigation.

63.25 **EFFECTIVE DATE.** This section is effective January 1, 2020.

63.26 Sec. 31. Minnesota Statutes 2018, section 245A.07, subdivision 2, is amended to read:

63.27 Subd. 2. **Temporary immediate suspension.** (a) The commissioner shall act immediately
63.28 to temporarily suspend a license issued under this chapter if:

63.29 (1) the license holder's actions or failure to comply with applicable law or rule, or the
63.30 actions of other individuals or conditions in the program, pose an imminent risk of harm to
63.31 the health, safety, or rights of persons served by the program; ~~or~~

64.1 (2) while the program continues to operate pending an appeal of an order of revocation,
64.2 the commissioner identifies one or more subsequent violations of law or rule which may
64.3 adversely affect the health or safety of persons served by the program; or

64.4 (3) the license holder is criminally charged in state or federal court with an offense that
64.5 involves fraud or theft against a program administered by the commissioner.

64.6 (b) No state funds shall be made available or be expended by any agency or department
64.7 of state, county, or municipal government for use by a license holder regulated under this
64.8 chapter while a license issued under this chapter is under immediate suspension. A notice
64.9 stating the reasons for the immediate suspension and informing the license holder of the
64.10 right to an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
64.11 1400.8612, must be delivered by personal service to the address shown on the application
64.12 or the last known address of the license holder. The license holder may appeal an order
64.13 immediately suspending a license. The appeal of an order immediately suspending a license
64.14 must be made in writing by certified mail ~~or~~, personal service, or other means expressly set
64.15 forth in the commissioner's order. If mailed, the appeal must be postmarked and sent to the
64.16 commissioner within five calendar days after the license holder receives notice that the
64.17 license has been immediately suspended. If a request is made by personal service, it must
64.18 be received by the commissioner within five calendar days after the license holder received
64.19 the order. A license holder and any controlling individual shall discontinue operation of the
64.20 program upon receipt of the commissioner's order to immediately suspend the license.

64.21 **EFFECTIVE DATE.** This section is effective January 1, 2020.

64.22 Sec. 32. Minnesota Statutes 2018, section 245A.07, subdivision 2a, is amended to read:

64.23 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of
64.24 receipt of the license holder's timely appeal, the commissioner shall request assignment of
64.25 an administrative law judge. The request must include a proposed date, time, and place of
64.26 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar
64.27 days of the request for assignment, unless an extension is requested by either party and
64.28 granted by the administrative law judge for good cause. The commissioner shall issue a
64.29 notice of hearing by certified mail or personal service at least ten working days before the
64.30 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary
64.31 immediate suspension should remain in effect pending the commissioner's final order under
64.32 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the
64.33 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the
64.34 burden of proof in expedited hearings under this subdivision shall be limited to the

65.1 commissioner's demonstration that reasonable cause exists to believe that the license holder's
65.2 actions or failure to comply with applicable law or rule poses, or the actions of other
65.3 individuals or conditions in the program poses an imminent risk of harm to the health, safety,
65.4 or rights of persons served by the program. "Reasonable cause" means there exist specific
65.5 articulable facts or circumstances which provide the commissioner with a reasonable
65.6 suspicion that there is an imminent risk of harm to the health, safety, or rights of persons
65.7 served by the program. When the commissioner has determined there is reasonable cause
65.8 to order the temporary immediate suspension of a license based on a violation of safe sleep
65.9 requirements, as defined in section 245A.1435, the commissioner is not required to
65.10 demonstrate that an infant died or was injured as a result of the safe sleep violations. For
65.11 suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited
65.12 hearings under this subdivision shall be limited to the commissioner's demonstration by a
65.13 preponderance of evidence that, since the license was revoked, the license holder committed
65.14 additional violations of law or rule which may adversely affect the health or safety of persons
65.15 served by the program.

65.16 (b) The administrative law judge shall issue findings of fact, conclusions, and a
65.17 recommendation within ten working days from the date of hearing. The parties shall have
65.18 ten calendar days to submit exceptions to the administrative law judge's report. The record
65.19 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
65.20 final order shall be issued within ten working days from the close of the record. When an
65.21 appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner
65.22 shall issue a final order affirming the temporary immediate suspension within ten calendar
65.23 days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days
65.24 after a final order affirming an immediate suspension, the commissioner shall make a
65.25 determination regarding whether a final licensing sanction shall be issued under subdivision
65.26 3. The license holder shall continue to be prohibited from operation of the program during
65.27 this 90-day period.

65.28 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
65.29 final licensing sanction is issued under subdivision 3 and the license holder appeals that
65.30 sanction, the license holder continues to be prohibited from operation of the program pending
65.31 a final commissioner's order under section 245A.08, subdivision 5, regarding the final
65.32 licensing sanction.

65.33 (d) For suspensions under subdivision 2, paragraph (a), clause (3), the burden of proof
65.34 in expedited hearings under this subdivision shall be limited to the commissioner's
65.35 demonstration by a preponderance of evidence that a criminal complaint and warrant or

66.1 summons was issued for the license holder that was not dismissed, and that the criminal
66.2 charge is an offense that involves fraud or theft against a program administered by the
66.3 commissioner.

