SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 872

(SENATE AUTHORS: FRANZEN)

DATE	D-PG	OFFICIAL STATUS
02/28/2013	447	Introduction and first reading Referred to Health, Human Services and Housing
03/05/2013	554a	Comm report: To pass as amended and re-refer to Judiciary
03/13/2013	949a	Comm report: To pass as amended and re-refer to State and Local Government
03/18/2013	1165a	Comm report: To pass as amended and re-refer to Rules and Administration
03/21/2013		Comm report: To pass as amended Second reading

A bill for an act

relating to human services; modifying provisions related to fair hearings and internal audits; creating the Cultural and Ethnic Leadership Communities Council; removing obsolete language; making technical changes; amending Minnesota Statutes 2012, sections 245.4661, subdivisions 2, 6; 245.482, subdivision 5; 256.01, subdivision 2; 256.017, subdivision 1; 256.045, subdivisions 1, 3, 4, 5; 256.0451, subdivisions 5, 13, 22, 24; 256B.055, subdivision 12; 256B.056, subdivision 11; 256B.057, subdivision 3b; 256B.0595, subdivisions 1, 2, 4, 9; 256D.02, subdivision 12a; 256J.30, subdivisions 8, 9; 256J.37, subdivision 3a; 256J.395, subdivision 1; 256J.575, subdivision 3; 256J.626, subdivisions 6, 7; 256J.72, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapter 256; repealing Minnesota Statutes 2012, sections 245.461, subdivision 3; 245.463, subdivisions 1, 3, 4; 256.01, subdivisions 2a, 13, 23a; 256B.0185; 256D.02, subdivision 4a; 256J.575, subdivision 4; 256J.74, subdivision 4; 256L.04, subdivision 9.

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

ARTICLE 1

FAIR HEARINGS

Section 1. Minnesota Statutes 2012, section 256.045, subdivision 1, is amended to read:

Subdivision 1. **Powers of the state agency.** The commissioner of human services may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, 3a, 3b, 4a, and 5. Human services referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the Office of Administrative Hearings established pursuant to sections 14.48 to 14.56. The commissioner shall only appoint as a full-time human services judge an individual who is licensed to practice law in Minnesota and who is:

(1) in active status;

(2) an inactive resident;

(3) retired;

(4) on disabled status; or

(5) on retired senior status.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 2. Minnesota Statutes 2012, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead investigative agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source;

(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

(8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of

the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment~~. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit~~; or

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), ~~clause~~ clauses (4), (9), and (10), is only available when there is no ~~juvenile court or adult criminal~~ district court action pending. If such action is filed in ~~either~~ district court while an administrative review is pending~~,~~ that arises out of some or all of the events or circumstances on which the appeal is based the administrative review must be suspended until the judicial actions are completed. If the ~~juvenile court action or criminal charge is~~ district court proceedings are completed, dismissed, or ~~the criminal action~~ overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(f) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(g) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

(h) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision 13, why the request was not submitted within the 30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

Sec. 3. Minnesota Statutes 2012, section 256.045, subdivision 4, is amended to read:

Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless

the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. A human service judge may grant a request for a hearing in person by holding the hearing by interactive video technology or in person. The human services judge must hear the case in person if the person asserts that either the person or a witness has a physical or mental disability that would impair their ability to fully participate in a hearing held by interactive video technology. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, including a provider of therapy services, at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county or state agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses (4), (8), and (9), either party may subpoena the private data relating to the investigation prepared by the agency under section 626.556 or 626.557 that is not otherwise accessible under section 13.04, provided the identity of the reporter may not be disclosed.

(b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph (a), clause (4), (8), or (9), must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than $1,000, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (8), and (9), upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the petitioner has the opportunity to respond.

(c) In hearings under subdivision 3, paragraph (a), clauses (4), (8), and (9), involving determinations of maltreatment or disqualification made by more than one county agency, by a county agency and a state agency, or by more than one state agency, the hearings may be consolidated into a single fair hearing upon the consent of all parties and the state human services referee.

