

A bill for an act

relating to human services; establishing public policies and priorities for child welfare; establishing Northstar Care for Children; making changes to adoption assistance; amending Minnesota Statutes 2008, sections 256.991; 256J.21, subdivision 2; 256J.24, subdivisions 3, 4; 257.85, subdivisions 2, 5, 6; 259.67, by adding subdivisions; 260B.441; 260C.331, subdivision 1; 260C.441; proposing coding for new law as Minnesota Statutes, chapters 256N; 256O; repealing Minnesota Statutes 2008, sections 256.82, subdivision 5; 257.85; 259.67, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9, 10; Minnesota Rules, parts 9560.0071; 9560.0081; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, 4; 9560.0101; 9560.0102; 9560.0665, subparts 2, 3, 4, 5, 6, 7, 8, 9.

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

Section 1. Minnesota Statutes 2008, section 256.991, is amended to read:

256.991 RULES.

The commissioner of human services may promulgate rules as necessary to implement sections 256.01, subdivision 2; ~~256.82, subdivision 3~~; 256.966, subdivision 1; 256D.03, subdivisions 3, 4, 6, and 7; and 261.23. The commissioner shall promulgate rules to establish standards and criteria for deciding which medical assistance services require prior authorization and for deciding whether a second medical opinion is required for an elective surgery. The commissioner shall promulgate rules as necessary to establish the methods and standards for determining inappropriate utilization of medical assistance services.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 256J.21, subdivision 2, is amended to read:

Subd. 2. **Income exclusions.** The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9555.5050 to 9555.6265, 9560.0521, and 9560.0650 to 9560.0655, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) state income tax refunds; and

(ii) federal income tax refunds;

(8)(i) federal earned income credits;

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A; and

(iv) federal or state tax rebates;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

(15) payments for short-term emergency needs under section 256J.626, subdivision 2;

(16) funeral and cemetery payments as provided by section 256.935;

(17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;

(18) any form of energy assistance payment made through Public Law 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;

(19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient, except as described in section 256J.37, subdivision 3b;

(20) Minnesota supplemental aid, including retroactive payments;

(21) proceeds from the sale of real or personal property;

(22) state adoption assistance payments under section 259.67, adoption assistance payments under chapter 256O, and up to an equal amount of county adoption assistance payments;

(23) state-funded family subsidy program payments made under section 252.32 to help families care for children with developmental disabilities, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;

(24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;

(25) rent rebates;

(26) income earned by a minor caregiver, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;

(27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;

(28) MFIP child care payments under section 119B.05;

(29) all other payments made through MFIP to support a caregiver's pursuit of greater economic stability;

- (30) income a participant receives related to shared living expenses;
- (31) reverse mortgages;
- (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;
- (33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;
- (34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;
- (35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;
- (36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;
- (37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;
- (38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law 101-239, section 10405, paragraph (a)(2)(E);
- (39) income that is otherwise specifically excluded from MFIP consideration in federal law, state law, or federal regulation;
- (40) security and utility deposit refunds;
- (41) American Indian tribal land settlements excluded under Public Laws 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;
- (42) all income of the minor parent's parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children;
- (43) income of the minor parent's parents and stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;
- (44) payments made to children eligible for ~~relative custody~~ guardianship assistance under ~~section 257.85~~ chapter 256O;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash;

(46) the principal portion of a contract for deed payment; and

(47) cash payments to individuals enrolled for full-time service as a volunteer under AmeriCorps programs including AmeriCorps VISTA, AmeriCorps State, AmeriCorps National, and AmeriCorps NCCC.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 256J.24, subdivision 3, is amended to read:

Subd. 3. **Individuals who must be excluded from an assistance unit.** (a) The following individuals who are part of the assistance unit determined under subdivision 2 are ineligible to receive MFIP:

(1) individuals who are recipients of Supplemental Security Income or Minnesota supplemental aid;

(2) individuals disqualified from the food stamp or food support program or MFIP, until the disqualification ends;

(3) children ~~on whose behalf~~ eligible for Northstar Care for Children under chapter 256O when the caregiver receives federal, state or local foster care; guardianship assistance; or adoption assistance payments are made for them, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and

(4) children receiving ongoing monthly adoption assistance payments under section 259.67.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 4. Minnesota Statutes 2008, section 256J.24, subdivision 4, is amended to read:

Subd. 4. **Individuals who may elect to be included in the assistance unit.** (a) The minor child's eligible caregiver may choose to be in the assistance unit, if the caregiver is not required to be in the assistance unit under subdivision 2. If the eligible caregiver chooses to be in the assistance unit, that person's spouse must also be in the unit.

(b) Any minor child not related as a sibling, stepsibling, or adopted sibling to the minor child in the unit, but for whom there is an eligible caregiver may elect to be in the unit.

(c) A foster care provider of a minor child who is receiving federal, state, or local foster care maintenance payments or a provider receiving benefits for a child eligible for Northstar Care for Children under chapter 256O may elect to receive MFIP if the provider meets the definition of caregiver under section 256J.08, subdivision 11. If the provider chooses to receive MFIP, the spouse of the provider must also be included in the assistance unit with the provider. The provider and spouse are eligible for ~~assistance~~ MFIP even if the only minor child living in the provider's home is receiving foster care maintenance payments or benefits from Northstar Care for Children.

(d) The adult caregiver or caregivers of a minor parent are eligible to be a separate assistance unit from the minor parent and the minor parent's child when:

(1) the adult caregiver or caregivers have no other minor children in the household;

(2) the minor parent and the minor parent's child are living together with the adult caregiver or caregivers; and

(3) the minor parent and the minor parent's child receive MFIP, or would be eligible to receive MFIP, if they were not receiving SSI benefits.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 5. **[256N.01] PUBLIC POLICY.**

Subdivision 1. General. The legislature hereby declares that the public policy of the state is:

(1) first and foremost, children should be safe from harm and protected from abuse and neglect;

(2) children should be maintained safely in their homes whenever possible and appropriate;

(3) when the ability of parents to keep their children safe is compromised it is in the public interest to intervene early and provide services that promote parents' protective capacities, mitigate risks of harm, and strengthen and support parents in their caregiving roles;

(4) children should grow up in safe, permanent, and nurturing homes and, when it is not possible for their parents to provide safety and permanency, alternative permanency options must be made available to children as quickly as possible;

(5) whenever possible, alternative permanency options should be with children's relatives or kin in order to maintain family relationships and preserve connections with their communities and culture; and

(6) once permanency is achieved, children and their families should receive the services and supports necessary to maintain safe, stable, and permanent homes.

Subd. 2. **Racial disparities in child welfare.** It is further the policy of the state to reduce racial disparities and disproportionality that exists in the child welfare system by:

(1) identifying and addressing structural factors contributing to inequities in outcomes;

(2) identifying and implementing promising and evidence-based strategies to reduce racial disparities in treatment and outcomes;

(3) using cultural values, beliefs, and practices of families, communities, and tribes to shape family assessment, case planning, case service design, and case decision-making processes;

(4) using placement and reunification strategies that maintain, honor, and support relationships and connections between parents, siblings, children, kin, and significant others, giving priority to kinship placements when placement is necessary; and

(5) supporting families in the context of their communities and tribes so as to safely divert them away from the child welfare system, whenever possible.

Sec. 6. **[256N.02] PUBLIC PRIORITIES.**

A broad continuum of services and a reform of practice are necessary across Minnesota to keep children safe from abuse and neglect, prevent the trauma associated with removing a child from their family home, and provide families with the necessary supports and services to protect and nurture their children. Successful implementation of state policy must result in improved outcomes for children and families and must be measured by:

(1) improved timeliness to initial investigations;

(2) increased monthly caseworker visits with children in out-of-home placement;

(3) reduced out-of-home placements;

(4) reduced re-entry;

(5) reduced recidivism;

(6) reduced number of children aging out of foster care without achieving permanency;

(7) improved rate of relative care;

(8) improved stability in foster care; and

(9) reduced racial and ethnic disparities and disproportionality.

Sec. 7. **[256O.001] CITATION.**

Sections 256O.001 to 256O.270 may be cited as the "Northstar Care for Children Act." Sections 256O.001 to 256O.270 establish Northstar Care for Children, which

authorizes certain benefits to support children in need who are served by the Minnesota child welfare system and who are the responsibility of the state of Minnesota, local county social service agencies, or tribal social service agencies under section 256.01, subdivision 14b. A child eligible for the benefit has experienced a child welfare intervention that has resulted in the child being placed away from the child's parents' care and is in the permanent care of relatives through a transfer of permanent legal and physical custody, or in the permanent care of adoptive parents.

Sec. 8. [256O.01] PUBLIC POLICY.

(a) The legislature hereby declares that the public policy of this state is to keep children safe from harm and to ensure that when children suffer harmful or injurious experiences in their lives, appropriate services are immediately available to keep them safe.

(b) Children do best in permanent, safe, nurturing homes with long-term relationships with adults. Whenever safely possible, children are best served when they can be nurtured and raised by their parents. Where services cannot be provided to allow a child to remain safely at home, an out-of-home placement may be required. When this occurs, reunification should be sought if it can be accomplished safely. When it is not possible for parents to provide safety and permanency for their children, an alternative permanent home must quickly be made available to the child, drawing from kinship sources whenever possible.

(c) Minnesota understands the importance of having a comprehensive approach to temporary out-of-home care and to permanent homes for children who cannot be reunited with their families. It is critical that stable benefits be available to caregivers to ensure that the child's needs can be met whether the child's situation and best interests call for transfer of permanent legal and physical custody to a relative or adoption. Northstar Care for Children focuses on the child's needs and strengths, and the actual level of care provided by the caregiver, without consideration for the type of placement setting. In this way, caregivers are not faced with the burden of making specific long-term decisions based upon competing financial incentives.

Sec. 9. [256O.02] DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 256O.001 to 256O.270, the terms defined in this section have the meanings given them.

Subd. 2. **Adoption assistance.** "Adoption assistance" means financial support, medical coverage, or both, provided under agreement with the legally responsible agency and the commissioner to the parents of an adoptive child whose special needs would

otherwise make it difficult to place the child for adoption, to assist with the cost of caring for the child.

Subd. 3. **Assessment.** "Assessment" means the process under section 256O.240 by which is determined the benefits an eligible child may receive under section 256O.250.

Subd. 4. **At-risk child.** "At-risk child" means a child who does not have a documented disability but who is at risk of developing a physical, mental, emotional, or behavioral disability based on being related within the first or second degree to persons who have an inheritable physical, mental, emotional, or behavioral disabling condition, or from a background which has the potential to cause the child to develop a physical, mental, emotional, or behavioral disability. The disability that the child is at risk of developing must be likely to manifest during childhood. A high-risk child under section 259.67 is considered an at-risk child.

Subd. 5. **Basic rate.** "Basic rate" means the maintenance payment made on behalf of a child to support the costs caregivers incur to meet a child's needs consistent with the care parents customarily provide, including: food, clothing, shelter, daily supervision, school supplies, child's personal incidentals, reasonable travel to the child's home for visitation, and transportation needs associated with providing the listed items.

Subd. 6. **Caregiver.** "Caregiver" means the tribe, relative custodian, or the adoptive parent who has legally adopted a child.

Subd. 7. **Child-placing agency.** "Child-placing agency" means an agency licensed under section 245A.03, subdivision 1, clauses (2) and (3).

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 9. **County board.** "County board" means the board of county commissioners in each county.

Subd. 10. **Disability.** "Disability" means a professionally documented physical, mental, emotional, or behavioral impairment that substantially limits one or more major life activity. Major life activities include, but are not limited to: thinking, walking, hearing, breathing, working, seeing, speaking, communicating, learning, developing and maintaining healthy relationships, safely caring for oneself, and performing manual tasks. The nature, duration, and severity of the impairment must be used in determining if the limitation is substantial.

Subd. 11. **Foster care.** "Foster care" means foster care as described either in section 260B.007, subdivision 7, or 260C.007, subdivision 18.

Subd. 12. **Guardianship assistance.** "Guardianship assistance" means financial support, medical coverage, or both, provided under agreement with the legally responsible

agency and the commissioner to a relative who has received permanent legal and physical custody of a child, to assist with the cost of caring for the child.

Subd. 13. **Human services board.** "Human services board" means a board established under section 402.02; Laws 1974, chapter 293; or Laws 1976, chapter 340.

Subd. 14. **Legally responsible agency.** "Legally responsible agency" means the Minnesota agency that is assigned responsibility for placement, care, and supervision of the child through a court order, voluntary placement agreement, or voluntary relinquishment. These agencies include both local social service agencies under section 393.07 and tribal social service agencies authorized in section 256.01, subdivision 14b, and Minnesota tribes when legal responsibility is transferred to the tribal social service agency through a Minnesota district court order.

Subd. 15. **Maintenance payments.** "Maintenance payments" means the basic rate plus any supplemental difficulty of care rate under Northstar Care for Children. It specifically does not include the cost of initial clothing allowance, payment for social services, or administrative payments to a child-placing agency.

Subd. 16. **Permanent legal and physical custody.** "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota juvenile court under section 260C.201, subdivision 11, or for children under tribal court jurisdiction, similar provision under tribal code which means that the individual responsible for the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 17. **Reassessment.** "Reassessment" means an update of the previous assessment through the process under section 256O.240 for a child who has been continuously eligible for this benefit.

Subd. 18. **Relative.** "Relative" as described in section 260C.007, subdivision 27, means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

Subd. 19. **Relative custodian.** "Relative custodian" means a person to whom permanent legal and physical custody of a child has been transferred under section 260C.201, subdivision 11, or for children under tribal court jurisdiction, a similar provision under tribal code which means that the individual responsible for the child has

responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 20. **Supplemental difficulty of care rate.** "Supplemental difficulty of care rate" means the supplemental rating, if any, as determined by the legally responsible agency or the state, based upon an assessment under section 256O.240. The supplemental rate supports activities consistent with the care a parent would provide a child with special needs and not the equivalent of a purchased service. The rate considers the capacity and intensity of the activities associated with parenting duties provided in the home to nurture the child, preserve the child's connections, and support the child's functioning in the home and community.

Sec. 10. [256O.200] NORTHSTAR CARE FOR CHILDREN.

Subdivision 1. **Eligibility.** A child is eligible for Northstar Care for Children if the child is eligible for:

(1) guardianship assistance under section 256O.220; or

(2) adoption assistance under section 256O.230.

Subd. 2. **Assessments and agreements.** A child eligible for Northstar Care for Children shall receive an assessment under section 256O.240. For a child eligible for guardianship assistance or adoption assistance, negotiations with caregivers and the development of a written, binding agreement must be conducted under section 256O.240.

Subd. 3. **Benefits and payments.** A child eligible for Northstar Care for Children is entitled to benefits specified in section 256O.250, based primarily on assessments, negotiations, and agreements under section 256O.240. Although paid to the caregiver, these benefits are considered benefits of the child rather than of the caregiver.

Subd. 4. **Shared cost of care.** The cost of Northstar Care for Children must be shared among the federal government, state, counties of financial responsibility, and certain tribes as specified in section 256O.260.

Subd. 5. **Administration and appeals.** The commissioner and legally responsible agency shall administer Northstar Care for Children according to section 256O.270. The notification and fair hearing process is defined in section 256O.270.

Subd. 6. **Transition.** Provisions for the transition to Northstar Care for Children are specified in sections 256O.240, subdivision 13, and 256O.270, subdivisions 2 and 7 to 10. Additional provisions for children in relative custody assistance under section 257.85 are specified in section 256O.220, subdivision 8; and for children in adoption assistance under section 259.67 are specified in section 256O.230, subdivision 14.

Sec. 11. [256O.220] GUARDIANSHIP ASSISTANCE ELIGIBILITY.

Subdivision 1. General eligibility requirements. (a) To be eligible for guardianship assistance, there must be a judicial determination under section 260C.201, subdivision 11, paragraph (c), that a transfer of permanent legal and physical custody to a relative or, for a child under tribal jurisdiction, a similar provision under tribal code which means that the individual responsible for the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child, is in the child's best interest. Additionally, a child must:

(1) have been removed from the child's home pursuant to a voluntary placement agreement or court order;

(2)(i) have resided in foster care for at least six consecutive months in the home of the prospective relative custodian; or

(ii) have received an exemption from the requirement in item (i) from the court based on a determination that an expedited move to permanency is in the child's best interest;

(3) meet the judicial determination regarding permanency requirements in subdivision 2;

(4) meet the applicable citizenship and immigration requirements in subdivision 3; and

(5) have been consulted regarding the proposed transfer of permanent legal and physical custody to a relative, if the child has attained 14 years of age or is expected to attain 14 years of age prior to the transfer of permanent legal and physical custody.

(b) In addition to the requirements in paragraph (a), the child's prospective relative custodian or custodians must meet the applicable background study requirements in subdivision 4.

(c) The legally responsible agency shall make a title IV-E guardianship assistance eligibility determination for each child. To be eligible for title IV-E guardianship assistance, a child must also meet any additional criteria specified in section 473(d) of the Social Security Act. A child who meets all eligibility criteria, except those specific to title IV-E guardianship assistance, is entitled to guardianship assistance paid through state funds.

Subd. 2. Judicial determinations regarding permanency. To be eligible for guardianship assistance, the following judicial determinations regarding permanency must be made for the child prior to the transfer of permanent legal and physical custody:

(1) a judicial determination that reunification and adoption are not appropriate permanency options for the child; and

(2) a judicial determination that the child demonstrates a strong attachment to the prospective relative custodian and the relative custodian has a strong commitment to caring permanently for the child.