66.4 Sec. 33. Minnesota Statutes 2018, section 245A.07, subdivision 3, is amended to read:

66.5 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend
66.6 or revoke a license, or impose a fine if:

66.7 (1) a license holder fails to comply fully with applicable laws or rules including but not
66.8 limited to the requirements of this chapter and chapter 245C;

66.9 (2) a license holder, a controlling individual, or an individual living in the household
66.10 where the licensed services are provided or is otherwise subject to a background study has
66.11 a been disqualified and the disqualification which has was not been set aside under section
66.12 245C.22 and no variance has been granted;

66.13 (3) a license holder knowingly withholds relevant information from or gives false or
66.14 misleading information to the commissioner in connection with an application for a license,
66.15 in connection with the background study status of an individual, during an investigation,
66.16 or regarding compliance with applicable laws or rules; ~~or~~

66.17 (4) ~~after July 1, 2012, and upon request by the commissioner, a license holder fails to~~
66.18 ~~submit the information required of an applicant under section 245A.04, subdivision 1,~~
66.19 ~~paragraph (f) or (g).~~ a license holder is excluded from any program administered by the
66.20 commissioner under section 245.095; or

66.21 (5) revocation is required under section 245A.04, subdivision 7, paragraph (d).

66.22 A license holder who has had a license issued under this chapter suspended, revoked,
66.23 or has been ordered to pay a fine must be given notice of the action by certified mail or
66.24 personal service. If mailed, the notice must be mailed to the address shown on the application
66.25 or the last known address of the license holder. The notice must state in plain language the
66.26 reasons the license was suspended or revoked, or a fine was ordered.

66.27 (b) If the license was suspended or revoked, the notice must inform the license holder
66.28 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
66.29 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
66.30 a license. The appeal of an order suspending or revoking a license must be made in writing
66.31 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
66.32 the commissioner within ten calendar days after the license holder receives notice that the
66.33 license has been suspended or revoked. If a request is made by personal service, it must be

67.1 received by the commissioner within ten calendar days after the license holder received the
67.2 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
67.3 timely appeal of an order suspending or revoking a license, the license holder may continue
67.4 to operate the program as provided in section 245A.04, subdivision 7, paragraphs ~~(g)~~ (f)
67.5 and ~~(h)~~ (g), until the commissioner issues a final order on the suspension or revocation.

67.6 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the license
67.7 holder of the responsibility for payment of fines and the right to a contested case hearing
67.8 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an
67.9 order to pay a fine must be made in writing by certified mail or personal service. If mailed,
67.10 the appeal must be postmarked and sent to the commissioner within ten calendar days after
67.11 the license holder receives notice that the fine has been ordered. If a request is made by
67.12 personal service, it must be received by the commissioner within ten calendar days after
67.13 the license holder received the order.

67.14 (2) The license holder shall pay the fines assessed on or before the payment date specified.
67.15 If the license holder fails to fully comply with the order, the commissioner may issue a
67.16 second fine or suspend the license until the license holder complies. If the license holder
67.17 receives state funds, the state, county, or municipal agencies or departments responsible for
67.18 administering the funds shall withhold payments and recover any payments made while the
67.19 license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine
67.20 until the commissioner issues a final order.

67.21 (3) A license holder shall promptly notify the commissioner of human services, in writing,
67.22 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the
67.23 commissioner determines that a violation has not been corrected as indicated by the order
67.24 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify
67.25 the license holder by certified mail or personal service that a second fine has been assessed.
67.26 The license holder may appeal the second fine as provided under this subdivision.

67.27 (4) Fines shall be assessed as follows:

67.28 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a
67.29 child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557
67.30 for which the license holder is determined responsible for the maltreatment under section
67.31 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c);

67.32 (ii) if the commissioner determines that a determination of maltreatment for which the
67.33 license holder is responsible is the result of maltreatment that meets the definition of serious

68.1 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit
68.2 \$5,000;

68.3 (iii) for a program that operates out of the license holder's home and a program licensed
68.4 under Minnesota Rules, parts 9502.0300 to ~~9502.0495~~ 9502.0445, the fine assessed against
68.5 the license holder shall not exceed \$1,000 for each determination of maltreatment;

68.6 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule
68.7 governing matters of health, safety, or supervision, including but not limited to the provision
68.8 of adequate staff-to-child or adult ratios, and failure to comply with background study
68.9 requirements under chapter 245C; and

68.10 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule
68.11 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

68.12 For purposes of this section, "occurrence" means each violation identified in the
68.13 commissioner's fine order. Fines assessed against a license holder that holds a license to
68.14 provide home and community-based services, as identified in section 245D.03, subdivision
68.15 1, and a community residential setting or day services facility license under chapter 245D
68.16 where the services are provided, may be assessed against both licenses for the same
68.17 occurrence, but the combined amount of the fines shall not exceed the amount specified in
68.18 this clause for that occurrence.

68.19 (5) When a fine has been assessed, the license holder may not avoid payment by closing,
68.20 selling, or otherwise transferring the licensed program to a third party. In such an event, the
68.21 license holder will be personally liable for payment. In the case of a corporation, each
68.22 controlling individual is personally and jointly liable for payment.

68.23 (d) Except for background study violations involving the failure to comply with an order
68.24 to immediately remove an individual or an order to provide continuous, direct supervision,
68.25 the commissioner shall not issue a fine under paragraph (c) relating to a background study
68.26 violation to a license holder who self-corrects a background study violation before the
68.27 commissioner discovers the violation. A license holder who has previously exercised the
68.28 provisions of this paragraph to avoid a fine for a background study violation may not avoid
68.29 a fine for a subsequent background study violation unless at least 365 days have passed
68.30 since the license holder self-corrected the earlier background study violation.

68.31 **EFFECTIVE DATE.** This section is effective January 1, 2020.