(d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a vulnerable adult, the human services referee shall notify the vulnerable adult who is the subject of the maltreatment determination and, if known, a guardian of the vulnerable adult appointed under section 524.5-310, or a health care agent designated by the vulnerable adult in a health care directive that is currently effective under section 145C.06 and whose authority to make health care decisions is not suspended under section 524.5-310, of the hearing. The notice must be sent by certified mail and inform the vulnerable adult of the right to file a signed written statement in the proceedings. A guardian or health care agent who prepares or files a written statement for the vulnerable adult must indicate in the statement that the person is the vulnerable adult's guardian or health care agent and sign the statement in that capacity. The vulnerable adult, the guardian, or the health care agent may file a written statement with the human services referee hearing the case no later than five business days before commencement of the hearing. The human services referee shall include the written statement in the hearing record and consider the statement in deciding the appeal. This subdivision does not limit, prevent, or excuse the vulnerable adult from being called as a witness testifying at the hearing or grant the vulnerable adult, the guardian, or health care agent a right to participate in the proceedings or appeal the human services referee's decision in the case. The lead investigative agency must consider including the vulnerable adult victim of maltreatment as a witness in the hearing. If the lead investigative agency determines that participation in the hearing would endanger the well-being of the vulnerable adult or not be in the best interests of the vulnerable adult, the lead investigative agency shall inform the human services referee of the basis for this determination, which must be included in the final order. If the human services referee is not reasonably able to determine the address of the vulnerable adult, the guardian, or the health care agent, the human services referee is not required to send a hearing notice under this subdivision.

Sec. 4. Minnesota Statutes 2012, section 256.045, subdivision 5, is amended to read:

Subd. 5. **Orders of the commissioner of human services.** A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or

county agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the county agency and the applicant, recipient, former recipient, or prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the petitioner, the agency, or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the petitioner, the agency, or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. The person seeking reconsideration has the burden to demonstrate why the matter should be reconsidered. The request for reconsideration may include legal argument and proposed additional evidence supporting the request. If proposed additional evidence is submitted, the person must explain why the proposed additional evidence was not provided at the time of the hearing. If reconsideration is granted, the other participants must be sent a copy of all material submitted in support of the request for reconsideration and must be given ten days to respond. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency, a county agency, or a prepaid health plan according to subdivision 3a, until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing or seek judicial review of an order issued under this section, unless assisting a recipient as provided in subdivision 4. A prepaid health plan is a party to an appeal under subdivision 3a, but cannot seek judicial review of an order issued under this section.

Sec. 5. Minnesota Statutes 2012, section 256.0451, subdivision 5, is amended to read:

Subd. 5. **Prehearing conferences.** (a) The appeals referee prior to a fair hearing appeal may hold a prehearing conference to further the interests of justice or efficiency and must include the person involved in the appeal. A person involved in a fair hearing appeal or the agency may request a prehearing conference. The prehearing conference may be conducted by telephone, in person, or in writing. The prehearing conference may address the following:

(1) disputes regarding access to files, evidence, subpoenas, or testimony;

(2) the time required for the hearing or any need for expedited procedures or decision;

(3) identification or clarification of legal or other issues that may arise at the hearing;

(4) identification of and possible agreement to factual issues; and

(5) scheduling and any other matter which will aid in the proper and fair functioning of the hearing.

(b) The appeals referee shall make a record or otherwise contemporaneously summarize the prehearing conference in writing, which shall be sent to both the person involved in the hearing, the person's attorney or authorized representative, and the agency. A human services judge may make and issue rulings and orders while the appeal is pending. During the pendency of the appeal these rulings and orders are not subject to a request for reconsideration or appeal. These rulings and orders are subject to review under subdivision 24 and section 256.045, subdivision 7.