Subd. 3. **Citizenship and immigration status.** (a) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for title IV-E guardianship assistance.

(b) A child must be a citizen of the United States or meet the qualified alien requirements as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for state-funded guardianship assistance.

Subd. 4. **Background study.** (a) A background study must be completed on each prospective relative custodian. If a background study on the prospective relative custodian was previously completed under section 245A.04 for the purposes of foster care licensure, that background study may be used for the purposes of this section, provided that the background study is current at the time of the application for guardianship assistance. If the background study reveals:

(1) a felony conviction at any time for child abuse or neglect;

(2) spousal abuse;

(3) a crime against children, including child pornography;

(4) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(5) a felony conviction within the past five years for physical assault, battery, or a drug-related offense,

the prospective relative custodian is prohibited from receiving title IV-E guardianship assistance payments on behalf of an otherwise eligible child.

(b) An otherwise eligible prospective relative custodian who possesses one of the felony convictions in paragraph (a) may receive state-funded guardianship assistance payments on behalf of an otherwise eligible child if the court has made a judicial determination that:

(1) the legally responsible agency has thoroughly reviewed the felony conviction and has considered the impact, if any, that the conviction may have on the child's safety, well-being, and permanency;

(2) the conviction likely does not pose a current or future safety risk to the child;

(3) there is no other available permanency resource that is appropriate for the child; and

14.1 (4) the proposed transfer of permanent legal and physical custody is in the child's
14.2 best interest.

14.3 Subd. 5. **Residency.** A child placed in the state from another state or a tribe outside
14.4 the state is not eligible for state-funded guardianship assistance through the state. A child
14.5 placed in the state from another state or a tribe outside of the state may be eligible for title
14.6 IV-E guardianship assistance through the state if all eligibility factors are met and there is
14.7 no state agency that has responsibility for placement and care of the child.

14.8 Subd. 6. **Exclusions.** A child with a guardianship assistance agreement under
14.9 Northstar Care for Children is not eligible for the MFIP child-only grant under section
14.10 256J.88.

14.11 Subd. 7. **Termination.** (a) A guardianship assistance agreement terminates in any
14.12 of the following circumstances:

14.13 (1) the child reaches the age of 18;

14.14 (2) the commissioner determines that the relative custodian is no longer legally
14.15 responsible for support of the child;

14.16 (3) the commissioner determines that the relative custodian is no longer providing
14.17 financial support to the child;

14.18 (4) death of the child; or

14.19 (5) the relative custodian requests termination of the guardianship assistance
14.20 agreement in writing.

14.21 (b) A relative custodian is considered no longer legally responsible for support of
14.22 the child in any of the following circumstances:

14.23 (1) permanent legal and physical custody of the child is transferred to another
14.24 individual;

14.25 (2) death of the relative custodian;

14.26 (3) enlistment of the child in the military;

14.27 (4) marriage of the child; or

14.28 (5) emancipation of the child through legal action of another state.

14.29 Subd. 8. **Transitioning in from pre-2011.** Effective December 31, 2010, all relative
14.30 custody assistance agreements under section 257.85 must terminate. A child who has a
14.31 relative custody assistance agreement executed on the child's behalf under section 257.85
14.32 on or before November 24, 2010, is eligible for Northstar Care for Children beginning
14.33 January 1, 2011, provided that all parties have signed the guardianship assistance
14.34 agreement on or before that date. All eligible children shall be assessed according to
14.35 section 256O.240 and transitioned into Northstar Care for Children according to the
14.36 process in section 256O.270. Effective November 25, 2010, a child who meets the

15.1 eligibility criteria for guardianship assistance in subdivision 1, may have a guardianship
15.2 assistance agreement negotiated on the child's behalf according to section 256O.240,
15.3 and the effective date of the agreement is January 1, 2011, or the date of the court order
15.4 transferring permanent legal and physical custody, whichever is later.

15.5 Sec. 12. **[256O.230] ADOPTION ASSISTANCE ELIGIBILITY.**

15.6 Subdivision 1. General eligibility requirements. (a) To be eligible for adoption
15.7 assistance, a child must:

15.8 (1) be determined to be a child with special needs, according to subdivision 2;

15.9 (2) meet the applicable citizenship and immigration requirements in subdivision
15.10 3; and

15.11 (3)(i) meet the criteria outlined in section 473 of the Social Security Act; or

15.12 (ii) have had foster care payments paid on the child's behalf while in out-of-home
15.13 placement through the county or tribe, and be either under the guardianship of the
15.14 commissioner or under the jurisdiction of a Minnesota tribe and adoption according to
15.15 tribal law is the child's documented permanency plan.

15.16 (b) In addition to the requirements in paragraph (a), the child's adoptive parent or
15.17 parents must meet the applicable background study requirements in subdivision 4.

15.18 (c) The legally responsible agency shall make a title IV-E adoption assistance
15.19 eligibility determination for each child. A child who meets all eligibility criteria, except
15.20 those specific to title IV-E adoption assistance, shall receive adoption assistance paid
15.21 through state funds.

15.22 Subd. 2. Special needs determination. (a) A child is considered a child with special
15.23 needs under this section if all of the following criteria in paragraphs (b) to (d) are met.

15.24 (b) There has been a determination that the child cannot or should not be returned to
15.25 the home of the child's parents as evidenced by:

15.26 (1) a court-ordered termination of parental rights;

15.27 (2) a petition to terminate parental rights;

15.28 (3) a consent to adopt accepted by the court under sections 260C.201, subdivision
15.29 11, and 259.24;

15.30 (4) in circumstances when tribal law permits the child to be adopted without a
15.31 termination of parental rights, a judicial determination by tribal court indicating the valid
15.32 reason why the child cannot or should not return home;

15.33 (5) a voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment
15.34 occurred in another state, the applicable laws in that state; or

15.35 (6) the death of the legal parent.

(c) There exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance as evidenced by:

(1) a determination by the Social Security Administration that the child meets all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits;

(2) a documented physical, mental, emotional, or behavioral disability not covered under clause (1);

(3) membership in a sibling group being adopted at the same time by the same parent;

(4) adoptive placement in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance; or

(5) documentation that the child is an at-risk child according to subdivision 7.

(d) A reasonable but unsuccessful effort has been made to place the child with adoptive parents without providing adoption assistance as evidenced by:

(1)(i) a documented search for an appropriate adoptive placement; or

(ii) a determination by the commissioner that such a search would not be in the best interests of the child; and

(2) a written statement from the identified prospective adoptive parents that they are either unwilling or unable to adopt the child without adoption assistance.

(e) To meet the requirement of a documented search for an appropriate adoptive placement under paragraph (d), clause (1), item (i), the placing agency minimally shall:

(1) give consideration as required by section 260C.212, subdivision 5, to placement with a relative;

(2) for an Indian child covered by the Indian Child Welfare Act, comply with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act; and

(3) review all families approved for adoption who are associated with the placing agency.

If the review of families associated with the placing agency results in the identification of an appropriate adoptive placement for the child, the placing agency must provide documentation of the placement decision to the commissioner as part of the application for adoption assistance. If two or more appropriate families are not approved or available within the placing agency, the agency shall locate additional prospective adoptive families by registering the child with the state adoption exchange, as defined in section 259.75. If registration with the state adoption exchange does not result in an appropriate family for

the child, the agency shall employ other recruitment methods as outlined in recruitment policies and procedures prescribed by the commissioner, to meet this requirement.

(f) The requirement for a documented search for an appropriate adoptive placement including a review of all families approved for adoption that are associated with the placing agency, registration of the child with the state adoption exchange, and additional recruitment methods must be waived if:

(1) the child is being adopted by a relative;

(2) the child is being adopted by foster parents with whom the child has developed significant emotional ties while in the foster parents' care as a foster child; or

(3) the child is being adopted by a family that previously adopted a child of the same mother or father;

and the court determines that adoption by the identified family is in the child's best interest.

For an Indian child covered by the Indian Child Welfare Act, a waiver must not be granted unless the placing agency has complied with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(g) Once the placing agency has determined that placement with an identified family is in the child's best interest and made full written disclosure about the child's social and medical history, the agency must ask the prospective adoptive parents if they are willing to adopt the child without adoption assistance. If the identified family is either unwilling or unable to adopt the child without adoption assistance, they must provide a written statement to this effect to the placing agency to fulfill the requirement to make a reasonable effort to place the child without adoption assistance, and a copy of this statement shall be included in the adoption assistance application. If the identified family desires to adopt the child without adoption assistance, they must provide a written statement to this effect to the placing agency and the statement shall be maintained in the permanent adoption record of the placing agency. For children under the commissioner's guardianship, the placing agency shall submit a copy of this statement to the commissioner to be maintained in the permanent adoption record.

Subd. 3. Citizenship and immigration status. (a) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for title IV-E adoption assistance.

(b) A child must be a citizen of the United States or meet the qualified alien requirements as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for state-funded adoption assistance.

Subd. 4. **Background study.** (a) A background study under section 259.41 must be completed on each prospective adoptive parent. If the background study reveals:

- (1) a felony conviction at any time for child abuse or neglect;
- (2) spousal abuse;
- (3) a crime against children, including child pornography;
- (4) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or
- (5) a felony conviction within the past five years for physical assault, battery, or a drug-related offense,

the adoptive parent is prohibited from receiving title IV-E adoption assistance on behalf of an otherwise eligible child.

(b) A prospective adoptive parent who possesses one of the felony convictions in paragraph (a) may receive state-funded adoption assistance on behalf of an otherwise eligible child if the court has made a judicial determination that:

- (1) the legally responsible agency has thoroughly reviewed the felony conviction and has considered the impact, if any, that the conviction may have on the child's safety, well-being, and permanency;
- (2) the conviction likely does not pose a current or future safety risk to the child;
- (3) there is no other available permanency resource that is appropriate for the child; and
- (4) the adoptive placement is in the child's best interest.

Subd. 5. **Residency.** A child placed in the state from another state or a tribe outside the state is not eligible for state-funded adoption assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child.

Subd. 6. **Exceptions and exclusions.** Payments for adoption assistance must not be made to a biological parent of the child or a stepparent who adopts the child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption, and all required eligibility factors are met.

19.1 Subd. 7. **Documentation.** (a) Documentation must be provided to verify that a child
19.2 meets the special needs criteria in subdivision 2.

19.3 (b) Documentation of the disability is limited to evidence deemed appropriate by
19.4 the commissioner.

19.5 (c) To qualify as being an at-risk child, the placing agency shall provide to the
19.6 commissioner one or more of the following:

19.7 (1) documented information in a county or tribal social service department record or
19.8 court record that a relative within the first or second degree has a medical diagnosis or
19.9 medical history, including diagnosis of a significant mental health or chemical dependency
19.10 issue, which could result in the child's development of a disability during childhood;

19.11 (2) documented information that while in the public child welfare system, the child
19.12 has experienced three or more placements with extended family or different foster homes
19.13 that could affect the normal attachment process;

19.14 (3) documented evidence in a county or tribal social service department record that
19.15 the child experienced neglect in the first three years of life or sustained physical injury,
19.16 sexual abuse, or physical disease that could have a long-term effect on physical, emotional
19.17 or mental development; or

19.18 (4) documented evidence in a medical or hospital record, law enforcement record,
19.19 county or tribal social service department record, court record, or record of an agency
19.20 under a contract with a county social service agency or the state to provide child welfare
19.21 services that the birth mother used drugs or alcohol during pregnancy which could later
19.22 result in the child's development of a disability.

19.23 Subd. 8. **Termination.** (a) An adoption assistance agreement terminates in any
19.24 of the following circumstances:

19.25 (1) the child attains the age of 18, unless an extension according to subdivisions 10
19.26 to 13 are applied for by the adoptive parents and granted by the commissioner;

19.27 (2) the commissioner determines that the adoptive parents are no longer legally
19.28 responsible for support of the child;

19.29 (3) the commissioner determines that the adoptive parents are no longer providing
19.30 financial support to the child;

19.31 (4) death of the child; or

19.32 (5) the adoptive parents request termination of the adoption assistance agreement
19.33 in writing.

19.34 (b) An adoptive parent is considered no longer legally responsible for support of the
19.35 child in any of the following circumstances:

19.36 (1) parental rights to the child are legally terminated;

(2) permanent legal and physical custody or guardianship of the child is transferred to another individual;

(3) death of the adoptive parent;

(4) enlistment of the child in the military;

(5) marriage of the child; or

(6) emancipation of the child through legal action of another state.

Subd. 9. Death of adoptive parent or adoption dissolution. (a) The adoption assistance agreement ends upon death or termination of parental rights of both of the adoptive parents, in the case of a two-parent adoption, or the sole adoptive parent, in the case of a single-parent adoption, but the child maintains eligibility for state-funded or title IV-E adoption assistance in a subsequent adoption if the following criteria are met:

(1) the child is determined to be a child with special needs as described in subdivision 2;

(2) the subsequent adoptive parents reside in the state of Minnesota; and

(3) no state agency outside the state has responsibility for placement and care of the child at the time of the subsequent adoption.

(b) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, and a state agency outside of the state of Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

(c) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, the subsequent adoptive parents reside outside of the state of Minnesota, and no state agency has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

Subd. 10. Extension, past age 18. Under certain limited circumstances, a child may qualify for extension of the adoption assistance agreement beyond the date the child attains age 18. An application for extension must be completed and submitted by the adoptive parent at least 90 days prior to the date the child attains age 18, unless the child's adoption is scheduled to finalize less than 90 days prior to that date, in which case the application for extension must be completed and submitted with the adoption assistance application.

21.1 The application for extension shall be made on forms established by the commissioner and
21.2 shall include documentation of eligibility as specified by the commissioner.

21.3 **Subd. 11. Extension based on a continuing physical or mental disability.** (a)
21.4 Extensions based on a child's continuing physical or mental disability must be applied for
21.5 prior to the date the child attains age 18. The commissioner must not grant an extension on
21.6 this basis if an extension based on continued enrollment in a secondary education program
21.7 or being a child whose adoption finalized after age 16 was previously granted for the child.

21.8 (b) A child is eligible for extension of the adoption assistance agreement to the date
21.9 the child attains age 21 if the following criteria are met:

21.10 (1) the child has a mental or physical disability upon which eligibility for adoption
21.11 assistance was based which warrants the continuation of assistance;

21.12 (2) the child is unable to obtain self-sustaining employment due to the
21.13 aforementioned mental or physical disability; and

21.14 (3) the child needs significantly more care and support than what is typical for an
21.15 individual of the same age.

21.16 **Subd. 12. Extension based on continued enrollment in a secondary education**
21.17 **program.** (a) If a child does not qualify for extension based on a continuing physical or
21.18 mental disability, or a parent chooses not to apply for an extension on that basis, the
21.19 adoptive parents may make an application for continuation of adoption assistance based
21.20 on enrollment in a secondary education program.

21.21 (b) If a child is enrolled full time in a secondary education program or a program
21.22 leading to an equivalent credential, the child is eligible for extension to the expected
21.23 graduation date or the date the child attains age 19, whichever is earlier. If a child receives
21.24 a school-based extension and at any time ceases to be enrolled in a full-time secondary
21.25 education program or a program leading to an equivalent credential, the adoptive parents
21.26 must notify the commissioner and the agreement must terminate.

21.27 (c) Extensions based on continuation in a secondary education program must be paid
21.28 from state funds only, unless the child meets the extension criteria in subdivision 13.

21.29 **Subd. 13. Extension for children whose adoption finalized after age 16.** A
21.30 child who attained the age of 16 prior to finalization of the child's adoption is eligible
21.31 for extension of the adoption assistance agreement to the date the child attains age 21
21.32 if the child is:

21.33 (1) completing a secondary education program or a program leading to an equivalent
21.34 credential;

21.35 (2) enrolled in an institution which provides postsecondary or vocational education;

22.1 (3) participating in a program or activity designed to promote or remove barriers to
22.2 employment;

22.3 (4) employed for at least 80 hours per month; or

22.4 (5) incapable of doing any of the activities described in clauses (1) to (4) due to a
22.5 medical condition, which incapability is supported by regularly updated information in
22.6 the case plan of the child.

22.7 Subd. 14. **Transitioning in from pre-2011.** A child who has an adoption assistance
22.8 agreement executed on their behalf under section 259.67 on or before November 24, 2010,
22.9 is eligible for Northstar Care for Children beginning January 1, 2011, provided that all
22.10 parties have signed the renegotiated adoption assistance agreement on or before that date.
22.11 The adoption assistance agreement of eligible children whose adoptive parents decide to
22.12 opt in to Northstar Care for Children must be renegotiated according to the process in
22.13 section 256O.270. All eligible children whose adoptive parents decide to renegotiate
22.14 their adoption assistance agreement under Northstar Care for Children must be assessed
22.15 according to section 256O.240 and then transitioned into Northstar Care for Children
22.16 according to the process in section 256O.270. Effective November 25, 2010, a child
22.17 who meets the eligibility criteria for adoption assistance in subdivision 1 may have an
22.18 adoption assistance agreement negotiated on their behalf according to section 256O.240,
22.19 and the effective date of the agreement is January 1, 2011, or the date of the court order
22.20 finalizing the adoption, whichever is later.