69.1 Sec. 34. Minnesota Statutes 2018, section 245E.01, subdivision 8, is amended to read:

69.2 Subd. 8. **Financial misconduct or misconduct.** "Financial misconduct" or "misconduct"
69.3 means an entity's or individual's acts or omissions that result in fraud and abuse or error
69.4 against the Department of Human Services. Financial misconduct includes: (1) acting as a
69.5 recruiter offering conditional employment on behalf of a provider that has received funds
69.6 from the child care assistance program; and (2) committing an act or acts that meet the
69.7 definition of offenses listed in section 609.817.

69.8 Sec. 35. Minnesota Statutes 2018, section 245E.02, is amended by adding a subdivision
69.9 to read:

69.10 Subd. 1a. **Provider definitions.** For the purposes of this section, "provider" includes:

69.11 (1) individuals or entities meeting the definition of provider in section 245E.01,
69.12 subdivision 12; and

69.13 (2) owners and controlling individuals of entities identified in clause (1).

69.14 Sec. 36. Minnesota Statutes 2018, section 245E.02, is amended by adding a subdivision
69.15 to read:

69.16 Subd. 5. **Administrative disqualifications.** (a) The department shall pursue an
69.17 administrative disqualification in subdivision 4, paragraph (c), clause (1), if the provider
69.18 committed an intentional program violation. Intentional program violations include
69.19 intentionally making false or misleading statements; intentionally misrepresenting,
69.20 concealing, or withholding facts; and intentionally violating child care assistance program
69.21 regulations under this chapter and section 256.983. Intent may be proven by demonstrating
69.22 a pattern or conduct that violates regulations under this chapter and section 256.983.

69.23 (b) To initiate an administrative disqualification, the department must issue a notice to
69.24 the provider under section 245E.06, subdivision 2.

69.25 (c) The provider may appeal the department's administrative disqualification according
69.26 to section 256.045. The appeal must be made in writing and must be received by the
69.27 department no later than 30 days after the issuance of the notice to the provider. On appeal
69.28 the department bears the burden of proof to demonstrate by a preponderance of the evidence
69.29 that the provider committed an intentional program violation.

69.30 (d) The human services judge may combine a fair hearing and administrative
69.31 disqualification hearing into a single hearing if the factual issues arise out of the same or

70.1 related circumstances and the provider receives prior notice that the hearings will be
70.2 combined.

70.3 (e) A provider found to have committed an intentional program violation and is
70.4 administratively disqualified shall be disqualified, for a period of three years for the first
70.5 offense and permanently for any subsequent offense, from receiving any payments from
70.6 any child care program under chapter 119B. Unless a timely and proper appeal made under
70.7 this section is received by the department, the administrative determination of the department
70.8 is final and binding.

70.9 Sec. 37. Minnesota Statutes 2018, section 256.046, subdivision 1, is amended to read:

70.10 Subdivision 1. **Hearing authority.** A local agency must initiate an administrative fraud
70.11 disqualification hearing for individuals, ~~including child care providers caring for children~~
70.12 ~~receiving child care assistance~~, accused of wrongfully obtaining assistance or intentional
70.13 program violations, in lieu of a criminal action when it has not been pursued, in the Minnesota
70.14 family investment program and any affiliated program to include the diversionary work
70.15 program and the work participation cash benefit program, child care assistance programs,
70.16 general assistance, family general assistance program formerly codified in section 256D.05,
70.17 subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, MinnesotaCare
70.18 for adults without children, and upon federal approval, all categories of medical assistance
70.19 and remaining categories of MinnesotaCare except for children through age 18. The
70.20 Department of Human Services, in lieu of a local agency, may initiate an administrative
70.21 fraud disqualification hearing when the state agency is directly responsible for administration
70.22 or investigation of the program for which benefits were wrongfully obtained. The hearing
70.23 is subject to the requirements of ~~section~~ sections 256.045 and 256.0451 and the requirements
70.24 in Code of Federal Regulations, title 7, section 273.16.

70.25 Sec. 38. Minnesota Statutes 2018, section 256B.02, subdivision 7, is amended to read:

70.26 Subd. 7. **Vendor of medical care.** (a) "Vendor of medical care" means any person or
70.27 persons furnishing, within the scope of the vendor's respective license, any or all of the
70.28 following goods or services: medical, surgical, hospital, ambulatory surgical center services,
70.29 optical, visual, dental and nursing services; drugs and medical supplies; appliances;
70.30 laboratory, diagnostic, and therapeutic services; nursing home and convalescent care;
70.31 screening and health assessment services provided by public health nurses as defined in
70.32 section 145A.02, subdivision 18; health care services provided at the residence of the patient
70.33 if the services are performed by a public health nurse and the nurse indicates in a statement

71.1 submitted under oath that the services were actually provided; and such other ~~medical~~
71.2 services or supplies provided or prescribed by persons authorized by state law to give such
71.3 services and supplies. The term includes, but is not limited to, directors and officers of
71.4 corporations or members of partnerships who, either individually or jointly with another or
71.5 others, have the legal control, supervision, or responsibility of submitting claims for
71.6 reimbursement to the medical assistance program. The term only includes directors and
71.7 officers of corporations who personally receive a portion of the distributed assets upon
71.8 liquidation or dissolution, and their liability is limited to the portion of the claim that bears
71.9 the same proportion to the total claim as their share of the distributed assets bears to the
71.10 total distributed assets.

71.11 (b) "Vendor of medical care" also includes any person who is credentialed as a health
71.12 professional under standards set by the governing body of a federally recognized Indian
71.13 tribe authorized under an agreement with the federal government according to United States
71.14 Code, title 25, section 450f, to provide health services to its members, and who through a
71.15 tribal facility provides covered services to American Indian people within a contract health
71.16 service delivery area of a Minnesota reservation, as defined under Code of Federal
71.17 Regulations, title 42, section 36.22.