Sec. 6. Minnesota Statutes 2012, section 256.0451, subdivision 13, is amended to read:

Subd. 13. **Failure to appear; good cause.** If a person involved in a fair hearing appeal fails to appear at the hearing, the appeals referee may dismiss the appeal. The ~~person~~ human services judge may reopen the appeal if within ten working days after the date of the dismissal the person ~~submits~~ files information ~~to~~ in writing with the appeals referee to show good cause for not appearing. Good cause can be shown when there is:

(1) a death or serious illness in the person's family;

(2) a personal injury or illness which reasonably prevents the person from attending the hearing;

(3) an emergency, crisis, or unforeseen event which reasonably prevents the person from attending the hearing;

(4) an obligation or responsibility of the person which a reasonable person, in the conduct of one's affairs, could reasonably determine takes precedence over attending the hearing;

(5) lack of or failure to receive timely notice of the hearing in the preferred language of the person involved in the hearing; and

(6) excusable neglect, excusable inadvertence, excusable mistake, or other good cause as determined by the appeals referee.

Sec. 7. Minnesota Statutes 2012, section 256.0451, subdivision 22, is amended to read:

Subd. 22. **Decisions.** A timely, written decision must be issued in every appeal. Each decision must contain a clear ruling on the issues presented in the appeal hearing and should contain a ruling only on questions directly presented by the appeal and the arguments raised in the appeal.

(a) A written decision must be issued within 90 days of the date the person involved requested the appeal unless a shorter time is required by law. An additional 30 days is provided in those cases where the commissioner refuses to accept the recommended decision. In appeals of maltreatment determinations or disqualifications filed pursuant to section 256.045, subdivision 3, paragraph (a), clause (4), (9), or (10), that also give rise to possible licensing actions, the 90-day period for issuing final decisions does not begin until the later of the date that the licensing authority provides notice to the appeals division that the authority has made the final determination in the matter or the date the appellant files the last appeal in the consolidated matters.

(b) The decision must contain both findings of fact and conclusions of law, clearly separated and identified. The findings of fact must be based on the entire record. Each finding of fact made by the appeals referee shall be supported by a preponderance of the evidence unless a different standard is required under the regulations of a particular program. The "preponderance of the evidence" means, in light of the record as a whole, the evidence leads the appeals referee to believe that the finding of fact is more likely to be true than not true. The legal claims or arguments of a participant do not constitute either a finding of fact or a conclusion of law, except to the extent the appeals referee adopts an argument as a finding of fact or conclusion of law.

The decision shall contain at least the following:

(1) a listing of the date and place of the hearing and the participants at the hearing;

(2) a clear and precise statement of the issues, including the dispute under consideration and the specific points which must be resolved in order to decide the case;

(3) a listing of the material, including exhibits, records, reports, placed into evidence at the hearing, and upon which the hearing decision is based;

(4) the findings of fact based upon the entire hearing record. The findings of fact must be adequate to inform the participants and any interested person in the public of the basis of the decision. If the evidence is in conflict on an issue which must be resolved, the findings of fact must state the reasoning used in resolving the conflict;

(5) conclusions of law that address the legal authority for the hearing and the ruling, and which give appropriate attention to the claims of the participants to the hearing;

(6) a clear and precise statement of the decision made resolving the dispute under consideration in the hearing; and

(7) written notice of the right to appeal to district court or to request reconsideration, and of the actions required and the time limits for taking appropriate action to appeal to district court or to request a reconsideration.

(c) The appeals referee shall not independently investigate facts or otherwise rely on information not presented at the hearing. The appeals referee may not contact other agency personnel, except as provided in subdivision 18. The appeals referee's recommended decision must be based exclusively on the testimony and evidence presented at the hearing, and legal arguments presented, and the appeals referee's research and knowledge of the law.

(d) The commissioner will review the recommended decision and accept or refuse to accept the decision according to section 256.045, subdivision 5.