22.21 Sec. 13. **[256O.240] ASSESSMENTS AND AGREEMENTS.**

22.22 Subdivision 1. **Assessment.** Every child eligible under sections 256O.220 and
22.23 256O.230 must be assessed to determine the benefits the child may receive under section
22.24 256O.250 according to the tool, process, and requirements specified in subdivision 2. A
22.25 child eligible for guardianship assistance under section 256O.220 or adoption assistance
22.26 under section 256O.230 who is determined to be an at-risk child must be assessed at level
22.27 A under section 256O.250, subdivision 1. All other children shall be assessed at the basic
22.28 level, level B, or one of ten supplemental difficulty of care levels, levels C to L.

22.29 Subd. 2. **Commissioner to establish the assessment tool, process, and**
22.30 **requirements.** Consistent with sections 256O.001 to 256O.270, the commissioner
22.31 shall establish the tool to be used and the process to be followed, including appropriate
22.32 documentation and other requirements, when conducting the assessment of children
22.33 entering or continuing in Northstar Care for Children. The assessment tool must take
22.34 into consideration the needs of the child and the ability of the caregiver to meet the
22.35 child's needs.

Subd. 3. **Child care component of the assessment.** (a) The assessment tool established under subdivision 2 must include consideration of the caregiver's need for child care according to this subdivision. Prior to including consideration of the caregiver's need for child care on the child's assessment, prospective adoptive parents or relative custodians shall apply to the child care assistance program under chapter 119B.

(b) The child's assessment must include consideration of the caregiver's need for child care if all the following criteria are met:

(1) the child has not attained the age of 13;

(2) all available adult caregivers are employed or attending training or educational programs;

(3) the caregiver has applied for the child care assistance program under paragraph (a); and

(4) child care assistance under chapter 119B is not received for the child.

Consideration of the caregiver's need for child care may be included on the child's assessment for caregivers who are wait-listed for child care assistance or are eligible for child care assistance but choose not to receive it.

(c) The level determined by the balance of the assessment must be adjusted based on the number of hours of child care needed each week due to employment or attending a training or educational program as follows:

(1) less than ten hours or if the caregiver is participating in the child care assistance program under chapter 119B, no adjustment;

(2) ten to 19 hours, increase one level;

(3) 20 to 29 hours, increase two levels;

(4) 30 to 39 hours, increase three levels; and

(5) 40 or more hours, increase four levels.

(d) When the child attains the age of 13, the level shall revert to the level assessed for the child prior to any consideration of the caregiver's need for child care.

Subd. 4. **Timing of initial assessment.** For an eligible child entering Northstar Care for Children who is not part of the transition group under subdivision 13, the initial assessment must be completed prior to the establishment of a guardianship assistance or adoption assistance agreement on behalf of the child, if an initial assessment is required under subdivision 5.

Subd. 5. **Completing the assessment.** (a) The assessment must be completed in consultation with the child's caregiver. Face-to-face contact with the caregiver is not required to complete the assessment.

(b) For children eligible for guardianship assistance under section 256O.220, a new assessment is required as part of the negotiation of the guardianship assistance agreement if:

(1) the child is determined to be an at-risk child;

(2) the child was not placed in foster care with the proposed relative custodian immediately prior to the negotiation of the guardianship assistance agreement under subdivision 10; or

(3) any requirement for reassessment under subdivision 7 is met.

If a new assessment is required prior to the effective date of the guardianship assistance agreement, the new assessment must be completed by the county of financial responsibility or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b. If reassessment is required after the effective date of the guardianship assistance agreement, the new assessment must be completed by the commissioner or the commissioner's designee. If the proposed relative custodian is unable or unwilling to cooperate with the assessment process, the child must be assessed at the basic level, level B under section 256O.250, subdivision 3, unless the child is known to be an at-risk child, in which case, the child must be assessed at level A under section 256O.250, subdivision 1. Notice to the proposed relative custodian must be provided as specified in subdivision 9.

(c) For children eligible for adoption assistance under section 256O.230, a new assessment is required as part of the negotiation of the adoption assistance agreement if:

(1) the child is determined to be an at-risk child;

(2) the child was not placed in foster care with the prospective adoptive parent immediately prior to the negotiation of the adoption assistance agreement under subdivision 10; or

(3) any requirement for reassessment under subdivision 7 is met.

If a new assessment is required prior to the effective date of the adoption assistance agreement, it must be completed by the county of financial responsibility or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b. If there is no county of financial responsibility and the child is not in the American Indian Child Welfare Initiative, or the financially responsible agency is not a county social service or tribal agency in the state, the assessment must be completed by the agency designated by the commissioner. If reassessment is required after the effective date of the adoption assistance agreement, it must be completed by the commissioner or the commissioner's designee. If the prospective adoptive parent is unable or unwilling to cooperate with the assessment process, the child

25.1 must be assessed at the basic level, level B under section 256O.250, subdivision 3, unless
25.2 the child is known to be an at-risk child, in which case, the child shall be assessed at level
25.3 A under section 256O.250, subdivision 1. Notice to the prospective adoptive parent must
25.4 be provided as specified in subdivision 9.

25.5 Subd. 6. **Approval of assessments and reassessments.** Each legally responsible
25.6 agency shall designate one or more staff to examine and approve completed assessments
25.7 and reassessments. The staff person approving the assessments and reassessments must
25.8 not be the case manger or staff member completing the forms. The new rate is effective
25.9 the calendar month that the assessment is approved or the effective date of the agreement,
25.10 whichever is later.

25.11 Subd. 7. **Timing of reassessments and requests for reassessments.** For an eligible
25.12 child, reassessments must be completed within 30 days of the request of the commissioner,
25.13 or the request of the caregiver under subdivision 8.

25.14 Subd. 8. **Caregiver requests for reassessments.** (a) For an eligible child, a
25.15 caregiver may initiate a reassessment request in writing to the commissioner, or the
25.16 commissioner's designee for adoption assistance and guardianship assistance cases. The
25.17 written request must include the reason for the request and the name, address, and contact
25.18 information of the caregivers. For an eligible child with a guardianship assistance or
25.19 adoption assistance agreement, the caregiver may request a reassessment if at least six
25.20 months have elapsed since any previously requested review.

25.21 (b) A caregiver may request a reassessment of an at-risk child for whom a
25.22 guardianship assistance or adoption assistance agreement has been executed if the
25.23 caregiver has written professional documentation that the potential disability upon which
25.24 eligibility for the agreement was based has manifested itself.

25.25 (c) If the reassessment cannot be completed within 30 days of the caregiver's request,
25.26 the agency responsible for reassessment shall notify the caregiver of the reason for the
25.27 delay and a reasonable estimate of when the reassessment can be completed.

25.28 (d) If the child's caregiver is unable or unwilling to cooperate with the reassessment,
25.29 the child must be assessed at level B under section 256O.250, subdivision 3, unless the
25.30 child has an adoption assistance or guardianship assistance agreement in place and is
25.31 known to be an at-risk child, in which case, the child shall be assessed at level A under
25.32 section 256O.250, subdivision 1. Within 60 days of the caregiver demonstrating they are
25.33 able or willing to cooperate with the assessment or reassessment process, the reassessment
25.34 for the child must be completed.

Subd. 9. **Notice for caregiver.** (a) The agency responsible for completing the assessment shall provide the child's caregiver with written notice of the initial assessment or reassessment.

(b) Initial assessment notices must be sent within 15 days of completion of the initial assessment and must minimally include the following:

(1) a summary of the completed child's individual assessment used to determine the rating;

(2) statement of rating and benefit level;

(3) statement of the circumstances under which the agency shall reassess the child;

(4) procedure to seek reassessment;

(5) notice that the caregiver has the right to a fair hearing review of the assessment and how to request a fair hearing, consistent with section 256.045, subdivision 3; and

(6) name, telephone number, and, if available, electronic address of a contact person at the responsible agency or state.

(c) Reassessment notices must be sent within 15 days of the completion of the reassessment and must minimally include the following:

(1) a summary of the completed child's individual assessment used to determine the new rating;

(2) any change in rating and its effective date;

(3) procedure to seek reassessment;

(4) notice that if a change in rating results in a reduction of benefits, the caregiver has the right to a fair hearing review of the assessment and how to request a fair hearing consistent with section 256.045, subdivision 3;

(5) notice that a caregiver who requests a fair hearing of the reassessed rating within ten days may continue at the current rate pending the hearing, but the agency may recover any overpayment; and

(6) name, telephone number, and, if available, electronic address of a contact person at the responsible agency or state.

Subd. 10. **Agreements.** (a) In order to receive guardianship assistance or adoption assistance benefits, a written, binding agreement on a form approved by the commissioner must be established prior to finalization of the adoption or a transfer of permanent legal and physical custody. The agreement must be negotiated with the caregivers according to subdivision 11. The caregivers and the commissioner or the commissioner's designee must sign the agreement. A copy of the signed agreement must be given to each party. Termination or disruption of the preadoptive placement prior to finalization or the foster

27.1 care placement preceding assignment of custody makes the agreement with that family
27.2 void.

27.3 (b) The agreement must specify the following:

27.4 (1) duration of the agreement;

27.5 (2) the nature and amount of any payment, services, and assistance to be provided
27.6 under such agreement;

27.7 (3) the child's eligibility for Medicaid services;

27.8 (4) the terms of the payment;

27.9 (5) eligibility for reimbursement of nonrecurring expenses associated with adopting
27.10 or obtaining permanent legal and physical custody of the child, to the extent that the
27.11 total cost does not exceed \$2,000 per child;

27.12 (6) that the agreement must remain in effect regardless of the state of which the
27.13 adoptive parents or relative custodians are residents at any given time;

27.14 (7) provisions for modification of the terms of the agreement; and

27.15 (8) the effective date of the agreement.

27.16 (c) The effective date of the guardianship assistance agreement is the date of the
27.17 court order that transfers permanent legal and physical custody to the relative.

27.18 (d)(1) For a child who receives Supplementary Security Income (SSI), Retirement,
27.19 Survivors, and Disability Insurance (RSDI), veteran's benefits, railroad retirement benefits,
27.20 or black lung benefits, the effective date of the adoption assistance agreement is the date
27.21 that the adoption is finalized.

27.22 (2) For a child who does not receive SSI, RSDI, veteran's benefits, railroad
27.23 retirement benefits, or black lung benefits, and who has been in the prospective adoptive
27.24 parents' home as a foster child for at least six consecutive months prior to adoption
27.25 placement, the effective date of the agreement is the date of adoptive placement or the
27.26 date that the agreement is signed by all parties, whichever is later.

27.27 (3) For a child who does not receive SSI, RSDI, veteran's benefits, railroad
27.28 retirement benefits, or black lung benefits, and who has been in the prospective adoptive
27.29 parents' home as a foster child for less than six consecutive months prior to adoptive
27.30 placement, the effective date of the agreement is the date that the child has resided in the
27.31 prospective adoptive parents' home as a foster child for at least six consecutive months
27.32 or the date the adoption is finalized, whichever is earlier.

27.33 Subd. 11. **Negotiation of the agreement.** (a) A monthly payment is provided
27.34 as part of the adoption assistance or guardianship assistance agreement to support the
27.35 care of children who have manifested special needs. The amount of the payment made
27.36 on behalf of children eligible for guardianship assistance or adoption assistance is

28.1 determined through agreement between the relative custodian or the adoptive parent and
28.2 the commissioner or the commissioner's designee, using the assessment tool established
28.3 by the commissioner in subdivision 2 and the associated benefit and payments in section
28.4 256O.250. The monthly payment under a guardianship assistance agreement or adoption
28.5 assistance agreement may be negotiated up to the monthly benefit level under foster care.
28.6 In no case may the amount of the payment under a guardianship assistance agreement or
28.7 adoption assistance agreement exceed the foster care maintenance payment which would
28.8 have been paid during the month if the child with respect to whom the guardianship
28.9 assistance or adoption assistance payment is made had been in a foster family home
28.10 in the state. The income of the relative custodian or adoptive parent must not be taken
28.11 into consideration when determining eligibility for guardianship assistance or adoption
28.12 assistance or the amount of the payments under section 256O.250. With the concurrence
28.13 of the relative custodian or adoptive parent, the amount of the payment may be adjusted
28.14 periodically using the assessment tool established by the commissioner in subdivision 2
28.15 and the agreement renegotiated under subdivision 12 when there is a change in the child's
28.16 needs or the family's circumstances.

28.17 (b) The guardianship assistance or adoption assistance agreement of a child who
28.18 is identified as an at-risk child must not include a monthly payment unless and until the
28.19 potential disability manifests itself, as documented by an appropriate professional, and
28.20 the commissioner authorizes commencement of payment by modifying the agreement
28.21 accordingly. A relative custodian or adoptive parent of an at-risk child with a guardianship
28.22 assistance or adoption assistance agreement may request a reassessment of the child under
28.23 subdivision 8 and renegotiation of the guardianship assistance or adoption assistance
28.24 agreement under subdivision 12 to include a monthly payment, if the caregiver has written
28.25 professional documentation that the potential disability upon which eligibility for the
28.26 agreement was based has manifested itself. Documentation of the disability must be
28.27 limited to evidence deemed appropriate by the commissioner.

28.28 (c)(1) The initial amount of the monthly guardianship assistance payment must be
28.29 equivalent to the foster care rate in effect at the time that the agreement is signed less
28.30 any offsets in section 256O.250, subdivision 8, or a lesser negotiated amount if agreed
28.31 to by the prospective relative custodian and specified in that agreement, unless the child
28.32 is identified as an at-risk child.

28.33 (2) An at-risk child must be assigned level A according to section 256O.250
28.34 and there shall be no monthly guardianship assistance payment unless and until the
28.35 potential disability manifests itself, as documented by an appropriate professional, and

the commissioner authorizes commencement of payment by modifying the agreement accordingly.

(d)(1) For a child in foster care with the prospective adoptive parent immediately prior to adoptive placement, the initial amount of the monthly adoption assistance payment must be equivalent to the foster care rate in effect at the time that the agreement is signed less any offsets in section 256O.250, subdivision 8, or a lesser negotiated amount if agreed to by the prospective adoptive parents and specified in that agreement, unless the child is identified as an at-risk child.

(2) An at-risk child must be assigned level A according to section 256O.250 and there must be no monthly adoption assistance payment unless and until the potential disability manifests itself, as documented by an appropriate professional, and the commissioner authorizes commencement of payment by modifying the agreement accordingly.

(3) For children who are in the guardianship assistance program immediately prior to adoptive placement, the initial amount of the adoption assistance payment must be equivalent to the guardianship assistance payment in effect at the time that the adoption assistance agreement is signed or a lesser amount if agreed to by the prospective adoptive parent and specified in that agreement.

(4) For children who are not in foster care placement or the guardianship assistance program immediately prior to adoptive placement or negotiation of the adoption assistance agreement, the initial amount of the adoption assistance agreement must be determined using the assessment tool and process in this section and the corresponding payment amount in section 256O.250.

Subd. 12. Renegotiation of the agreement. (a) A relative custodian or adoptive parent of a child with a guardianship assistance or adoption assistance agreement may request renegotiation of the agreement when there is a change in the needs of the child or in the family's circumstances. When a relative custodian or adoptive parent requests renegotiation of the agreement, a reassessment of the child must be completed consistent with section 256O.240. If the reassessment indicates that the child's level has changed, the commissioner or the commissioner's designee and the caregiver shall renegotiate the agreement to include a payment with the level determined through the reassessment process. The agreement must not be renegotiated unless the commissioner and the caregiver mutually agree to the changes. The effective date of any renegotiated agreement must be determined by the commissioner.

(b) A relative custodian or adoptive parent of an at-risk child with a guardianship assistance or adoption assistance agreement may request renegotiation of the agreement to include a monthly payment, if the caregiver has written professional documentation that

the potential disability upon which eligibility for the agreement was based has manifested itself. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of the child must be conducted according to subdivision 8. The reassessment must be used to renegotiate the agreement to include an appropriate monthly payment. The agreement shall not be renegotiated unless the commissioner and the caregiver mutually agree to the changes. The effective date of any renegotiated agreement shall be determined by the commissioner.

Subd. 13. **Transition assessments.** (a) For a child who might transition into Northstar Care for Children, section 256O.220, subdivision 8; or 256O.230, subdivision 14, initial transition assessments must be completed between May 1, 2010, and December 31, 2010.

(b) Children with relative custody assistance agreements under section 257.85 that are effective prior to May 1, 2010, shall have initial transition assessments completed between May 1 and December 31, 2010. Children with relative custody assistance agreements between May 1, 2010, and November 24, 2010, shall have an initial transition assessment completed as the agreement is being established in conjunction with the supplemental maintenance needs assessment and other required relative custody assistance paperwork under section 257.85.

(c) Children with adoption assistance agreements negotiated under section 259.67 and submitted to the commissioner for review and approval on or before April 30, 2010, who might transition into Northstar Care for Children, shall have initial transition assessments completed by August 31, 2010. Children with adoption assistance agreements negotiated under section 259.67 and submitted to the commissioner for review and approval between May 1, 2010, and November 24, 2010, shall have an initial transition assessment completed in conjunction with the supplemental maintenance needs assessment and other required adoption assistance paperwork under section 259.67.

(d) If the child's caregiver is unable or unwilling to cooperate with the initial transition assessment process, the child shall be assessed at the basic level, level B under section 256O.250, subdivision 3, unless the child is known to be an at-risk child, in which case the child shall be assessed at level A under section 256O.250, subdivision 1. Within 60 days of the caregiver indicating they are able or willing to cooperate with the assessment process, the commissioner or the commissioner's designee shall complete a reassessment for the child.