71.18 (c) A federally recognized Indian tribe that intends to implement standards for
71.19 credentialing health professionals must submit the standards to the commissioner of human
71.20 services, along with evidence of meeting, exceeding, or being exempt from corresponding
71.21 state standards. The commissioner shall maintain a copy of the standards and supporting
71.22 evidence, and shall use those standards to enroll tribal-approved health professionals as
71.23 medical assistance providers. For purposes of this section, "Indian" and "Indian tribe" mean
71.24 persons or entities that meet the definition in United States Code, title 25, section 450b.

71.25 Sec. 39. Minnesota Statutes 2018, section 256B.064, subdivision 1a, is amended to read:

71.26 Subd. 1a. **Grounds for sanctions against vendors.** The commissioner may impose
71.27 sanctions against a vendor of medical care for any of the following: (1) fraud, theft, or abuse
71.28 in connection with the provision of medical care to recipients of public assistance; (2) a
71.29 pattern of presentment of false or duplicate claims or claims for services not medically
71.30 necessary; (3) a pattern of making false statements of material facts for the purpose of
71.31 obtaining greater compensation than that to which the vendor is legally entitled; (4)
71.32 suspension or termination as a Medicare vendor; (5) refusal to grant the state agency access
71.33 during regular business hours to examine all records necessary to disclose the extent of
71.34 services provided to program recipients and appropriateness of claims for payment; (6)

72.1 failure to repay an overpayment or a fine finally established under this section; (7) failure
72.2 to correct errors in the maintenance of health service or financial records for which a fine
72.3 was imposed or after issuance of a warning by the commissioner; ~~and~~ (8) any reason for
72.4 which a vendor could be excluded from participation in the Medicare program under section
72.5 1128, 1128A, or 1866(b)(2) of the Social Security Act; and (9) there is a preponderance of
72.6 evidence that the vendor committed an act or acts that meet the definition of offenses listed
72.7 in section 609.817.

72.8 Sec. 40. Minnesota Statutes 2018, section 256B.064, subdivision 1b, is amended to read:

72.9 Subd. 1b. **Sanctions available.** The commissioner may impose the following sanctions
72.10 for the conduct described in subdivision 1a: suspension or withholding of payments to a
72.11 vendor and suspending or terminating participation in the program, or imposition of a fine
72.12 under subdivision 2, paragraph (f). When imposing sanctions under this section, the
72.13 commissioner shall consider the nature, chronicity, or severity of the conduct and the effect
72.14 of the conduct on the health and safety of persons served by the vendor. The commissioner
72.15 shall suspend a vendor's participation in the program for a minimum of five years if, for an
72.16 offense related to a provision of a health service under medical assistance or health care
72.17 fraud, the vendor is convicted of a crime, received a stay of adjudication, or entered a
72.18 court-ordered diversion program. Regardless of imposition of sanctions, the commissioner
72.19 may make a referral to the appropriate state licensing board.

72.20 Sec. 41. Minnesota Statutes 2018, section 256B.064, subdivision 2, is amended to read:

72.21 Subd. 2. **Imposition of monetary recovery and sanctions.** (a) The commissioner shall
72.22 determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor
72.23 of medical care under this section. Except as provided in paragraphs (b) and (d), neither a
72.24 monetary recovery nor a sanction will be imposed by the commissioner without prior notice
72.25 and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed
72.26 action, provided that the commissioner may suspend or reduce payment to a vendor of
72.27 medical care, except a nursing home or convalescent care facility, after notice and prior to
72.28 the hearing if in the commissioner's opinion that action is necessary to protect the public
72.29 welfare and the interests of the program.

72.30 (b) Except when the commissioner finds good cause not to suspend payments under
72.31 Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall
72.32 withhold or reduce payments to a vendor of medical care without providing advance notice
72.33 of such withholding or reduction if either of the following occurs:

73.1 (1) the vendor is convicted of a crime involving the conduct described in subdivision
73.2 1a; or

73.3 (2) the commissioner determines there is a credible allegation of fraud for which an
73.4 investigation is pending under the program. A credible allegation of fraud is an allegation
73.5 which has been verified by the state, from any source, including but not limited to:

73.6 (i) fraud hotline complaints;

73.7 (ii) claims data mining; and

73.8 (iii) patterns identified through provider audits, civil false claims cases, and law
73.9 enforcement investigations.

73.10 Allegations are considered to be credible when they have an indicia of reliability and
73.11 the state agency has reviewed all allegations, facts, and evidence carefully and acts
73.12 judiciously on a case-by-case basis.

73.13 (c) The commissioner must send notice of the withholding or reduction of payments
73.14 under paragraph (b) within five days of taking such action unless requested in writing by a
73.15 law enforcement agency to temporarily withhold the notice. The notice must:

73.16 (1) state that payments are being withheld according to paragraph (b);

73.17 (2) set forth the general allegations as to the nature of the withholding action, but need
73.18 not disclose any specific information concerning an ongoing investigation;

73.19 (3) except in the case of a conviction for conduct described in subdivision 1a, state that
73.20 the withholding is for a temporary period and cite the circumstances under which withholding
73.21 will be terminated;

73.22 (4) identify the types of claims to which the withholding applies; and

73.23 (5) inform the vendor of the right to submit written evidence for consideration by the
73.24 commissioner.

73.25 The withholding or reduction of payments will not continue after the commissioner
73.26 determines there is insufficient evidence of fraud by the vendor, or after legal proceedings
73.27 relating to the alleged fraud are completed, unless the commissioner has sent notice of
73.28 intention to impose monetary recovery or sanctions under paragraph (a). Upon conviction
73.29 for a crime related to the provision, management, or administration of a health service under
73.30 medical assistance, a payment held pursuant to this section by the commissioner or a managed
73.31 care organization that contracts with the commissioner under section 256B.035 is forfeited

74.1 by the commissioner or managed care organization, regardless of the amount charged in
74.2 the criminal complaint or the amount of criminal restitution ordered.