(e) If the child's caregiver cannot be located to complete the initial transition assessment process according to the time frames outlined in this section, the child shall be assessed at the basic level, level B under section 256O.250, subdivision 3, unless the

child is known to be an at-risk child, in which case the child shall be assessed at level A under section 256O.250, subdivision 1. Within 60 days of locating the caregiver, the commissioner or the commissioner's designee shall complete a reassessment for the child.

Sec. 14. **[256O.250] BENEFITS AND PAYMENTS.**

Subdivision 1. **Benefits.** There are three potential benefits available under Northstar Care for Children: medical assistance, basic payment, and supplemental difficulty of care payment. An eligible child receives medical assistance under subdivision 2. An eligible child receives the basic payment under subdivision 3, except for those assigned level A because they are determined to be at-risk children in guardianship assistance or adoption assistance. An eligible child may receive an additional supplemental difficulty of care payment under subdivision 4, as determined by the assessment under section 256O.240.

Subd. 2. **Medical assistance.** Eligibility for medical assistance under this chapter continues to be determined according to section 256B.055.

Subd. 3. **Basic monthly rate.** For the period January 1, 2011, to June 30, 2012, the basic monthly rate is according to the following schedule:

<u>Ages 0-5</u>	<u>\$500 per month</u>
<u>Ages 6-12</u>	<u>\$600 per month</u>
<u>Ages 13 and older</u>	<u>\$713 per month.</u>

Subd. 4. **Difficulty of care supplemental monthly rate.** For the period January 1, 2011, to June 30, 2012, the difficulty of care supplemental monthly rate is according to the following schedule:

<u>level B</u>	<u>none</u>
<u>level C</u>	<u>\$55 per month</u>
<u>level D</u>	<u>\$110 per month</u>
<u>level E</u>	<u>\$165 per month</u>
<u>level F</u>	<u>\$220 per month</u>
<u>level G</u>	<u>\$275 per month</u>
<u>level H</u>	<u>\$330 per month</u>
<u>level I</u>	<u>\$385 per month</u>
<u>level J</u>	<u>\$440 per month</u>
<u>level K</u>	<u>\$495 per month</u>
<u>level L</u>	<u>\$550 per month.</u>

A child assigned level B is still eligible for basic monthly rate under subdivision 3.

Subd. 5. **Daily rates.** The commissioner shall establish prorated daily rates to the nearest cent for the monthly rates under subdivisions 3 and 4. Daily rates must be routinely used when a partial month is involved for guardianship assistance and adoption assistance.

Subd. 6. **Revision.** By April 1, 2013, for fiscal year 2013, and by each subsequent April 1 for each subsequent fiscal year, the commissioner shall review and revise the rates under subdivisions 3, 4, and 5 based on United States Department of Agriculture Estimates of the Cost of Raising a Child, published by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411. The revision must be the average percentage by which costs increase for the age ranges represented in the United States Department of Agriculture Estimates of the Cost of Raising a Child. The monthly rates must be revised to the nearest dollar and the daily rates to the nearest cent.

Subd. 7. **Home and vehicle modifications.** A child who is eligible for an adoption assistance agreement based on the child's physical disability or a child who is eligible for a guardianship assistance agreement who possesses a physical disability must have reimbursement of home and vehicle modifications necessary to accommodate the child's physical disability included as part of the negotiation of the agreement under section 256O.240, subdivision 11. The total of all modifications must not exceed \$25,000 and the modifications must be requested during the first six months that the adoption assistance or guardianship assistance agreement is in effect. The type and cost of each modification must be preapproved by the commissioner. The type of home and vehicle modifications is limited to those specified by the commissioner. The commissioner shall ensure that the modifications are necessary to incorporate the child into the family and that the cost is reasonable. Application for and reimbursement of modifications must be completed according to a process specified by the commissioner.

Subd. 8. **Child income or income attributable to the child.** (a) A monthly adoption assistance or guardianship assistance payment must be considered income and resource attributable to the child and must be inalienable by any assignment or transfer and exempt from garnishment under the laws of the state.

(b) Consideration of income and resources attributable to the child must be part of the negotiation process in section 256O.240, subdivision 11. In some circumstances, the receipt of other income on behalf of the child may impact the amount of the monthly payment received by the adoptive parent or relative custodian on behalf of the child through Northstar Care for Children. Supplemental Security Income (SSI), Retirement, Survivors, and Disability Insurance (RSDI), veteran's benefits, railroad retirement benefits, and black lung benefits are considered income and resources attributable to the child.

Subd. 9. **Treatment of RSDI, veteran's benefits, railroad retirement benefits, and black lung benefits.** (a) If it is anticipated that a child will be eligible to receive RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits after finalization of the adoption or assignment of permanent legal and physical custody, the

permanent caregiver shall apply to be the payee of those benefits on the child's behalf. The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.

(b) If a child becomes eligible for RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to renegotiate the payment under Northstar Care for Children. The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.

(c) If a child ceases to be eligible for RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to renegotiate the payment under Northstar Care for Children. The monthly amount of the payment under Northstar Care for Children must be the amount the child was determined to be eligible for prior to consideration of any offset.

(d) If the monthly payment received on behalf of the child under RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits changes after the adoption assistance or guardianship assistance agreement is finalized, the permanent caregiver shall notify the commissioner as to the new monthly payment amount, regardless of the amount of the change in payment. If the monthly payment changes by \$75 or more, even if the change occurs incrementally over the duration of the term of the adoption assistance or guardianship assistance agreement, the monthly payment under Northstar Care for Children must be renegotiated to reflect the amount of the increase or decrease in the offset amount. Any subsequent change to the payment must be reported and handled in the same manner. A change of monthly payments of less than \$75 is not a permissible reason to renegotiate the adoption assistance or guardianship assistance agreement under section 256O.240, subdivision 12.

Subd. 10. **Treatment of child support and MFIP.** (a) In cases where the child qualifies for Northstar Care for Children by meeting the adoption assistance eligibility criteria or the guardianship assistance eligibility criteria, any court-ordered child support must not be considered income attributable to the child and must have no impact on the monthly payment.

(b) Consistent with section 256J.24, children eligible for and receiving a payment from Northstar Care for Children are excluded from a MFIP assistance unit.

Subd. 11. **Payments.** (a) Payments to caregivers under Northstar Care for Children must be made monthly.

(b) The commissioner shall pay caregivers for eligible children in guardianship assistance and adoption assistance. Payments must commence when the commissioner receives the required documentation from the court, the legally responsible agency, or the caregiver. In guardianship assistance or adoption assistance cases, monthly payments must be prorated according to subdivision 5 based on the effective date of the agreement.

Subd. 12. **Effect of benefit on other aid.** Payments received under this section shall not be considered as income for child care assistance under chapter 119B or any other financial benefit. Consistent with section 256J.24, all children receiving a maintenance payment under Northstar Care for Children are excluded from any MFIP assistance unit.

Subd. 13. **Overpayments.** The commissioner has the authority to collect any amount of adoption assistance and guardianship assistance paid to a caregiver in excess of the payment due. Payments covered by this subdivision include basic maintenance needs payments, supplemental difficulty of care payments, and reimbursement of home and vehicle modifications under subdivision 7. Prior to any collection, the commissioner or the commissioner's designee shall notify the caregiver in writing, including:

(1) the amount of the overpayment and an explanation of the cause of overpayment;
(2) clarification of the corrected amount;
(3) a statement of the legal authority for the decision;
(4) information about how the caregiver can correct the overpayment;
(5) if repayment is required, when the payment is due and a person to contact to review a repayment plan;

(6) a statement that the caregiver is entitled to a fair hearing review by the department; and

(7) the procedure for seeking the review in clause (6).

Subd. 14. **Payee.** For adoption assistance and guardianship assistance cases, the payment may only be made to the adoptive parent or relative custodian specified on the agreement. If there is more than one adoptive parent or relative custodian, both parties must be listed as the payee unless otherwise specified in writing according to policies outlined by the commissioner. In the event of divorce or separation of the caregivers, a change of payee may be made in writing according to policies outlined by the commissioner. If both caregivers are in agreement as to the change, it may be made according to a process outlined by the commissioner. If there is not agreement as to the change, a court order indicating the party who is to receive the payment is needed before a change can be processed. If the change of payee is disputed, the commissioner may withhold the payment until agreement is reached. A noncustodial caregiver may request notice in writing of review, modification, or termination of the adoption assistance or

guardianship assistance agreement. In the event of the death of a payee, a change of payee consistent with sections 256O.220 and 256O.230 may be made in writing according to policies outlined by the commissioner.

Subd. 15. **Notification of change.** (a) Parents or relative custodians who have an adoption assistance agreement or guardianship assistance agreement in place shall keep the agency administering the program informed of the parent's or custodian's address and circumstances which would make them ineligible for the payments or eligible for the payments in a different amount.

(b) For the duration of the agreement, the adoptive parent or relative custodian agrees to notify the agency administering the program in writing within 30 days of the following changes:

(1) change in the family's address;

(2) change in the legal custody status of the child;

(3) child's completion of high school, if this occurs after the child attains age 18;

(4) date of termination of the parental rights of the adoptive parent, transfer of permanent legal and physical custody to another person, or other determination that the adoptive parent or relative custodian is no longer legally responsible for support of the child;

(5) date the adoptive parent or relative custodian is no longer providing support to the child;

(6) date of death of the child;

(7) date of death of the adoptive parent or relative custodian;

(8) date the child enlists in the military;

(9) date of marriage of the child;

(10) date the child becomes an emancipated minor through legal action of another state;

(11) separation or divorce of the adoptive parent or relative custodian;

(12) change of the caregiver's employment or educational enrollment status, if the child has not attained age 13 and the child care component of the assessment under section 256O.240, subdivision 2, was used to determine the assessment level; and

(13) residence of the child outside the home for a period of more than 30 consecutive days.

Subd. 16. **Termination notice for caregiver.** The responsible agency must provide a child's caregiver written notice of termination of payment. Termination notices must be sent at least 15 days before the final payment or in the case of an unplanned termination,

the notice is sent within three days of the end of the payment. The written notice must minimally include the following:

- (1) the date payment will end;
- (2) the reason payments will end and the event that is the basis to terminate payment;
- (3) a statement that the provider is entitled to a fair hearing review by the department consistent with section 256.045, subdivision 3;
- (4) the procedure to request a fair hearing; and
- (5) name, telephone number, and, if available, an electronic contact address of a contact person at the county or state.

Sec. 15. **[256O.260] FEDERAL SHARE, STATE SHARE, LOCAL SHARE.**

Subdivision 1. Federal share. For a child who qualifies for guardianship assistance or adoption assistance, the county of financial responsibility or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b, shall use the eligibility requirements outlined in section 473 of the Social Security Act. In each case, the agency paying the maintenance payments must be reimbursed for the costs from the federal money available for this purpose.

Subd. 2. State share. The commissioner shall pay the state share of the maintenance payments as determined under subdivision 4, and an identical share of the pre-Northstar Care adoption assistance program under section 259.67. The commissioner may transfer funds into the account if a deficit occurs.

Subd. 3. Local share. The county of financial responsibility under section 256G.02 or tribal social service agency authorized in section 256.01, subdivision 14b, at the time of finalization of the agreement for guardianship assistance or adoption assistance, shall pay the local share of the maintenance payments as determined under subdivision 4, and an identical share of the pre-Northstar Care adoption assistance program under section 259.67. The county of financial responsibility under section 256G.02 or tribal social service agency authorized in section 256.01, subdivision 14b, shall pay the entire cost of any initial clothing allowance, child-placing agency administrative payments, or other support services it authorizes, except as provided under other provisions of law. In cases of federally required adoption assistance where there is no county of financial responsibility, or, for children in the American Indian Child Welfare Initiative, the responsible tribal social service agency authorized in section 256.01, subdivision 14b, as provided in section 256O.240, subdivision 5, the commissioner shall pay the local share.

37.1 Subd. 4. **Nonfederal share.** The commissioner shall establish a percentage share
37.2 of the maintenance payments, reduced by federal reimbursements under title IV-E of the
37.3 Social Security Act, to be paid by the state and to be paid by the county of financial
37.4 responsibility under section 256G.02 or tribal social service agency authorized in section
37.5 256.01, subdivision 14b. These state and local shares shall initially be calculated based
37.6 on the ratio of the average appropriate expenditures made by the state and all counties
37.7 and tribal social service agencies authorized in section 256.01, subdivision 14b, during
37.8 state fiscal years 2008, 2009, and 2010. For purposes of this calculation, appropriate
37.9 expenditures for the state must include adoption assistance and relative custody assistance,
37.10 reduced by federal reimbursements. For each of the periods January 1, 2011, to June
37.11 30, 2012, and fiscal years 2013 and 2014, the commissioner shall adjust this initial
37.12 percentage of state and local shares to reflect the relative expenditure trends during state
37.13 fiscal years 2008, 2009, and 2010. The fiscal year 2014 set of percentages must be used
37.14 for all subsequent years.

37.15 Subd. 5. **Adjustments for proportionate shares among legally responsible**
37.16 **agencies.** For children who transition into Northstar Care for Children under section
37.17 256O.270, subdivision 7, and for children on the pre-Northstar Care adoption assistance
37.18 program under section 259.67, the commissioner shall adjust the expenditures by each
37.19 county or tribal social service agency so that its relative share is proportional to its foster
37.20 care expenditures as determined under subdivision 4 for state fiscal years 2008, 2009, and
37.21 2010 compared with similar costs of all county or tribal social service agencies.

37.22 Sec. 16. **[256O.270] ADMINISTRATION.**

37.23 Subdivision 1. **Responsibilities.** (a) Subject to commissioner approval, the legally
37.24 responsible agency shall determine the eligibility for Northstar Care for Children for
37.25 children in guardianship assistance under section 256O.220 and children in adoption
37.26 assistance under section 256O.230, and for those children determined eligible, shall
37.27 further determine each child's eligibility for title IV-E of the Social Security Act.

37.28 (b) The legally responsible agency is responsible for the administration of Northstar
37.29 Care for Children and for assisting the commissioner with the administration of Northstar
37.30 Care for Children for children in guardianship assistance and adoption assistance by
37.31 conducting assessments, reassessments, negotiations, and other activities as specified
37.32 by the commissioner under subdivision 2.

37.33 Subd. 2. **Procedures, requirements, and deadlines.** The commissioner shall
37.34 specify procedures, requirements, and deadlines for the administration of Northstar Care
37.35 for Children according to sections 256O.001 to 256O.270, including for transitioning

children into Northstar Care for Children under subdivision 7. The commissioner shall periodically review all such procedures, requirements, and deadlines, including the assessment tool and process under section 256O.240, in consultation with counties, tribes, and representatives of caregivers and may alter them as needed.

Subd. 3. **Administration of title IV-E programs.** The title IV-E guardianship assistance and adoption assistance programs shall operate within the statutes and rules set forth by the federal government in the Social Security Act and Code of Federal Regulations.

Subd. 4. **Reporting.** The commissioner shall specify required fiscal and statistical reports under section 256.01, subdivision 2, paragraph (q), and other reports as necessary.

Subd. 5. **Promotion of programs.** The commissioner or the commissioner's designee shall actively seek ways to promote the guardianship assistance and adoption assistance programs, including informing prospective relative custodians of eligible children of the availability of guardianship assistance and prospective adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must be informed as to the adoption tax credit.

Subd. 6. **Appeals and fair hearings.** (a) A caregiver has the right to appeal to the commissioner pursuant to section 256.045 when eligibility for Northstar Care for Children is denied, and when payment or the agreement for eligible child is modified or terminated.

(b) A relative custodian or adoptive parent has additional rights to appeal to the commissioner under section 256.045. The rights include when the commissioner terminates or modifies the guardianship assistance or adoption assistance agreement or when the commissioner denies an application for guardianship assistance or adoption assistance. A prospective relative custodian or adoptive parent who disagrees with a decision by the commissioner prior to transfer of permanent legal and physical custody or finalization of the adoption may request review of the decision by the commissioner or may appeal the decision under section 256.045. A guardianship assistance or adoption assistance agreement must be signed and in effect prior to the court order that transfers permanent legal and physical custody or the adoption finalization, however in some cases, there may be extenuating circumstances as to why an agreement was not entered into prior to the finalization of permanency for the child. Caregivers who believe that extenuating circumstances exist in the case of the caregiver's child may request a fair hearing. Caregivers have the responsibility of proving that extenuating circumstances exist. Caregivers are required to provide written documentation of each eligibility criterion at the fair hearing. Examples of extenuating circumstances include: relevant facts regarding

the child were known by the placing agency and not presented to the caregiver prior to transfer of permanent legal and physical custody or finalization of the adoption, failure by the commissioner or the commissioner's designee to advise potential caregivers about the availability of guardianship assistance or adoption assistance for children in the state foster care system. If an appeals judge finds through the fair hearing process that extenuating circumstances existed and that the child met all eligibility criteria at the time the transfer of permanent legal and physical custody was ordered or the adoption was finalized, the effective date and any associated federal financial participation must be retroactive to the date of the request for a fair hearing.

Subd. 7. **Transition; timelines; assessments.** (a) All eligible children shall participate in an initial assessment under section 256O.240, subdivision 3.

(b) All children in relative custody assistance or adoption assistance are eligible for Northstar Care for Children as specified in sections 256O.220 and 256O.230. All children receiving relative custody assistance under section 257.85 on December 31, 2010, must be transitioned into Northstar Care for Children as of January 1, 2011. Children in adoption assistance under section 259.67 on December 31, 2010, whose caregivers sign no later than November 24, 2010, an agreement to transition to Northstar Care for Children as provided under sections 256O.230 and 256O.240 must be added to Northstar Care for Children as of January 1, 2011. A child receiving adoption assistance under section 259.67 whose caregivers sign an agreement to transition to Northstar Care for Children as provided under sections 256O.230 and 256O.240 between December 1, 2010, and March 31, 2011, must be added to Northstar Care for Children for the first calendar month at least 31 calendar days after the date of the signing of the agreement. A child receiving adoption assistance under section 259.67 whose caregivers do not sign an agreement to transition to Northstar Care for Children by March 31, 2011, must remain on the pre-Northstar Care adoption assistance program under section 259.67 until the child is no longer eligible for the program.

Subd. 8. **Transition; distribution of program information.** Between May 1, 2010, and June 30, 2010, all relative custodians with executed or signed relative custody assistance agreements, adoptive parents with executed or signed adoption assistance agreements, and preadoptive parents with a preadoptive placement in the parents' home shall receive written information about Northstar Care for Children. Relative custodians who sign a relative custody assistance agreement and prospective adoptive parents who sign an adoption assistance agreement subsequent to June 30, 2010, shall receive written information about Northstar Care for Children no later than when the relative custody assistance agreement or the adoption assistance agreement is signed by the caregiver.

40.1 (1) The agency responsible for providing the relative custody assistance payment
40.2 shall mail, electronically distribute, or personally provide relative custodians with relative
40.3 custody assistance agreements with written information about Northstar Care for Children
40.4 when the relative custodians' mail or email address is known. The responsible social
40.5 service agency shall make reasonable efforts to locate relative custodians with signed or
40.6 executed relative custody assistance agreements whose mail or email address is known.

40.7 (2) For cases where the adoption assistance agreement is executed or submitted to
40.8 the commissioner for review and approval prior to May 1, 2010, the commissioner shall
40.9 mail or electronically distribute information about Northstar Care for Children to the
40.10 adoptive parent. The commissioner shall make reasonable efforts to locate the adoptive
40.11 parent whose mail or email address is unknown. For cases where the adoption assistance
40.12 agreement is executed or submitted to the commissioner for review on or after May 1,
40.13 2010, and on or before November 24, 2010, the responsible social service agency shall
40.14 mail, electronically distribute, or personally provide preadoptive parents with written
40.15 information about Northstar Care for Children.

40.16 (3) Information must minimally include a summary of the provisions of the new
40.17 program, an overview of the assessment process, the transition time frame, and actions
40.18 required by the relative custodian or adoptive parent during the transition period, including
40.19 the procedure to opt in to Northstar Care for Children and renegotiate the adoption
40.20 assistance agreement for adoption assistance cases.

40.21 Subd. 9. **Transition; renegotiation of adoption assistance agreements.** Adoptive
40.22 parents shall provide written notice to the commissioner of the adoptive parents' intent
40.23 to renegotiate their adoption assistance program or remain on the pre-Northstar Care
40.24 adoption assistance program according to section 259.67 within 60 days of receiving
40.25 the written notice in subdivision 8. The commissioner may extend this time frame if
40.26 it is determined that the adoptive parent has good cause to warrant extension of this
40.27 consideration period. If adoptive parents decide to opt in to Northstar Care for Children,
40.28 the adoptive parents' adoption assistance agreement must be renegotiated according to
40.29 section 256O.240, subdivision 10. If an adoptive parent would like to opt in to Northstar
40.30 Care for Children, but does not believe that the assessment under section 256O.240 was
40.31 completed accurately, the adoptive parent shall indicate this in writing to the commissioner
40.32 and must be given an extension of the consideration period while a reassessment is
40.33 completed. The commissioner may not extend the time frame to renegotiate adoption
40.34 assistance agreements after March 31, 2011. All adoption assistance agreements under
40.35 Northstar Care for Children for children transitioning from the adoption assistance
40.36 program under section 259.67 must be renegotiated and signed by all parties no later than

41.1 March 31, 2011. The commissioner may establish additional requirements or deadlines
41.2 for implementing the transition.

41.3 Subd. 10. **Effective date of payment rates.** The new rates for payment under
41.4 Northstar Care for Children must be determined under section 256O.250 and effective
41.5 according to the timelines in subdivision 7, paragraph (b).

41.6 Subd. 11. **Purchase of child-specific adoption services.** The commissioner may
41.7 reimburse the placing agency for appropriate adoption services for children eligible under
41.8 section 259.67, subdivision 35.

41.9 Sec. 17. Minnesota Statutes 2008, section 257.85, subdivision 2, is amended to read:

41.10 Subd. 2. **Scope.** The provisions of this section apply to those situations in which
41.11 the legal and physical custody of a child is established with a relative or important friend
41.12 with whom the child has resided or had significant contact according to section 260C.201,
41.13 subdivision 11, by a district court order issued on or after July 1, 1997, and on or before
41.14 November 24, 2010, or a tribal court order issued on or after July 1, 2005, and on or
41.15 before November 24, 2010, when the child has been removed from the care of the parent
41.16 by previous district or tribal court order.

41.17 **EFFECTIVE DATE.** This section is effective August 1, 2009.

41.18 Sec. 18. Minnesota Statutes 2008, section 257.85, subdivision 5, is amended to read:

41.19 Subd. 5. **Relative custody assistance agreement.** (a) A relative custody assistance
41.20 agreement will not be effective, unless it is signed by the local agency and the relative
41.21 custodian no later than 30 days after the date of the order establishing permanent legal and
41.22 physical custody, and on or before November 24, 2010, except that a local agency may
41.23 enter into a relative custody assistance agreement with a relative custodian more than 30
41.24 days after the date of the order if it certifies that the delay in entering the agreement was
41.25 through no fault of the relative custodian and the agreement is signed and in effect on or
41.26 before November 24, 2010. There must be a separate agreement for each child for whom
41.27 the relative custodian is receiving relative custody assistance.

41.28 (b) Regardless of when the relative custody assistance agreement is signed by the
41.29 local agency and relative custodian, the effective date of the agreement shall be the date of
41.30 the order establishing permanent legal and physical custody.

41.31 (c) If MFIP is not the applicable program for a child at the time that a relative
41.32 custody assistance agreement is entered on behalf of the child, when MFIP becomes
41.33 the applicable program, if the relative custodian had been receiving custody assistance
41.34 payments calculated based upon a different program, the amount of relative custody

42.1 assistance payment under subdivision 7 shall be recalculated under the Minnesota family
42.2 investment program.

42.3 (d) The relative custody assistance agreement shall be in a form specified by the
42.4 commissioner and shall include provisions relating to the following:

42.5 (1) the responsibilities of all parties to the agreement;

42.6 (2) the payment terms, including the financial circumstances of the relative
42.7 custodian, the needs of the child, the amount and calculation of the relative custody
42.8 assistance payments, and that the amount of the payments shall be reevaluated annually;

42.9 (3) the effective date of the agreement, which shall also be the anniversary date for
42.10 the purpose of submitting the annual affidavit under subdivision 8;

42.11 (4) that failure to submit the affidavit as required by subdivision 8 will be grounds
42.12 for terminating the agreement;

42.13 (5) the agreement's expected duration, which shall not extend beyond the child's
42.14 eighteenth birthday;

42.15 (6) any specific known circumstances that could cause the agreement or payments
42.16 to be modified, reduced, or terminated and the relative custodian's appeal rights under
42.17 subdivision 9;

42.18 (7) that the relative custodian must notify the local agency within 30 days of any of
42.19 the following:

42.20 (i) a change in the child's status;

42.21 (ii) a change in the relationship between the relative custodian and the child;

42.22 (iii) a change in composition or level of income of the relative custodian's family;

42.23 (iv) a change in eligibility or receipt of benefits under MFIP, or other assistance
42.24 program; and

42.25 (v) any other change that could affect eligibility for or amount of relative custody
42.26 assistance;

42.27 (8) that failure to provide notice of a change as required by clause (7) will be
42.28 grounds for terminating the agreement;

42.29 (9) that the amount of relative custody assistance is subject to the availability of state
42.30 funds to reimburse the local agency making the payments;

42.31 (10) that the relative custodian may choose to temporarily stop receiving payments
42.32 under the agreement at any time by providing 30 days' notice to the local agency and may
42.33 choose to begin receiving payments again by providing the same notice but any payments
42.34 the relative custodian chooses not to receive are forfeit; and

43.1 (11) that the local agency will continue to be responsible for making relative custody
43.2 assistance payments under the agreement regardless of the relative custodian's place of
43.3 residence.

43.4 **EFFECTIVE DATE.** This section is effective August 1, 2009.

43.5 Sec. 19. Minnesota Statutes 2008, section 257.85, subdivision 6, is amended to read:

43.6 Subd. 6. **Eligibility criteria.** (a) A local agency shall enter into a relative custody
43.7 assistance agreement under subdivision 5 if it certifies that the following criteria are met:

43.8 (1) the juvenile court has determined or is expected to determine that the child,
43.9 under the former or current custody of the local agency, cannot return to the home of
43.10 the child's parents;

43.11 (2) the court, upon determining that it is in the child's best interests, has issued
43.12 or is expected to issue an order transferring permanent legal and physical custody of
43.13 the child; and

43.14 (3) the child either:

43.15 (i) is a member of a sibling group to be placed together; or

43.16 (ii) has a physical, mental, emotional, or behavioral disability that will require
43.17 financial support.

43.18 When the local agency bases its certification that the criteria in clause (1) or (2) are
43.19 met upon the expectation that the juvenile court will take a certain action, the relative
43.20 custody assistance agreement does not become effective until and unless the court acts as
43.21 expected.

43.22 (b) After November 24, 2010, no new relative custody assistance agreements shall
43.23 be executed. Agreements that were signed on or before November 24, 2010, and were not
43.24 in effect because the proposed transfer of permanent legal and physical custody of the
43.25 child did not occur on or before November 24, 2010, must be renegotiated according to
43.26 the terms of Northstar Care for Children in chapter 256O.

43.27 **EFFECTIVE DATE.** This section is effective August 1, 2009.

43.28 Sec. 20. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
43.29 to read:

43.30 Subd. 11. **Purpose and general eligibility requirements.** (a) The purpose of the
43.31 adoption assistance program is to help make adoption possible for children who would
43.32 otherwise remain in foster care.

43.33 (b) To be eligible for adoption assistance, a child must:

44.1 (1) be determined to be a child with special needs, according to subdivision 12;

44.2 (2) meet the applicable citizenship and immigration requirements in subdivision
44.3 13; and

44.4 (3)(i) meet the criteria outlined in section 473 of the Social Security Act; or

44.5 (ii) have had foster care payments paid on the child's behalf while in out-of-home
44.6 placement through the county or tribe, and be either under the guardianship of the
44.7 commissioner or under the jurisdiction of a Minnesota tribe, with adoption in accordance
44.8 with tribal law as the child's documented permanency plan.

44.9 (c) In addition to the requirements in paragraph (b), the child's adoptive parents must
44.10 meet the applicable background study requirements outlined in subdivision 14.

44.11 (d) The legally responsible agency shall make a title IV-E adoption assistance
44.12 eligibility determination for each child. Children who meet all eligibility criteria except
44.13 those specific to title IV-E adoption assistance shall receive adoption assistance paid
44.14 through state funds.

44.15 **EFFECTIVE DATE.** This section is effective July 1, 2009.

44.16 Sec. 21. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
44.17 to read:

44.18 Subd. 12. **Special needs determination.** (a) A child is considered a child with
44.19 special needs under this section if all of the requirements in paragraphs (b) to (g) are met.

44.20 (b) There has been a determination that the child cannot or should not be returned to
44.21 the home of the child's parents as evidenced by:

44.22 (1) a court-ordered termination of parental rights;

44.23 (2) a petition to terminate parental rights;

44.24 (3) a consent to adopt accepted by the court under sections 260C.201, subdivision
44.25 11, and 259.24;

44.26 (4) in circumstances when tribal law permits the child to be adopted without a
44.27 termination of parental rights, a judicial determination by tribal court indicating the valid
44.28 reason why the child cannot or should not return home;

44.29 (5) a voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment
44.30 occurred in another state, the applicable laws in that state; or

44.31 (6) the death of the legal parent.

44.32 (c) There exists a specific factor or condition because of which it is reasonable to
44.33 conclude that the child cannot be placed with adoptive parents without providing adoption
44.34 assistance as evidenced by:

(1) a determination by the Social Security Administration that the child meets all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits;

(2) a documented physical, mental, emotional, or behavioral disability not covered under clause (1);

(3) membership in a sibling group being adopted at the same time by the same parent;

(4) adoptive placement in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance; or

(5) documentation that the child is a high-risk child, according to subdivision 17.

(d) A reasonable but unsuccessful effort must have been made to place the child with adoptive parents without providing adoption assistance as evidenced by:

(1)(i) a documented search for an appropriate adoptive placement; or

(ii) a determination by the commissioner that such a search would not be in the best interests of the child; and

(2) a written statement from the identified prospective adoptive parents that they are either unwilling or unable to adopt the child without adoption assistance.

(e) To meet the requirement of a documented search for an appropriate adoptive placement under paragraph (d), clause (1), item (i), the placing agency minimally must:

(1) give consideration, as required by section 260C.212, subdivision 5, to placement with a relative;

(2) for an Indian child covered by the Indian Child Welfare Act, comply with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act; and

(3) review all families approved for adoption who are associated with the placing agency.

If the review of families associated with the placing agency results in the identification of an appropriate adoptive placement for the child, the placing agency must provide documentation of the placement decision to the commissioner as part of the application for adoption assistance.

If two or more appropriate families are not approved or available within the placing agency, the agency shall locate additional prospective adoptive families by registering the child with the State Adoption Exchange, as required under section 259.75. If registration with the State Adoption Exchange does not result in an appropriate family for the child, the agency shall employ other recruitment methods, as outlined in recruitment policies and procedures prescribed by the commissioner, to meet this requirement.

(f) The requirement for a documented search for an appropriate adoptive placement under paragraph (d), including review of all families approved for adoption that are associated with the placing agency, registration of the child with the State Adoption Exchange, and additional recruitment methods, must be waived if:

(1) the child is being adopted by a relative;

(2) the child is being adopted by foster parents with whom the child has developed significant emotional ties while in their care as a foster child;

(3) the child is being adopted by a family that previously adopted a child of the same mother or father; or

(4) the court determines that adoption by the identified family is in the child's best interest.

For an Indian child covered by the Indian Child Welfare Act, a waiver must not be granted unless the placing agency has complied with the placement preferences identified in the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(g) Once the placing agency has determined that placement with an identified family is in the child's best interest and made full written disclosure about the child's social and medical history, the agency must ask the prospective adoptive parents if they are willing to adopt the child without adoption assistance. If the identified family is either unwilling or unable to adopt the child without adoption assistance, they must provide a written statement to this effect to the placing agency to fulfill the requirement to make a reasonable effort to place the child without adoption assistance, and a copy of this statement shall be included in the adoption assistance application. If the identified family desires to adopt the child without adoption assistance, the family must provide a written statement to this effect to the placing agency and the statement must be maintained in the permanent adoption record of the placing agency. For children under the commissioner's guardianship, the placing agency shall submit a copy of this statement to the commissioner to be maintained in the permanent adoption record.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 22. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 13. Citizenship and immigration status. (a) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for title IV-E adoption assistance.

47.1 (b) A child must be a citizen of the United States or meet the qualified alien
47.2 requirements as defined in the Personal Responsibility and Work Opportunity
47.3 Reconciliation Act of 1996, as amended, in order to be eligible for state-funded adoption
47.4 assistance.

47.5 **EFFECTIVE DATE.** This section is effective July 1, 2009.

47.6 Sec. 23. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
47.7 to read:

47.8 Subd. 14. **Background study.** (a) A background study under section 259.41 must
47.9 be completed on each prospective adoptive parent. If the background study reveals:

47.10 (1) a felony conviction at any time for child abuse or neglect;

47.11 (2) spousal abuse;

47.12 (3) a crime against children, including child pornography;

47.13 (4) a crime involving violence, including rape, sexual assault, or homicide, but not
47.14 including other physical assault or battery; or

47.15 (5) a felony conviction within the past five years for physical assault, battery, or a
47.16 drug-related offense,

47.17 the adoptive parent is prohibited from receiving title IV-E adoption assistance on behalf of
47.18 an otherwise eligible child.

47.19 (b) A prospective adoptive parent who possesses one of the felony convictions in
47.20 paragraph (a) may receive state-funded adoption assistance on behalf of an otherwise
47.21 eligible child if the court has made a judicial determination that:

47.22 (1) the legally responsible agency has thoroughly reviewed the felony conviction
47.23 and has considered the impact, if any, that the conviction may have on the child's safety,
47.24 well-being, and permanency;

47.25 (2) the conviction likely does not pose a current or future safety risk to the child;

47.26 (3) there is no other available permanency resource that is appropriate for the
47.27 child; and

47.28 (4) the adoptive placement is in the child's best interest.

47.29 **EFFECTIVE DATE.** This section is effective July 1, 2009.

47.30 Sec. 24. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
47.31 to read:

47.32 Subd. 15. **Residency.** A child placed in the state from another state or a tribe outside
47.33 of the state is not eligible for state-funded adoption assistance through the state. A child

placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 16. Exceptions and exclusions. Payments for adoption assistance shall not be made to a biological parent of the child or a stepparent who adopts the child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption and all required eligibility factors are met.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 26. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 17. Documentation. Documentation must be provided to verify that a child meets the special needs criteria outlined in subdivision 12.