74.3 (d) The commissioner shall suspend or terminate a vendor's participation in the program
74.4 without providing advance notice and an opportunity for a hearing when the suspension or
74.5 termination is required because of the vendor's exclusion from participation in Medicare.
74.6 Within five days of taking such action, the commissioner must send notice of the suspension
74.7 or termination. The notice must:

74.8 (1) state that suspension or termination is the result of the vendor's exclusion from
74.9 Medicare;

74.10 (2) identify the effective date of the suspension or termination; and

74.11 (3) inform the vendor of the need to be reinstated to Medicare before reapplying for
74.12 participation in the program.

74.13 (e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is
74.14 to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision
74.15 3, by filing with the commissioner a written request of appeal. The appeal request must be
74.16 received by the commissioner no later than 30 days after the date the notification of monetary
74.17 recovery or sanction was mailed to the vendor. The appeal request must specify:

74.18 (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount
74.19 involved for each disputed item;

74.20 (2) the computation that the vendor believes is correct;

74.21 (3) the authority in statute or rule upon which the vendor relies for each disputed item;

74.22 (4) the name and address of the person or entity with whom contacts may be made
74.23 regarding the appeal; and

74.24 (5) other information required by the commissioner.

74.25 (f) The commissioner may order a vendor to forfeit a fine for failure to fully document
74.26 services according to standards in this chapter and Minnesota Rules, chapter 9505. The
74.27 commissioner may assess fines if specific required components of documentation are
74.28 missing. The fine for incomplete documentation shall equal 20 percent of the amount paid
74.29 on the claims for reimbursement submitted by the vendor, or up to \$5,000, whichever is
74.30 less. If the commissioner determines that a vendor repeatedly violated this chapter or
74.31 Minnesota Rules, chapter 9505, related to the provision of services to program recipients
74.32 and the submission of claims for payment, the commissioner may order a vendor to forfeit

75.1 a fine based on the nature, severity, and chronicity of the violations, in an amount of up to
75.2 \$5,000 or 20 percent of the value of the claims, whichever is greater.

75.3 (g) The vendor shall pay the fine assessed on or before the payment date specified. If
75.4 the vendor fails to pay the fine, the commissioner may withhold or reduce payments and
75.5 recover the amount of the fine. A timely appeal shall stay payment of the fine until the
75.6 commissioner issues a final order.

75.7 Sec. 42. Minnesota Statutes 2018, section 256B.064, is amended by adding a subdivision
75.8 to read:

75.9 Subd. 3. Vendor mandates on prohibited hiring. (a) The commissioner shall maintain
75.10 and publish a list of each excluded individual and entity that was convicted of a crime related
75.11 to the provision, management, or administration of a medical assistance health service, or
75.12 suspended or terminated under subdivision 2. A vendor that receives funding from medical
75.13 assistance shall not: (1) employ an individual or entity who is on the exclusion list; or (2)
75.14 enter into or maintain a business relationship with an individual or entity that is on the
75.15 exclusion list.

75.16 (b) Before hiring or entering into a business transaction, a vendor must check the
75.17 exclusion list. The vendor must check the exclusion list on a monthly basis and document
75.18 the date and time with a.m. and p.m. designations that the exclusion list was checked and
75.19 the name and title of the person who checked the exclusion list. The vendor must: (1)
75.20 immediately terminate a current employee on the exclusion list; and (2) immediately
75.21 terminate a business relationship with an individual or entity on the exclusion list.

75.22 (c) A vendor's requirement to check the exclusion list and to terminate an employee on
75.23 the exclusion list applies to each employee, even if the named employee is not responsible
75.24 for direct patient care or direct submission of a claim to medical assistance. A vendor's
75.25 requirement to check the exclusion list and terminate a business relationship with an
75.26 individual or entity on the exclusion list applies to each business relationship, even if the
75.27 named individual or entity is not responsible for direct patient care or direct submission of
75.28 a claim to medical assistance.

75.29 (d) A vendor that employs or enters into or maintains a business relationship with an
75.30 individual or entity on the exclusion list must refund any payment related to a service
75.31 rendered by an individual or entity on the exclusion list from the date the individual is
75.32 employed or the date the individual is placed on the exclusion list, whichever is later, and
75.33 a vendor may be subject to:

76.1 (1) sanctions under subdivision 2;

76.2 (2) a civil monetary penalty of up to \$25,000 for each determination by the department
76.3 that the vendor employed or contracted with an individual or entity on the exclusion list;
76.4 and

76.5 (3) other fines or penalties allowed by law.

76.6 Sec. 43. Minnesota Statutes 2018, section 256B.064, is amended by adding a subdivision
76.7 to read:

76.8 Subd. 4. **Notice.** (a) The notice required under subdivision 2 shall be served by first class
76.9 mail at the address submitted to the department by the vendor. Service is complete upon
76.10 mailing. The commissioner shall place an affidavit of the first class mailing in the vendor's
76.11 file as an indication of the address and the date of mailing.

76.12 (b) The department shall give notice in writing to a recipient placed in the Minnesota
76.13 restricted recipient program under section 256B.0646 and Minnesota Rules, part 9505.2200.
76.14 The notice shall be sent by first class mail to the recipient's current address on file with the
76.15 department. A recipient placed in the Minnesota restricted recipient program may contest
76.16 the placement by submitting a written request for a hearing to the department within 90
76.17 days of the notice being mailed.