(a) Documentation of a disability is limited to evidence deemed appropriate by the commissioner.

(b) To qualify as being a high-risk child, the placing agency must provide to the commissioner one or more of the following:

(1) documented information in a county or tribal social service department record or court record that a relative within the first or second degree of the child has a medical diagnosis or medical history, including diagnosis of a significant mental health or chemical dependency issue, which could result in the child's development of a disability during childhood;

(2) documented information that while in the public child welfare system, the child has experienced three or more placements with extended family or different foster homes that could affect the normal attachment process;

49.1 (3) documented evidence in a county or tribal social service department record
49.2 that the child experienced neglect in the first three years of life, or sustained physical
49.3 injury, sexual abuse, or physical disease that could have a long-term effect on physical,
49.4 emotional, or mental development; or

49.5 (4) documented evidence in a medical or hospital record, law enforcement record,
49.6 county or tribal social service department record, court record, or record of an agency
49.7 under a contract with a county social service agency or the state to provide child welfare
49.8 services that the birth mother used drugs or alcohol during pregnancy which could later
49.9 result in the child's development of a disability.

49.10 **EFFECTIVE DATE.** This section is effective July 1, 2009.

49.11 Sec. 27. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
49.12 to read:

49.13 Subd. 18. **Termination.** (a) An adoption assistance agreement shall terminate in
49.14 any of the following circumstances:

49.15 (1) the child attains the age of 18, unless an extension as outlined in subdivisions 20
49.16 to 23, is applied for by the adoptive parents and granted by the commissioner;

49.17 (2) the commissioner determines that the adoptive parents are no longer legally
49.18 responsible for support of the child;

49.19 (3) the commissioner determines that the adoptive parents are no longer providing
49.20 financial support to the child;

49.21 (4) death of the child; or

49.22 (5) the adoptive parents request termination of the adoption assistance agreement
49.23 in writing.

49.24 (b) An adoptive parent is considered no longer legally responsible for support of the
49.25 child in any of the following circumstances:

49.26 (1) parental rights to the child are legally terminated;

49.27 (2) permanent legal and physical custody or guardianship of the child is transferred
49.28 to another individual;

49.29 (3) death of the adoptive parent;

49.30 (4) enlistment of the child in the military;

49.31 (5) marriage of the child; or

49.32 (6) emancipation of the child through legal action of another state.

49.33 **EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 28. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 19. **Death of adoptive parent or adoption dissolution.** (a) The adoption assistance agreement ends upon death or termination of parental rights of both the adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of a single-parent adoption, but the child maintains eligibility for state-funded or title IV-E adoption assistance in a subsequent adoption if the following criteria are met:

(1) the child is determined to be a child with special needs as outlined in subdivision 12;

(2) the subsequent adoptive parents reside in Minnesota; and

(3) no state agency outside of Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption.

(b) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, and a state agency outside of the state of Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

(c) According to federal regulations, if the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parents or dissolution of the adoption, the subsequent adoptive parents reside outside of the state of Minnesota, and no state agency has responsibility for placement and care of the child at the time of the subsequent adoption, the state of Minnesota is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 29. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 20. **Extension, past age 18.** Under certain limited circumstances a child may qualify for extension of the adoption assistance agreement beyond the date the child attains age 18. An application for extension must be completed and submitted by the adoptive parent at least 90 days prior to the date the child attains age 18, unless the child's adoption is scheduled to finalize less than 90 days prior to that date in which case the application for extension must be completed and submitted with the adoption

51.1 assistance application. The application for extension must be made according to policies
51.2 and procedures prescribed by the commissioner, including documentation of eligibility,
51.3 and on forms prescribed by the commissioner.

51.4 **EFFECTIVE DATE.** This section is effective July 1, 2009.

51.5 Sec. 30. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
51.6 to read:

51.7 **Subd. 21. Extension based on a continuing physical or mental disability.** (a)
51.8 Extensions based on a child's continuing physical or mental disability must be applied
51.9 for prior to the date the child attains age 18 and according to the requirements under
51.10 subdivision 20. The commissioner must not grant an extension on this basis if an extension
51.11 based on continued enrollment in a secondary education or being a child whose adoption
51.12 finalized after age 16 was previously granted for the child.

51.13 (b) A child is eligible for extension of the adoption assistance agreement up to the
51.14 date the child attains age 21 if the following criteria are met:

51.15 (1) the child has a mental or physical disability upon which eligibility for adoption
51.16 assistance was based which warrants the continuation of assistance;

51.17 (2) the child is unable to obtain self-sustaining employment due to the
51.18 aforementioned mental or physical disability; and

51.19 (3) the child needs significantly more care and support than what is typical for an
51.20 individual of the same age.

51.21 **EFFECTIVE DATE.** This section is effective July 1, 2009.

51.22 Sec. 31. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
51.23 to read:

51.24 **Subd. 22. Extension based on continued enrollment in a secondary education**
51.25 **program.** (a) If a child does not qualify for extension based on a continuing physical or
51.26 mental disability or a parent chooses not to apply for such extension, the adoptive parents
51.27 may make an application for continuation of adoption assistance based on enrollment in
51.28 a secondary education program.

51.29 (b) If a child is enrolled full-time in a secondary education program or a program
51.30 leading to an equivalent credential, the child is eligible for extension to the expected
51.31 graduation date or the date the child attains age 19, whichever is earlier. If a child receives
51.32 a school-based extension and at any time ceases to be enrolled in a full-time secondary

52.1 education program or a program leading to an equivalent credential, the adoptive parents
52.2 are responsible to notify the commissioner and the agreement must terminate.

52.3 (c) Extensions based on continuation in a secondary education program must be paid
52.4 from state funds only, unless the child meets the extension criteria outlined in subdivision
52.5 23.

52.6 **EFFECTIVE DATE.** This section is effective July 1, 2009.

52.7 Sec. 32. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
52.8 to read:

52.9 Subd. 23. **Extension for children whose adoption finalized after age 16.** A child
52.10 who attained the age of 16 prior to finalization of their adoption is eligible for extension of
52.11 the adoption assistance agreement to the date the child attains age 21 if the child is:

52.12 (1) completing a secondary education program or a program leading to an equivalent
52.13 credential;

52.14 (2) enrolled in an institution which provides postsecondary or vocational education;

52.15 (3) participating in a program or activity designed to promote or remove barriers to
52.16 employment;

52.17 (4) employed for at least 80 hours per month; or

52.18 (5) incapable of doing any of the activities described in clauses (1) to (4) due to a
52.19 medical condition, which incapability is supported by regularly updated information in
52.20 the case plan of the child.

52.21 **EFFECTIVE DATE.** This section is effective October 1, 2010.

52.22 Sec. 33. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
52.23 to read:

52.24 Subd. 24. **Adoption assistance certification.** The placing agency shall certify a
52.25 child as eligible for adoption assistance according to policies and procedures, and on
52.26 a form or forms, prescribed by the commissioner. Professional documentation must
52.27 be submitted with the certification, and when applicable, the supplemental adoption
52.28 assistance needs assessment, to establish eligibility for the amount of payment requested.
52.29 This form must be submitted with the adoption assistance agreement under subdivision 25.

52.30 **EFFECTIVE DATE.** This section is effective July 1, 2009.

52.31 Sec. 34. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
52.32 to read:

53.1 Subd. 25. **Adoption assistance agreement.** (a) In order to receive adoption
53.2 assistance benefits, a written, binding agreement on a form approved by the commissioner
53.3 must be established and completed by the placing agency prior to finalization of the
53.4 adoption. The agreement must be negotiated with the parents, in the case of a two-parent
53.5 adoption, or the adoptive parent, in the case of a single-parent adoption, as required in
53.6 subdivision 26. The parents, an approved representative from the placing agency, and
53.7 the commissioner or the commissioner's designee must sign the agreement prior to the
53.8 effective date of the adoption decree. The adoption assistance certification and agreement
53.9 must be granted or denied by the commissioner no later than 15 working days after receipt
53.10 of a complete and correct certification and agreement. A fully executed copy of the signed
53.11 agreement must be given to each party. Termination or disruption of the preadoptive
53.12 placement preceding adoption finalization makes the agreement with that family void.

53.13 (b) The agreement must specify the following:

53.14 (1) duration of the agreement;

53.15 (2) the nature and amount of any payment, services, and assistance to be provided
53.16 under such agreement;

53.17 (3) the child's eligibility for Medicaid services;

53.18 (4) the terms of the payment;

53.19 (5) eligibility for reimbursement of nonrecurring expenses associated with adopting
53.20 the child, to the extent that the total cost does not exceed \$2,000 per child;

53.21 (6) that the agreement must remain in effect regardless of the state of which the
53.22 adoptive parents are residents at any given time;

53.23 (7) provisions for modification of the terms of the agreement; and

53.24 (8) the effective date of the agreement.

53.25 (c) The agreement is effective the date of the adoption decree.

53.26 **EFFECTIVE DATE.** This section is effective July 1, 2009.

53.27 Sec. 35. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
53.28 to read:

53.29 Subd. 26. **Negotiation of the agreement.** (a) A monthly payment is provided
53.30 as part of the adoption assistance agreement to support the care of a child who has
53.31 manifested special needs. The amount of the payment made on behalf of a child eligible
53.32 for adoption assistance is determined through agreement between the adoptive parents
53.33 and the commissioner or the commissioner's designee. The agreement shall take into
53.34 consideration the circumstances of the adopting parents and the needs of the child being
53.35 adopted. The income of the adoptive parents must not be taken into consideration when

54.1 determining eligibility for adoption assistance or the amount of the payments under
54.2 subdivision 28. At the written request of the adoptive parents, the amount of the payment
54.3 in the agreement may be renegotiated when there is a change in the child's needs or the
54.4 family's circumstances.

54.5 (b) The adoption assistance agreement of a child who is identified as a high-risk child
54.6 must not include a monthly payment unless and until the potential disability manifests
54.7 itself, as documented by an appropriate professional, and the commissioner authorizes
54.8 commencement of payment by modifying the agreement accordingly. An adoptive parent
54.9 of a high-risk child with an adoption assistance agreement may request a renegotiation of
54.10 the adoption assistance agreement under subdivision 27 to include a monthly payment,
54.11 if the parent has written professional documentation that the potential disability upon
54.12 which eligibility for the agreement was based has manifested itself. Documentation of the
54.13 disability shall be limited to evidence deemed appropriate by the commissioner.

54.14 **EFFECTIVE DATE.** This section is effective July 1, 2009.

54.15 Sec. 36. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
54.16 to read:

54.17 Subd. 27. **Renegotiation of the agreement.** (a) An adoptive parent of a child
54.18 with an adoption assistance agreement may request renegotiation of the agreement when
54.19 there is a change in the needs of the child or in the family's circumstances. When an
54.20 adoptive parent requests renegotiation of the agreement, a reassessment of the child must
54.21 be completed consistent with subdivision 28. If the reassessment indicates that the child's
54.22 level has changed, the commissioner or the commissioner's designee and the parent shall
54.23 renegotiate the agreement to include a payment with the level determined appropriate
54.24 through the reassessment process. The agreement must not be renegotiated unless the
54.25 commissioner and the parent mutually agree to the changes. The effective date of any
54.26 renegotiated agreement must be determined by the commissioner.

54.27 (b) An adoptive parent of a high-risk child with an adoption assistance agreement
54.28 may request renegotiation of the agreement to include a monthly payment, if the parent
54.29 has written professional documentation that the potential disability upon which eligibility
54.30 for the agreement was based has manifested itself. Documentation of the disability must
54.31 be limited to evidence deemed appropriate by the commissioner. Prior to renegotiating
54.32 the agreement, a reassessment of the child must be conducted. The reassessment must
54.33 be used to renegotiate the agreement to include an appropriate monthly payment. The
54.34 agreement must not be renegotiated unless the commissioner and the adoptive parent

mutually agree to the changes. The effective date of any renegotiated agreement must be determined by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 37. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 28. **Benefits and payments.** (a) Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

(b) The basic maintenance payments must be made according to the following schedule for all children except those eligible for adoption assistance based on high risk of developing a disability:

<u>Birth through age five</u>	<u>up to \$247 per month</u>
<u>Age six through age 11</u>	<u>up to \$277 per month</u>
<u>Age 12 through age 14</u>	<u>up to \$307 per month</u>
<u>Age 15 and older</u>	<u>up to \$337 per month</u>

A child must receive the maximum payment amount for the child's age, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

(c) Supplemental adoption assistance needs payments, in addition to basic maintenance payments, are available for a child whose disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age. These payments are related to the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following schedule:

<u>Level I</u>	<u>up to \$150 per month</u>
<u>Level II</u>	<u>up to \$275 per month</u>
<u>Level III</u>	<u>up to \$400 per month</u>
<u>Level IV</u>	<u>up to \$500 per month</u>

A child's level shall be assessed on a supplemental maintenance needs assessment form prescribed by the commissioner. The adoptive parent may request a reassessment if at least six months has elapsed since the previously requested review. A child must receive the maximum payment amount for the child's assessed level, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

(d) Reimbursement for special nonmedical expenses is available to all children except those eligible for adoption assistance based on high risk of developing a disability. Reimbursements under this paragraph will be made only after the adoptive parents document that an application for the applicable service was denied by the local social

56.1 service agency, community agencies, local school district, local public health department,
56.2 the parent's insurance provider, or the child's Medicaid program. Reimbursements must
56.3 be made according to the policies and procedures prescribed by the commissioner and
56.4 are limited to:

- 56.5 (1) child care;
- 56.6 (2) respite care;
- 56.7 (3) camping program;
- 56.8 (4) home and vehicle modifications;
- 56.9 (5) family counseling;
- 56.10 (6) postadoption counseling;
- 56.11 (7) services to children under age three who are developmentally delayed;
- 56.12 (8) specialized communication equipment; and
- 56.13 (9) burial expenses.

56.14 **EFFECTIVE DATE.** This section is effective July 1, 2009.

56.15 Sec. 38. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
56.16 to read:

56.17 **Subd. 29. Child income or income attributable to the child.** If a child for whom a
56.18 parent is receiving adoption assistance is also receiving Supplemental Security Income
56.19 (SSI) or Retirement, Survivors, Disability Insurance (RSDI), the certifying agency shall
56.20 inform the adoptive parents that the child's adoption assistance must be reported to the
56.21 Social Security Administration.

56.22 **EFFECTIVE DATE.** This section is effective July 1, 2009.

56.23 Sec. 39. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
56.24 to read:

56.25 **Subd. 30. Payments.** (a) Payments to parents under adoption assistance must
56.26 be made monthly.

56.27 (b) Payments must commence when the commissioner receives the adoption decree
56.28 from the court, the legally responsible agency, or the parent. Payments must be made
56.29 according to policies and procedures prescribed by the commissioner.

56.30 **EFFECTIVE DATE.** This section is effective July 1, 2009.

56.31 Sec. 40. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
56.32 to read:

Subd. 31. **Overpayments.** (a) The commissioner has the authority to collect any amount of adoption assistance paid to a parent in excess of the payment due. Payments covered by this subdivision include basic maintenance needs payments, supplemental maintenance needs payments, and reimbursements of nonmedical expenses under subdivision 28. Prior to any collection, the commissioner or designee shall notify the parent in writing, including:

- (1) the amount of the overpayment and an explanation of the cause of overpayment;
 - (2) clarification of the corrected amount;
 - (3) a statement of the legal authority for the decision;
 - (4) information about how the parent can correct the overpayment;
 - (5) if repayment is required, when the payment is due and a person to contact to review a repayment plan;
 - (6) a statement that the parent has a right to a fair hearing review by the department;
- and
- (7) the procedure for seeking such a review.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 41. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 32. **Payee.** For adoption assistance cases, the payment may only be made to the adoptive parent specified on the agreement. If there is more than one adoptive parent, both parties must be listed as the payee unless otherwise specified in writing according to policies and procedures prescribed by the commissioner. In the event of divorce or separation of the parents, a change of payee may be made in writing according to policies and procedures prescribed by the commissioner. If both parents are in agreement as to the change, it may be made according to a process prescribed by the commissioner. If there is not agreement as to the change, a court order indicating the party who is to receive the payment is needed before a change can be processed. In the event of the death of the payee, a change of payee consistent with subdivision 19 may be made in writing according to policies and procedures prescribed by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 42. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 33. **Notification of change.** (a) An adoptive parent who has an adoption assistance agreement in place shall keep the agency administering the program informed of the parent's address and circumstances which would make them ineligible for the payments or eligible for the payments in a different amount.

(b) For the duration of the agreement, the adoptive parent agrees to notify the agency administering the program in writing within 30 days of the following changes:

(1) change in the family's address;

(2) change in the legal custody status of the child;

(3) child's completion of high school, if this occurs after the child attains age 18;

(4) date of termination of the parental rights of the adoptive parent, transfer of permanent legal and physical custody to another person, guardianship to another person, or other determination that the adoptive parent is no longer legally responsible for the support of the child;

(5) date the adoptive parent is no longer providing support to the child;

(6) date of death of the child;

(7) date of death of the adoptive parent;

(8) date the child enlists in the military;

(9) date of marriage of the child;

(10) date the child becomes an emancipated minor through legal action of another state;

(11) separation or divorce of the adoptive parent; and

(12) residence of the child outside the home for a period of more than 30 consecutive days.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 43. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 34. **Termination notice for parent.** The commissioner shall provide the child's parent written notice of termination of payment. Termination notices must be sent at least 15 days before the final payment or in the case of an unplanned termination, the notice is sent within three days of the end of the payment. The written notice must minimally include the following:

(1) the date payment will end;

(2) the reason payments will end and the event that is the basis to terminate payment;

(3) a statement that the parent has a right to a fair hearing review by the department consistent with section 256.045, subdivision 3;

- 59.1 (4) the procedure to request a fair hearing; and
59.2 (5) the agency name and address to which a fair hearing request must be sent.

59.3 **EFFECTIVE DATE.** This section is effective July 1, 2009.

59.4 Sec. 44. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
59.5 to read:

59.6 Subd. 35. **Reimbursement of costs through purchase of service.** (a) Subject
59.7 to policies and procedures prescribed by the commissioner and the provisions of this
59.8 subdivision, a child-placing agency licensed in Minnesota or any other state, or local
59.9 or tribal social services agency shall receive a reimbursement from the commissioner
59.10 equal to 100 percent of the reasonable and appropriate cost of providing child-specific
59.11 adoption services. Adoption services under this subdivision may include child-specific
59.12 recruitment, child-specific training and home studies for prospective adoptive parents,
59.13 and placement services.

59.14 (b) An eligible child must have a goal of adoption, which may include an adoption
59.15 according to tribal law, and meet one of the following criteria:

59.16 (1) is a ward of the Minnesota commissioner of human services or a ward of a
59.17 Minnesota tribal court under section 260.755, subdivision 20, who meets one of the
59.18 criteria under subdivision 12, paragraph (b), and one of the criteria under subdivision 12,
59.19 paragraph (c), clauses (1) to (5); or

59.20 (2) is under the guardianship of a Minnesota-licensed child-placing agency who
59.21 meets one of the eligibility criteria under subdivision 12, paragraph (b), and one of the
59.22 criteria in subdivision 12, paragraph (c), clauses (1) to (4).

59.23 (c) A child-placing agency licensed in Minnesota or any other state shall receive
59.24 reimbursement for adoption services it purchase for or directly provides to an eligible
59.25 child. Tribal social services shall receive reimbursement for adoption services it purchases
59.26 for or directly provides to an eligible child. A local social services agency shall receive
59.27 reimbursement only for adoption services it purchases for an eligible child.

59.28 (d) Before providing adoption services for which reimbursement is sought under this
59.29 subdivision, a reimbursement agreement, on the forms prescribed by the commissioner,
59.30 must be signed by the commissioner. No reimbursement under this subdivision must
59.31 be made to an agency for services provided prior to signatures by all required parties
59.32 on a reimbursement agreement. Separate reimbursement agreements must be made for
59.33 each child and separate records must be kept on each child for whom a reimbursement
59.34 agreement is made. Reimbursement shall not be made unless the commissioner of
59.35 human services agrees that the reimbursement costs are reasonable and appropriate. The

60.1 commissioner may spend up to \$16,000 for each purchase of service agreement per
60.2 child. Only one agreement per child is allowed, unless an exception is granted by the
60.3 commissioner and agreed to in writing by the commissioner prior to commencement of
60.4 services. Funds encumbered and obligated under such an agreement for the child remain
60.5 available until the terms of the agreement are fulfilled or the agreement is terminated.

60.6 (e) The commissioner shall make reimbursement payments directly to the agency
60.7 providing the service if direct reimbursement is specified by the purchase of service
60.8 agreement and if the request for reimbursement is submitted by the local or tribal social
60.9 services agency along with verification on a form prescribed by the commissioner that
60.10 the service was provided.

60.11 (f) The commissioner shall set aside an amount not to exceed five percent of the
60.12 total amount of fiscal year appropriation from the state of Minnesota for the adoption
60.13 assistance program to reimburse placing agencies for adoption services. When adoption
60.14 assistance payments for children's needs exceed 95 percent of the total amount of fiscal
60.15 year appropriation from the state of Minnesota for the adoption assistance program, the
60.16 amount of reimbursement available to placing agencies for adoption services is reduced
60.17 correspondingly.

60.18 **EFFECTIVE DATE.** This section is effective July 1, 2009.

60.19 Sec. 45. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
60.20 to read:

60.21 Subd. 36. **Indian children.** A child certified as eligible for adoption assistance
60.22 under this section who is protected under the Federal Indian Child Welfare Act of 1978
60.23 should, whenever possible, be served by the tribal governing body, tribal courts, or a
60.24 licensed Indian child-placing agency.

60.25 **EFFECTIVE DATE.** This section is effective July 1, 2009.

60.26 Sec. 46. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
60.27 to read:

60.28 Subd. 37. **Administration responsibilities.** (a) Subject to commissioner approval,
60.29 the legally responsible agency shall determine the eligibility for adoption assistance under
60.30 this section, and for those children determined eligible, shall further determine each child's
60.31 eligibility for title IV-E of the Social Security Act.

61.1 (b) The legally responsible agency is responsible for assisting the commissioner with
61.2 the administration of the adoption assistance by conducting assessments, reassessments,
61.3 negotiations, and other activities as specified by the commissioner under this section.

61.4 (c) The certifying agency shall notify an adoptive parent of a child's eligibility
61.5 for Medicaid in their state of residence. The certifying agency shall refer the adoptive
61.6 parent to apply for Medicaid in the financial office in their county of residence. The
61.7 certifying agency shall inform adoptive parents of the requirement to comply with the
61.8 rules of the applicable Medicaid program.

61.9 **EFFECTIVE DATE.** This section is effective July 1, 2009.

61.10 Sec. 47. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
61.11 to read:

61.12 **Subd. 38. Procedures, requirements, and deadlines.** The commissioner shall
61.13 specify procedures, requirements, and deadlines for the administration of adoption
61.14 assistance in accordance with this section. As needed, the commissioner shall review all
61.15 procedures, requirements, and deadlines, including the designated forms, in consultation
61.16 with counties, tribes, and representatives of parents, and may alter them as needed.

61.17 **EFFECTIVE DATE.** This section is effective July 1, 2009.

61.18 Sec. 48. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
61.19 to read:

61.20 **Subd. 39. Administration of title IV-E programs.** The title IV-E adoption
61.21 assistance program shall operate within the statute and rules set forth by the federal
61.22 government in the Social Security Act and Code of Federal Regulations.

61.23 **EFFECTIVE DATE.** This section is effective July 1, 2009.

61.24 Sec. 49. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
61.25 to read:

61.26 **Subd. 40. Reporting.** The commissioner shall specify required fiscal and statistical
61.27 reports under section 256.01, subdivision 2, paragraph (q), and other reports as necessary.

61.28 **EFFECTIVE DATE.** This section is effective July 1, 2009.

61.29 Sec. 50. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision
61.30 to read:

Subd. 41. **Promotion of programs.** The commissioner or the commissioner's designee shall actively seek ways to promote the adoption assistance program, including informing prospective adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must be informed as to the adoption tax credit.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 51. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 42. **Appeals and fair hearings.** (a) A prospective adoptive parent has the right to appeal to the commissioner under section 256.045 when eligibility for adoption assistance is denied, and when payment or the agreement for an eligible child is modified or terminated.

(b) An adoptive parent has additional rights to appeal to the commissioner under section 256.045. These include when the commissioner terminates or modifies the adoption assistance agreement or when the commissioner denies an application for adoption assistance. A prospective adoptive parent who disagrees with a decision by the commissioner prior to finalization of the adoption may request review of the decision by the commissioner, or may appeal the decision under section 256.045. An adoption assistance agreement must be signed and in effect prior to the court order that finalizes the adoption; however, in some cases, there may be extenuating circumstances as to why an agreement was not entered into prior to the adoption finalization. An adoptive parent who believes that extenuating circumstances exist in the case of an adoption finalizing prior to entering of an adoption assistance agreement may request a fair hearing. Parents have the responsibility of proving that extenuating circumstances exist. Parents are required to provide written documentation of each eligibility criterion at the fair hearing. Examples of extenuating circumstances include: relevant facts regarding the child were known by the placing agency and not presented to the parent prior to finalization of the adoption, or failure by the commissioner or the commissioner's designee to advise a potential parent about the availability of adoption assistance for a child in the state foster care system. If an appeals judge finds through the fair hearing process that extenuating circumstances existed and that the child met all eligibility criteria at the time the adoption was finalized, the effective date and any associated federal financial participation shall be retroactive to the date of the request for a fair hearing.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 52. Minnesota Statutes 2008, section 259.67, is amended by adding a subdivision to read:

Subd. 43. **No new executions of adoption assistance agreements.** After November 24, 2010, no new adoption assistance agreements must be executed under this section. Agreements that were signed on or before November 24, 2010, and were not in effect because the adoption finalization of the child did not occur on or before November 24, 2010, must be renegotiated according to the terms of Northstar Care for Children under section 256O.001 to 256O.270. Agreements signed and in effect on or before November 24, 2010, must continue according to the terms of this section and applicable rules for the duration of the agreement, unless the adoptive parents choose to renegotiate their agreement in accordance with the terms of Northstar Care for Children. After November 24, 2010, this section and associated rules must apply to a child whose adoption assistance agreements were in effect on or before November 24, 2010, and whose adoptive parents have chosen not to renegotiate their agreement according to the terms of Northstar Care for Children.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 53. Minnesota Statutes 2008, section 260B.441, is amended to read:

260B.441 ~~COST~~, PAYMENT FOR FOSTER CARE, RESIDENTIAL PLACEMENT, AND CLOTHING ALLOWANCE.

Subdivision 1. **Responsibility for placement costs.** ~~In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child.~~ Chapter 256O establishes the responsibility for cost and payment for eligible children placed in permanent placement with a relative custodian or adoptive parent. Responsibility for placement costs and payment in any other setting is with the county, consistent with chapter 256G, or the tribes authorized in section 256.01, subdivision 14b.

Subd. 2. **Federal title IV-E.** Foster care maintenance payments under title IV-E of the Social Security Act are defined in subdivisions 4 and 5 and section 256O.020. Every

effort must be made to establish a child's eligibility for title IV-E, using the criteria in the Social Security Act, United States Code, title 42, sections 670 to 676. Payment of title IV-E funds in Northstar Care for Children is specified in section 256O.260. In all other circumstances, the county or tribal agency authorized in section 256.01, subdivision 14b, responsible for payment of the maintenance costs must be reimbursed from the federal funds available for the purpose.

Subd. 3. **Child resources.** ~~Where such~~ When a child is eligible to receive a grant of Minnesota family investment program Retirement, Survivors, and Disability Insurance (RSDI), or Supplemental Security Income for the aged, blind, and disabled, or a foster care maintenance payment under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs.

Subd. 4. **Group residential maintenance payments.** When a child is placed in a group residential setting, foster care maintenance payments are payments made on behalf of a child to cover the cost of providing food, clothing, shelter, daily supervision, school supplies, child's personal incidentals, and transportation needs associated with providing the items listed, including transportation to the child's home for visitation. Daily supervision in group residential settings includes routine day-to-day direction and arrangements to ensure the well-being and safety of the child. It may also include reasonable costs of administration and operation of the facility.

Subd. 5. **Initial clothing allowance.** An initial clothing allowance must be available to all children placed in group residential settings based on the child's individual needs during the first 60 days of the initial placement. The agency shall consider the parent's ability to provide for the child's clothing needs and the residential facility contracts. A clothing allowance must be approved that is consistent with the child's needs. The amount of the initial clothing allowance must not exceed the monthly basic rate for the child's age group under section 256O.260.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 54. Minnesota Statutes 2008, section 260C.331, subdivision 1, is amended to read:

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a responsible social services agency,

(2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the responsible social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the responsible social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. Income does not include earnings from a child over the age of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph (c), clause (8), to transition from foster care or income and resources from sources other than Supplemental Security Income (SSI) and child support necessary to complete the requirements in section 260C.212, subdivision 7, paragraph (d), clause (2), as determined by the court.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the responsible social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or

the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Sec. 55. Minnesota Statutes 2008, section 260C.441, is amended to read:

260C.441 ~~COST~~, PAYMENT FOR FOSTER CARE, RESIDENTIAL PLACEMENT, AND CLOTHING ALLOWANCE.

Subdivision 1. **Responsibility for placement cost.** ~~In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Chapter 256O establishes the cost and payment for eligible children placed in family foster care settings or in permanent placement with a relative custodian or adoptive parent. Placement costs and payment in any other setting are the responsibility of the county, consistent with chapter 256G, or tribes authorized in section 256.01, subdivision 14b.~~

Subd. 2. **Federal title IV-E.** Foster care maintenance payments under title IV-E of the Social Security Act are defined in subdivisions 4 and 5, and section 256O.020. Every effort shall be made to establish a child's eligibility for title IV-E, using the criteria in the Social Security Act, United States Code, title 42, sections 670 to 676. The use of title IV-E funds in Northstar Care for Children is specified in section 256O.260. In all other circumstances, the county or tribal agency authorized in section 256.01, subdivision 14b, that is responsible for payment of the maintenance costs must be reimbursed from the federal funds available for the purpose.

67.1 Subd. 3. **Child resources.** ~~Where such~~ When a child in foster care is eligible
67.2 to receive a grant of Minnesota family investment program or Retirement, Survivors
67.3 Disability Insurance (RSDI), supplemental security income for the aged, blind, and
67.4 disabled, or a foster care maintenance payment under title IV-E of the Social Security Act,
67.5 United States Code, title 42, sections 670 to 676, the child's needs shall be met through
67.6 these programs.

67.7 Subd. 4. **Group residential maintenance payments.** When a child is placed in
67.8 a group residential setting, foster care maintenance payments means payments to cover
67.9 the cost of a child's food, clothing, shelter, daily supervision, school supplies, personal
67.10 incidentals, recreation, and transportation needs associated with providing the items
67.11 listed, including transportation to school and to the child's home for visitation. Foster
67.12 care maintenance payments may also include reasonable costs of administration and
67.13 operation of the facility.

67.14 Subd. 5. **Initial clothing allowance.** An initial clothing allowance shall be available
67.15 to all children eligible for Northstar Care for Children under section 256O.210 and foster
67.16 children placed in group residential settings based on the child's individual needs during
67.17 the first 60 days of the initial placement. The agency must consider the parent's ability to
67.18 provide for their child's clothing needs and the residential facility contracts. A clothing
67.19 allowance shall be approved that is consistent with the child's needs. The amount of
67.20 the initial clothing allowance shall not exceed the monthly basic rate for the child's age
67.21 group under section 256O.260.

67.22 **EFFECTIVE DATE.** This section is effective January 1, 2011.

67.23 Sec. 56. **REPEALER.**

67.24 (a) Minnesota Statutes 2008, sections 256.82, subdivision 5; and 257.85, are
67.25 repealed effective January 1, 2011.

67.26 (b) Minnesota Statutes 2008, section 259.67, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9,
67.27 and 10, are repealed effective July 1, 2009.

67.28 (c) Minnesota Rules, part 9560.0665, subparts 2, 3, 4, 5, 6, 7, 8, and 9, are repealed
67.29 effective January 1, 2011.

67.30 (d) Minnesota Rules, parts 9560.0071; 9560.0081; 9560.0082; 9560.0083;
67.31 9560.0091; 9560.0093, subparts 1, 3, and 4; 9560.0101; and 9560.0102, are repealed
67.32 effective July 1, 2009.

256.82 PAYMENTS BY STATE.

Subd. 5. **Difficulty of care assessment pilot project.** Notwithstanding any law to the contrary, the commissioner of human services shall conduct a two-year statewide pilot project beginning July 1, 1997, to conduct a difficulty of care assessment process which both assesses an individual child's current functioning and identifies needs in a variety of life situations. The pilot project must take into consideration existing difficulty of care payments so that, to the extent possible, no child for whom a difficulty of care rate is currently established will be adversely affected. The pilot project must include an evaluation and an interim report to the legislature by January 15, 1999.

257.85 RELATIVE CUSTODY ASSISTANCE.

Subdivision 1. **Citation.** This section may be cited as the "Relative Custody Assistance Act."

Subd. 2. **Scope.** The provisions of this section apply to those situations in which the legal and physical custody of a child is established with a relative or important friend with whom the child has resided or had significant contact according to section 260C.201, subdivision 11, by a district court order issued on or after July 1, 1997, or a tribal court order issued on or after July 1, 2005, when the child has been removed from the care of the parent by previous district or tribal court order.

Subd. 3. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "MFIP standard" means the transitional standard used to calculate assistance under the MFIP program, or, if permanent legal and physical custody of the child is given to a relative custodian residing outside of Minnesota, the analogous transitional standard or standard of need used to calculate assistance under the TANF program of the state where the relative custodian lives.

(b) "Local agency" means the county social services agency or tribal social services agency with legal custody of a child prior to the transfer of permanent legal and physical custody.

(c) "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota Juvenile Court under section 260C.201, subdivision 11.

(d) "Relative" has the meaning given in section 260C.007, subdivision 27.

(e) "Relative custodian" means a person who has permanent legal and physical custody of a child. When siblings, including half-siblings and stepsiblings, are placed together in permanent legal and physical custody, the person receiving permanent legal and physical custody of the siblings is considered a relative custodian of all of the siblings for purposes of this section.

(f) "Relative custody assistance agreement" means an agreement entered into between a local agency and a person who has been or will be awarded permanent legal and physical custody of a child.