76.18 Sec. 44. Minnesota Statutes 2018, section 256B.064, is amended by adding a subdivision
76.19 to read:

76.20 Subd. 5. **Immunity; good faith reporters.** (a) A person who makes a good faith report
76.21 is immune from any civil or criminal liability that might otherwise arise from reporting or
76.22 participating in the investigation. Nothing in this subdivision affects a vendor's responsibility
76.23 for an overpayment established under this subdivision.

76.24 (b) A person employed by a lead investigative agency who is conducting or supervising
76.25 an investigation or enforcing the law according to the applicable law or rule is immune from
76.26 any civil or criminal liability that might otherwise arise from the person's actions, if the
76.27 person is acting in good faith and exercising due care.

76.28 (c) For purposes of this subdivision, "person" includes a natural person or any form of
76.29 a business or legal entity.

76.30 (d) After an investigation is complete, the reporter's name must be kept confidential.
76.31 The subject of the report may compel disclosure of the reporter's name only with the consent
76.32 of the reporter or upon a written finding by a district court that the report was false and there

77.1 is evidence that the report was made in bad faith. This subdivision does not alter disclosure
77.2 responsibilities or obligations under the Rules of Criminal Procedure, except when the
77.3 identity of the reporter is relevant to a criminal prosecution the district court shall conduct
77.4 an in-camera review before determining whether to order disclosure of the reporter's identity.

77.5 Sec. 45. **[256B.0646] MINNESOTA RESTRICTED RECIPIENT PROGRAM;**
77.6 **PERSONAL CARE ASSISTANCE SERVICES.**

77.7 (a) When a recipient's use of personal care assistance services or community first services
77.8 and supports under section 256B.85 results in abusive or fraudulent billing, the commissioner
77.9 may place a recipient in the Minnesota restricted recipient program under Minnesota Rules,
77.10 part 9505.2165. A recipient placed in the Minnesota restricted recipient program under this
77.11 section must: (1) use a designated traditional personal care assistance provider agency; and
77.12 (2) obtain a new assessment under section 256B.0911, including consultation with a registered
77.13 or public health nurse on the long-term care consultation team pursuant to section 256B.0911,
77.14 subdivision 3, paragraph (b), clause (2).

77.15 (b) A recipient must comply with additional conditions for the use of personal care
77.16 assistance services or community first services and supports if the commissioner determines
77.17 it is necessary to prevent future misuse of personal care assistance services or abusive or
77.18 fraudulent billing. Additional conditions may include but are not limited to restricting service
77.19 authorizations to a duration of no more than one month, and requiring a qualified professional
77.20 to monitor and report services on a monthly basis.

77.21 (c) A recipient placed in the Minnesota restricted recipient program under this section
77.22 may appeal the placement according to section 256.045.

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

77.24 Sec. 46. Minnesota Statutes 2018, section 256B.0651, subdivision 17, is amended to read:

77.25 Subd. 17. **Recipient protection.** (a) Providers of home care services must provide each
77.26 recipient with a copy of the home care bill of rights under section 144A.44 at least 30 days
77.27 prior to terminating services to a recipient, if the termination results from provider sanctions
77.28 under section 256B.064, such as a payment withhold, a suspension of participation, or a
77.29 termination of participation. If a home care provider determines it is unable to continue
77.30 providing services to a recipient, the provider must notify the recipient, the recipient's
77.31 responsible party, and the commissioner 30 days prior to terminating services to the recipient
77.32 because of an action under section 256B.064, and must assist the commissioner and lead

78.1 agency in supporting the recipient in transitioning to another home care provider of the
78.2 recipient's choice.

78.3 (b) In the event of a payment withhold from a home care provider, a suspension of
78.4 participation, or a termination of participation of a home care provider under section
78.5 256B.064, the commissioner may inform the Office of Ombudsman for Long-Term Care
78.6 and the lead agencies for all recipients with active service agreements with the provider. At
78.7 the commissioner's request, the lead agencies must contact recipients to ensure that the
78.8 recipients are continuing to receive needed care, and that the recipients have been given
78.9 free choice of provider if they transfer to another home care provider. In addition, the
78.10 commissioner or the commissioner's delegate may directly notify recipients who receive
78.11 care from the provider that payments have been or may be withheld or that the provider's
78.12 participation in medical assistance has been or may be suspended or terminated, if the
78.13 commissioner determines that notification is necessary to protect the welfare of the recipients.
78.14 For purposes of this subdivision, "lead agencies" means counties, tribes, and managed care
78.15 organizations.

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

78.17 Sec. 47. Minnesota Statutes 2018, section 256B.0659, subdivision 12, is amended to read:

78.18 Subd. 12. **Documentation of personal care assistance services provided.** (a) Personal
78.19 care assistance services for a recipient must be documented daily by each personal care
78.20 assistant, on a time sheet form approved by the commissioner. All documentation may be
78.21 web-based, electronic, or paper documentation. The completed form must be submitted on
78.22 a monthly basis to the provider and kept in the recipient's health record.

78.23 (b) The activity documentation must correspond to the personal care assistance care plan
78.24 and be reviewed by the qualified professional.

78.25 (c) The personal care assistant time sheet must be on a form approved by the
78.26 commissioner documenting time the personal care assistant provides services in the home.
78.27 The following criteria must be included in the time sheet:

78.28 (1) full name of personal care assistant and individual provider number;

78.29 (2) provider name and telephone numbers;

78.30 (3) full name of recipient and either the recipient's medical assistance identification
78.31 number or date of birth;

79.1 (4) consecutive dates, including month, day, and year, and arrival and departure times
79.2 with a.m. or p.m. notations;

79.3 (5) signatures of recipient or the responsible party;

79.4 (6) personal signature of the personal care assistant;

79.5 (7) any shared care provided, if applicable;

79.6 (8) a statement that it is a federal crime to provide false information on personal care
79.7 service billings for medical assistance payments; and

79.8 (9) dates and location of recipient stays in a hospital, care facility, or incarceration.