(g) "Relative custody assistance payment" means a monthly cash grant made to a relative custodian pursuant to a relative custody assistance agreement and in an amount calculated under subdivision 7.

(h) "Remains in the physical custody of the relative custodian" means that the relative custodian is providing day-to-day care for the child and that the child lives with the relative custodian; absence from the relative custodian's home for a period of more than 120 days raises a presumption that the child no longer remains in the physical custody of the relative custodian.

Subd. 4. **Duties of local agency.** (a) When a local agency seeks a court order under section 260C.201, subdivision 11, to establish permanent legal and physical custody of a child with a relative or important friend with whom the child has resided or had significant contact, or if such an order is issued by the court, the local agency shall perform the duties in this subdivision.

(b) As soon as possible after the local agency determines that it will seek to establish permanent legal and physical custody of the child or, if the agency did not seek to establish custody, as soon as possible after the issuance of the court order establishing custody, the local agency shall inform the relative custodian about the relative custody assistance program, including eligibility criteria and payment levels. Anytime prior to, but not later than seven days after, the date the court issues the order establishing permanent legal and physical custody of the child, the local agency shall determine whether the eligibility criteria in subdivision 6 are met to allow the relative custodian to receive relative custody assistance. Not later than seven days after determining whether the eligibility criteria are met, the local agency shall inform

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the relative custodian of its determination and of the process for appealing that determination under subdivision 9.

(c) If the local agency determines that the relative custodian is eligible to receive relative custody assistance, the local agency shall prepare the relative custody assistance agreement and ensure that it meets the criteria of subdivision 6.

(d) The local agency shall make monthly payments to the relative custodian as set forth in the relative custody assistance agreement. On a quarterly basis and on a form to be provided by the commissioner, the local agency shall make claims for reimbursement from the commissioner for relative custody assistance payments made.

(e) For a relative custody assistance agreement that is in place for longer than one year, and as long as the agreement remains in effect, the local agency shall send an annual affidavit form to the relative custodian of the eligible child within the month before the anniversary date of the agreement. The local agency shall monitor whether the annual affidavit is returned by the relative custodian within 30 days following the anniversary date of the agreement. The local agency shall review the affidavit and any other information in its possession to ensure continuing eligibility for relative custody assistance and that the amount of payment made according to the agreement is correct.

(f) When the local agency determines that a relative custody assistance agreement should be terminated or modified, it shall provide notice of the proposed termination or modification to the relative custodian at least ten days before the proposed action along with information about the process for appealing the proposed action.

Subd. 5. Relative custody assistance agreement. (a) A relative custody assistance agreement will not be effective, unless it is signed by the local agency and the relative custodian no later than 30 days after the date of the order establishing permanent legal and physical custody, except that a local agency may enter into a relative custody assistance agreement with a relative custodian more than 30 days after the date of the order if it certifies that the delay in entering the agreement was through no fault of the relative custodian. There must be a separate agreement for each child for whom the relative custodian is receiving relative custody assistance.

(b) Regardless of when the relative custody assistance agreement is signed by the local agency and relative custodian, the effective date of the agreement shall be the date of the order establishing permanent legal and physical custody.

(c) If MFIP is not the applicable program for a child at the time that a relative custody assistance agreement is entered on behalf of the child, when MFIP becomes the applicable program, if the relative custodian had been receiving custody assistance payments calculated based upon a different program, the amount of relative custody assistance payment under subdivision 7 shall be recalculated under the Minnesota family investment program.

(d) The relative custody assistance agreement shall be in a form specified by the commissioner and shall include provisions relating to the following:

- (1) the responsibilities of all parties to the agreement;
 - (2) the payment terms, including the financial circumstances of the relative custodian, the needs of the child, the amount and calculation of the relative custody assistance payments, and that the amount of the payments shall be reevaluated annually;
 - (3) the effective date of the agreement, which shall also be the anniversary date for the purpose of submitting the annual affidavit under subdivision 8;
 - (4) that failure to submit the affidavit as required by subdivision 8 will be grounds for terminating the agreement;
 - (5) the agreement's expected duration, which shall not extend beyond the child's eighteenth birthday;
 - (6) any specific known circumstances that could cause the agreement or payments to be modified, reduced, or terminated and the relative custodian's appeal rights under subdivision 9;
 - (7) that the relative custodian must notify the local agency within 30 days of any of the following:
 - (i) a change in the child's status;
 - (ii) a change in the relationship between the relative custodian and the child;
 - (iii) a change in composition or level of income of the relative custodian's family;
 - (iv) a change in eligibility or receipt of benefits under MFIP, or other assistance program;
- and

(v) any other change that could affect eligibility for or amount of relative custody assistance;

(8) that failure to provide notice of a change as required by clause (7) will be grounds for terminating the agreement;

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(9) that the amount of relative custody assistance is subject to the availability of state funds to reimburse the local agency making the payments;

(10) that the relative custodian may choose to temporarily stop receiving payments under the agreement at any time by providing 30 days' notice to the local agency and may choose to begin receiving payments again by providing the same notice but any payments the relative custodian chooses not to receive are forfeit; and

(11) that the local agency will continue to be responsible for making relative custody assistance payments under the agreement regardless of the relative custodian's place of residence.

Subd. 6. Eligibility criteria. A local agency shall enter into a relative custody assistance agreement under subdivision 5 if it certifies that the following criteria are met:

(1) the juvenile court has determined or is expected to determine that the child, under the former or current custody of the local agency, cannot return to the home of the child's parents;

(2) the court, upon determining that it is in the child's best interests, has issued or is expected to issue an order transferring permanent legal and physical custody of the child; and

(3) the child either:

(i) is a member of a sibling group to be placed together; or

(ii) has a physical, mental, emotional, or behavioral disability that will require financial support.

When the local agency bases its certification that the criteria in clause (1) or (2) are met upon the expectation that the juvenile court will take a certain action, the relative custody assistance agreement does not become effective until and unless the court acts as expected.

Subd. 7. Amount of relative custody assistance payments. (a) The amount of a monthly relative custody assistance payment shall be determined according to the provisions of this paragraph.

(1) The total maximum assistance rate is equal to the base assistance rate plus, if applicable, the supplemental assistance rate.

(i) The base assistance rate is equal to the maximum amount that could be received as basic maintenance for a child of the same age under the adoption assistance program.

(ii) The local agency shall determine whether the child has physical, mental, emotional, or behavioral disabilities that require care, supervision, or structure beyond that ordinarily provided in a family setting to children of the same age such that the child would be eligible for supplemental maintenance payments under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. If the local agency determines that the child has such a disability, the supplemental assistance rate shall be the maximum amount of monthly supplemental maintenance payment that could be received on behalf of a child of the same age, disabilities, and circumstances under the adoption assistance program.

(2) The net maximum assistance rate is equal to the total maximum assistance rate from clause (1) less the following offsets:

(i) if the child is or will be part of an assistance unit receiving an MFIP grant or a grant from a similar program of another state, the portion of the MFIP standard relating to the child as calculated under paragraph (b), clause (2);

(ii) Supplemental Security Income payments received by or on behalf of the child;

(iii) veteran's benefits received by or on behalf of the child; and

(iv) any other income of the child, including child support payments made on behalf of the child.

(3) The relative custody assistance payment to be made to the relative custodian shall be a percentage of the net maximum assistance rate calculated in clause (2) based upon the gross income of the relative custodian's family, including the child for whom the relative custodian has permanent legal and physical custody. In no case shall the amount of the relative custody assistance payment exceed that which the child could qualify for under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. The relative custody assistance payment shall be calculated as follows:

(i) if the relative custodian's gross family income is less than or equal to 200 percent of federal poverty guidelines, the relative custody assistance payment shall be the full amount of the net maximum assistance rate;

(ii) if the relative custodian's gross family income is greater than 200 percent and less than or equal to 225 percent of federal poverty guidelines, the relative custody assistance payment shall be 80 percent of the net maximum assistance rate;

(iii) if the relative custodian's gross family income is greater than 225 percent and less than or equal to 250 percent of federal poverty guidelines, the relative custody assistance payment shall be 60 percent of the net maximum assistance rate;

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(iv) if the relative custodian's gross family income is greater than 250 percent and less than or equal to 275 percent of federal poverty guidelines, the relative custody assistance payment shall be 40 percent of the net maximum assistance rate;

(v) if the relative custodian's gross family income is greater than 275 percent and less than or equal to 300 percent of federal poverty guidelines, the relative custody assistance payment shall be 20 percent of the net maximum assistance rate; or

(vi) if the relative custodian's gross family income is greater than 300 percent of federal poverty guidelines, no relative custody assistance payment shall be made.

(b) The following provisions cover the relationship between relative custody assistance and assistance programs:

(1) The relative custodian of a child for whom the relative custodian is receiving relative custody assistance is expected to seek whatever assistance is available for the child through MFIP or, if the relative custodian resides in a state other than Minnesota, similar programs of that state. If a relative custodian fails to apply for assistance through MFIP or other program for which the child is eligible, the child's portion of the MFIP standard will be calculated as if application had been made and assistance received.

(2) The portion of the MFIP standard relating to each child for whom relative custody assistance is being received shall be calculated as follows:

(i) determine the total MFIP standard for the assistance unit;

(ii) determine the amount that the MFIP standard would have been if the assistance unit had not included the children for whom relative custody assistance is being received;

(iii) subtract the amount determined in item (ii) from the amount determined in item (i); and

(iv) divide the result in item (iii) by the number of children for whom relative custody assistance is being received that are part of the assistance unit.

(3) If a child for whom relative custody assistance is being received is not eligible for assistance through MFIP or similar programs of another state, the portion of MFIP standard relating to that child shall be equal to zero.

Subd. 8. **Annual affidavit.** When a relative custody assistance agreement remains in effect for more than one year, the local agency shall require the relative custodian to annually submit an affidavit in a form to be specified by the commissioner. The affidavit must be submitted to the local agency each year no later than 30 days after the relative custody assistance agreement's anniversary date. The affidavit shall document the following:

(1) that the child remains in the physical custody of the relative custodian;

(2) that there is a continuing need for the relative custody assistance payments due to the child's physical, mental, emotional, or behavioral needs; and

(3) the current gross income of the relative custodian's family.

The relative custody assistance agreement may be modified based on information or documentation presented to the local agency under this requirement and as required by annual adjustments to the federal poverty guidelines.

Subd. 9. **Right of appeal.** A relative custodian who enters or seeks to enter into a relative custody assistance agreement with a local agency has the right to appeal to the commissioner according to section 256.045 when the local agency establishes, denies, terminates, or modifies the agreement. Upon appeal, the commissioner may review only:

(1) whether the local agency has met the legal requirements imposed by this chapter for establishing, denying, terminating, or modifying the agreement;

(2) whether the amount of the relative custody assistance payment was correctly calculated under the method in subdivision 7;

(3) whether the local agency paid for correct time periods under the relative custody assistance agreement;

(4) whether the child remains in the physical custody of the relative custodian;

(5) whether the local agency correctly modified the amount of the supplemental assistance rate based on a change in the child's physical, mental, emotional, or behavioral needs, or based on the relative custodian's failure to provide documentation, after the local agency has requested such documentation, that the child continues to have physical, mental, emotional, or behavioral needs that support the current amount of relative custody assistance; and

(6) whether the local agency correctly modified or terminated the amount of relative custody assistance based on a change in the gross income of the relative custodian's family or based on the relative custodian's failure to provide documentation of the gross income of the relative custodian's family after the local agency has requested such documentation.

Subd. 10. **Child's county of residence.** For the purposes of the Unitary Residency Act under chapter 256G, time spent by a child in the custody of a relative custodian receiving

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payments under this section is not excluded time. A child is a resident of the county where the relative custodian is a resident.

Subd. 11. **Financial considerations.** (a) Payment of relative custody assistance under a relative custody assistance agreement is subject to the availability of state funds and payments may be reduced or suspended on order of the commissioner if insufficient funds are available.

(b) Upon receipt from a local agency of a claim for reimbursement, the commissioner shall reimburse the local agency in an amount equal to 100 percent of the relative custody assistance payments provided to relative custodians. The local agency may not seek and the commissioner shall not provide reimbursement for the administrative costs associated with performing the duties described in subdivision 4.

(c) For the purposes of determining eligibility or payment amounts under MFIP, relative custody assistance payments shall be excluded in determining the family's available income.

259.67 ADOPTION ASSISTANCE PROGRAM.

Subdivision 1. **Adoption assistance.** (a) The commissioner of human services shall enter into an adoption assistance agreement with an adoptive parent or parents who adopt a child who meets the eligibility requirements under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, or who otherwise meets the requirements in subdivision 4.

(b) Notwithstanding any provision to the contrary, no child on whose behalf federal title IV-E adoption assistance payments are to be made may be placed in an adoptive home unless a criminal background check under section 259.41, subdivision 3, paragraph (b), has been completed on the prospective adoptive parents and no disqualifying condition exists. A disqualifying condition exists if:

(1) a criminal background check reveals a felony conviction for child abuse; for spousal abuse; for a crime against children (including child pornography); or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a criminal background check reveals a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance payments, and the payment terms. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered.

The amount of adoption assistance is subject to the availability of state and federal funds and shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed that which would be allowable for the child under foster family care and is subject to the availability of state and federal funds.

Subd. 3. **Modification or termination of adoption assistance agreement.** The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. The adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security

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Act, United States Code, title 42, sections 670 to 679a, the commissioner shall modify the adoption assistance agreement in order to obtain the funds under that act.

Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to an adoptive parent in excess of the payment due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider. Adoption assistance amounts covered by this subdivision include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

Subd. 4. **Eligibility conditions.** (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful;

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child; or

(iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.

(3)(i) The child is a ward of the commissioner or a tribal social service agency of Minnesota recognized by the Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. A child who is adopted by the child's legal custodian or guardian shall not be eligible for state-funded adoption assistance.

(b) The characteristics or circumstances that may be considered in determining whether a child meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(4) The child is five years of age or older.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Subd. 5. **Determination of residency.** A child who is a resident of any county in this state when eligibility for adoption assistance is certified shall remain eligible and receive adoption assistance in accordance with the terms of the adoption assistance agreement, regardless of the domicile or residence of the adopting parents at the time of application for adoptive placement, legal decree of adoption, or thereafter.

Subd. 6. **Right of appeal.** (a) The adoptive parents have the right to appeal to the commissioner pursuant to section 256.045, when the commissioner denies, discontinues, or modifies the agreement.

(b) Adoptive parents who believe that their adopted child was incorrectly denied adoption assistance, or who did not seek adoption assistance on the child's behalf because of being provided with inaccurate or insufficient information about the child or the adoption assistance program, may request a hearing under section 256.045. Notwithstanding subdivision 2, the purpose of the hearing shall be to determine whether, under standards established by the federal Department of Health and Human Services, the circumstances surrounding the child's adoption warrant making an adoption assistance agreement on behalf of the child after the final decree of adoption has been issued. The commissioner shall enter into an adoption assistance agreement on the child's behalf if it is determined that:

(1) at the time of the adoption and at the time the request for a hearing was submitted the child was eligible for adoption assistance under United States Code, title 42, chapter 7, subchapter

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IV, part E, sections 670 to 679a, at the time of the adoption or for state funded adoption assistance under subdivision 4; and

(2) an adoption assistance agreement was not entered into on behalf of the child before the final decree of adoption because of extenuating circumstances as the term is used in the standards established by the federal Department of Health and Human Services. An adoption assistance agreement made under this paragraph shall be effective the date the request for a hearing was received by the commissioner or the local agency.

Subd. 7. **Reimbursement of costs.** (a) Subject to rules of the commissioner, and the provisions of this subdivision a child-placing agency licensed in Minnesota or any other state, or local or tribal social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing adoption services. Adoption services under this subdivision may include adoptive family recruitment, counseling, and special training when needed.

(b) An eligible child must have a goal of adoption, which may include an adoption in accordance with tribal law, and meet one of the following criteria:

(1) is a ward of the commissioner of human services or a ward of tribal court pursuant to section 260.755, subdivision 20, who meets one of the criteria in subdivision 4, paragraph (b), clause (1), (2), or (3); or

(2) is under the guardianship of a Minnesota-licensed child-placing agency who meets one of the criteria in subdivision 4, paragraph (b), clause (1) or (2).

(c) A child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. Tribal social services shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive reimbursement only for adoption services it purchases for an eligible child.

Before providing adoption services for which reimbursement will be sought under this subdivision, a reimbursement agreement, on the designated format, must be entered into with the commissioner. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. The commissioner of human services shall agree that the reimbursement costs are reasonable and appropriate. The commissioner may spend up to \$16,000 for each purchase of service agreement. Only one agreement per child is allowed, unless an exception is granted by the commissioner. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

The commissioner shall make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local or tribal social services agency along with a verification that the service was provided.

Subd. 8. **Indian children.** The commissioner is encouraged to work with American Indian organizations to assist in the establishment of American Indian child adoption organizations able to be licensed as child-placing agencies. Children certified as eligible for adoption assistance under this section who are protected under the Federal Indian Child Welfare Act of 1978 should, whenever possible, be served by the tribal governing body, tribal courts, or a licensed Indian child-placing agency.

Subd. 9. **Effect on other aid.** Adoption assistance payments received under this section shall not affect eligibility for any other financial payments to which a person may otherwise be entitled.

Subd. 10. **Rules.** The commissioner shall promulgate rules necessary to implement this section and to comply with the adoption assistance requirements of the Social Security Act to qualify for funds available under the act.