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

79.10 Sec. 48. Minnesota Statutes 2018, section 256B.27, subdivision 3, is amended to read:

79.11 Subd. 3. **Access to medical records.** The commissioner of human services, with the
79.12 written consent of the recipient, on file with the local welfare agency, shall be allowed
79.13 access to all personal medical records of medical assistance recipients solely for the purposes
79.14 of investigating whether or not: (a) a vendor of medical care has submitted a claim for
79.15 reimbursement, a cost report or a rate application which is duplicative, erroneous, or false
79.16 in whole or in part, or which results in the vendor obtaining greater compensation than the
79.17 vendor is legally entitled to; or (b) the medical care was medically necessary. ~~The vendor~~
79.18 ~~of medical care shall receive notification from the commissioner at least 24 hours before~~
79.19 ~~the commissioner gains access to such records.~~ When the commissioner is investigating a
79.20 possible overpayment of Medicaid funds, the commissioner must be given immediate access
79.21 without prior notice to the vendor's office during regular business hours and to documentation
79.22 and records related to services provided and submission of claims for services provided.
79.23 Denying the commissioner access to records is cause for the vendor's immediate suspension
79.24 of payment or termination according to section 256B.064. The determination of provision
79.25 of services not medically necessary shall be made by the commissioner. Notwithstanding
79.26 any other law to the contrary, a vendor of medical care shall not be subject to any civil or
79.27 criminal liability for providing access to medical records to the commissioner of human
79.28 services pursuant to this section.

79.29 Sec. 49. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
79.30 to read:

79.31 Subd. 11. **Home and community-based service billing requirements.** (a) A home and
79.32 community-based service is eligible for reimbursement if:

80.1 (1) the service is provided according to a federally approved waiver plan, as authorized
80.2 under sections 256B.0913, 256B.0915, 256B.092, and 256B.49;

80.3 (2) if applicable, the service is provided on days and times during the days and hours of
80.4 operation specified on any license required under chapter 245A or 245D; and

80.5 (3) the provider complies with subdivisions 12 to 15, if applicable.

80.6 (b) The provider must maintain documentation that, upon employment and annually
80.7 thereafter, staff providing a service have attested to reviewing and understanding the
80.8 following statement: "It is a federal crime to provide materially false information on service
80.9 billings for medical assistance or services provided under a federally approved waiver plan,
80.10 as authorized under Minnesota Statutes, sections 256B.0913, 256B.0915, 256B.092, and
80.11 256B.49."

80.12 (c) The department may recover payment, according to section 256B.064 and Minnesota
80.13 Rules, parts 9505.2160 to 9505.2245, for a service that does not satisfy this subdivision.

80.14 Sec. 50. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
80.15 to read:

80.16 Subd. 12. **Home and community-based service documentation requirements.** (a)
80.17 Documentation may be collected and maintained electronically or in paper form by providers
80.18 and must be produced upon request of the commissioner.

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

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

80.23 (1) the date the documentation occurred;

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

80.25 (3) the start and stop times with a.m. and p.m. designations, except for case management
80.26 services as defined under sections 256B.0913, subdivision 7; 256B.0915, subdivision 1a;
80.27 256B.092, subdivision 1a; and 256B.49, subdivision 13;

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

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

81.1 (d) If the service is reimbursed at a daily rate or does not meet the requirements in
81.2 paragraph (c), each documentation of the provision of a service, unless otherwise specified,
81.3 must include:

81.4 (1) the date the documentation occurred;

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

81.6 (3) the service name or description of the service provided; and

81.7 (4) the name, signature, and title, if any, of the person providing the service. If the service
81.8 is provided by multiple staff, the provider may designate a staff member responsible for
81.9 verifying services and completing the documentation required by this paragraph.

81.10 Sec. 51. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
81.11 to read:

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

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

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

81.23 (2) documentation demonstrating that a vehicle and a driver meet the standards determined
81.24 by the Department of Human Services on vehicle and driver qualifications in section
81.25 256B.0625, subdivision 17, paragraph (c).

81.26 Sec. 52. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
81.27 to read:

81.28 Subd. 14. **Equipment and supply documentation requirements.** (a) In addition to the
81.29 requirements in subdivision 12, an equipment and supply services provider must for each
81.30 documentation of the provision of a service include:

81.31 (1) the recipient's assessed need for the equipment or supply;

82.1 (2) the reason the equipment or supply is not covered by the Medicaid state plan;

82.2 (3) the type and brand name of the equipment or supply delivered to or purchased by
82.3 the recipient, including whether the equipment or supply was rented or purchased;

82.4 (4) the quantity of the equipment or supplies delivered or purchased; and

82.5 (5) the cost of equipment or supplies if the amount paid for the service depends on the
82.6 cost.

82.7 (b) A provider must maintain a copy of the shipping invoice or a delivery service tracking
82.8 log or other documentation showing the date of delivery that proves the equipment or supply
82.9 was delivered to the recipient or a receipt if the equipment or supply was purchased by the
82.10 recipient.

82.11 Sec. 53. Minnesota Statutes 2018, section 256B.4912, is amended by adding a subdivision
82.12 to read:

82.13 Subd. 15. **Adult day service documentation and billing requirements.** (a) In addition
82.14 to the requirements in subdivision 12, a provider of adult day services as defined in section
82.15 245A.02, subdivision 2a, and licensed under Minnesota Rules, parts 9555.9600 to 9555.9730,
82.16 must maintain documentation of:

82.17 (1) a needs assessment and current plan of care according to section 245A.143,
82.18 subdivisions 4 to 7, or Minnesota Rules, part 9555.9700, for each recipient, if applicable;

82.19 (2) attendance records as specified under section 245A.14, subdivision 14, paragraph
82.20 (c), including the date of attendance with the day, month, and year; and the pickup and
82.21 drop-off time in hours and minutes with a.m. and p.m. designations;

82.22 (3) the monthly and quarterly program requirements in Minnesota Rules, part 9555.9710,
82.23 subparts 1, items E and H; 3; 4; and 6, if applicable;

82.24 (4) the name and qualification of each registered physical therapist, registered nurse,
82.25 and registered dietitian who provides services to the adult day services or nonresidential
82.26 program; and

82.27 (5) the location where the service was provided. If the location is an alternate location
82.28 from the usual place of service, the documentation must include the address, or a description
82.29 if the address is not available, of both the origin site and destination site; the length of time
82.30 at the alternate location with a.m. and p.m. designations; and a list of participants who went
82.31 to the alternate location.

83.1 (b) A provider cannot exceed the provider's licensed capacity. If a provider exceeds the
83.2 provider's licensed capacity, the department must recover all Minnesota health care programs
83.3 payments from the date the provider exceeded licensed capacity.

83.4 **EFFECTIVE DATE.** This section is effective August 1, 2019.

83.5 Sec. 54. **[609.817] CRIMINAL PENALTIES FOR ACTS INVOLVING HUMAN**
83.6 **SERVICES PROGRAMS.**

83.7 Subdivision 1. **Payments made relating to human services programs.** A person who
83.8 intentionally offers or pays any remuneration, including any kickback, bribe, or rebate,
83.9 directly or indirectly, overtly or covertly, in cash or in kind, to a person is guilty of a crime
83.10 and may be sentenced as provided in subdivision 3 if such offer or payment is made to
83.11 induce the person:

83.12 (1) to apply for, receive, or induce another person to apply for or receive a human services
83.13 benefit, service, or grant related to a program funded in whole or in part by the Department
83.14 of Human Services or administered by the commissioner of human services, including but
83.15 not limited to a human services benefit, service, or grant funded in whole or in part by a
83.16 local social services agency, the Department of Human Services, or the United States
83.17 Department of Health and Human Services; or

83.18 (2) to apply for or to use a particular vendor providing a service administered or funded
83.19 in whole or in part by the Department of Human Services, a local social services agency,
83.20 or the United States Department of Health and Human Services.

83.21 Subd. 2. **Payments received relating to human services programs.** A person who
83.22 intentionally solicits or receives any remuneration, including any kickback, bribe, or rebate,
83.23 directly or indirectly, overtly or covertly, in cash or in kind, is guilty of a crime and may
83.24 be sentenced as provided in subdivision 3 if the remuneration is solicited or received:

83.25 (1) in return for applying for or receiving a human services benefit, service, or grant
83.26 administered or funded in whole or in part by the Department of Human Services or
83.27 administered by the commissioner of human services, including but not limited to a human
83.28 services benefit, service, or grant funded in whole or in part by a local social services agency,
83.29 the Department of Human Services, or the United States Department of Health and Human
83.30 Services;

83.31 (2) in return for applying for or using a particular vendor providing a service administered
83.32 or funded in whole or in part by the Department of Human Services, a local social services
83.33 agency, or the United States Department of Health and Human Services; or

84.1 (3) in return for receiving or agreeing to receive payments in excess of fair and reasonable
84.2 market value for services or supplies provided to a company or person who is being paid
84.3 in whole or in part by the Department of Human Services, a local social services agency,
84.4 or the United States Department of Health and Human Services to provide a human services
84.5 benefit to a person.

84.6 Subd. 3. **Sentence.** Whoever violates subdivision 1 or 2 may be sentenced to
84.7 imprisonment for not more than five years or to payment of a fine of not more than \$10,000,
84.8 or both.

84.9 Subd. 4. **Defense.** It is not a defense under this section for the person or company
84.10 receiving or making the payments in excess of fair and reasonable market value to claim
84.11 the person did not have knowledge of the source of the payments.

84.12 Subd. 5. **Persons exempt.** This section does not apply if:

84.13 (1) the employee receiving the remuneration is a bona fide employee of the company
84.14 receiving payment for providing care or services;

84.15 (2) the remuneration received by the employee is for work performed by the employee
84.16 and is paid via a standard payroll check or a direct deposit from the company payroll account
84.17 to the bank designated by the employee; and

84.18 (3) the company making the payment complies with all state and federal laws relating
84.19 to tax withholding, Social Security and Medicare withholding, and wage reporting to the
84.20 Department of Employment and Economic Development.

84.21 Subd. 6. **Additional sanctions.** (a) Claims or payments for any service rendered or
84.22 claimed to have been rendered by a provider or individual who violated this section in regard
84.23 to the person for whom such services were rendered or claimed to have been rendered are
84.24 noncompensable, unenforceable as a matter of law, and constitute the value of any restitution
84.25 owed to the Department of Human Services, a county, or the United States Department of
84.26 Health and Human Services.

84.27 (b) For the purposes of this section, service includes any benefit, service, or grant,
84.28 administered or funded in whole or in part by the Department of Human Services, a county,
84.29 or the United States Department of Health and Human Services.

84.30 (c) A person convicted under this section is subject to prohibitions described under
84.31 section 245.095.

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: H1801-1

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.