Sec. 8. Minnesota Statutes 2012, section 256.0451, subdivision 24, is amended to read:

Subd. 24. **Reconsideration.** (a) Reconsideration may be requested within 30 days of the date of the commissioner's final order. If reconsideration is requested under section 256.045, subdivision 5, the other participants in the appeal shall be informed of the request. The person seeking reconsideration has the burden to demonstrate why the matter should be reconsidered. The request for reconsideration may include legal argument and may include proposed additional evidence supporting the request. The other participants shall be sent a copy of all material submitted in support of the request for reconsideration and must be given ten days to respond.

~~(a)~~ (b) When the requesting party raises a question as to the appropriateness of the findings of fact, the commissioner shall review the entire record.

~~(b)~~ (c) When the requesting party questions the appropriateness of a conclusion of law, the commissioner shall consider the recommended decision, the decision under reconsideration, and the material submitted in connection with the reconsideration. The commissioner shall review the remaining record as necessary to issue a reconsidered decision.

~~(c)~~ (d) The commissioner shall issue a written decision on reconsideration in a timely fashion. The decision must clearly inform the parties that this constitutes the final administrative decision, advise the participants of the right to seek judicial review, and the deadline for doing so.

Sec. 9. **REVISOR'S INSTRUCTION.**

The revisor is instructed to substitute the term "human services judge" for the term "appeals examiner," "human services referee," "referee," or any similar terms referring to the human services referees appointed by the commissioner of human services under Minnesota Statutes, section 256.045, subdivision 1, wherever they appear in Minnesota Statutes, sections 256.045, 256.0451, 256.046, or elsewhere in Minnesota Statutes.

ARTICLE 2

CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL

Section 1. **[256.999] CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL.**

Subdivision 1. **Establishment; purpose.** There is hereby established the Cultural and Ethnic Communities Leadership Council for the Department of Human Services. The purpose of the council is to advise the commissioner of human services on reducing disparities that affect racial and ethnic groups.

Subd. 2. **Members.** The council must consist of: (1) the chairs of the committees in the house of representatives and the senate with jurisdiction over human services; and (2) no fewer than 15 and no more than 25 members appointed by the commissioner of human services, in consultation with county, tribal, cultural, and ethnic communities; diverse program participants; and parent representatives from these communities.

Subd. 3. **Guidelines.** (a) The commissioner shall direct the development of guidelines defining the membership of the council; setting out definitions; and developing duties of the commissioner, the council, and council members regarding racial and ethnic disparities reduction. The guidelines must be developed in consultation with:

(1) the chairs of relevant committees; and

(2) county, tribal, and cultural communities and program participants from these communities.

(b) Members must be appointed to allow for representation of the following groups:

(1) racial and ethnic minority groups;

(2) tribal service providers;

(3) culturally and linguistically specific advocacy groups and service providers;

(4) human services program participants;

(5) public and private institutions;

(6) parents of human services program participants;

(7) members of the faith community;

(8) Department of Human Services employees; and

(9) any other group the commissioner deems appropriate to facilitate the goals and duties of the council.

Subd. 4. **First appointments and first meeting.** The commissioner shall appoint at least 15 members by September 15, 2013, and shall convene the first meeting of the council by November 15, 2013.

Subd. 5. **Chair.** The commissioner shall appoint a chair.

Subd. 6. **Terms for first appointees.** Seven of the first members shall serve until January 15, 2015. The remainder of the first members shall serve until January 15, 2016.

Subd. 7. **Terms.** Except for the first appointees, a term shall be for one year and appointees can be appointed to serve two terms. The commissioner shall make appointments to replace vacating members by January 15 every year.

Subd. 8. **Compensation.** Members of the council shall receive no compensation for their services.

Subd. 9. **Duties of commissioner.** (a) The commissioner of human services or the commissioner's designee shall:

(1) maintain the council established in this section;

(2) supervise and coordinate policies for persons from racial, ethnic, cultural, linguistic, and tribal communities who experience disparities in access and outcomes;

(3) identify human services rules or statutes affecting persons from racial, ethnic, cultural, linguistic, and tribal communities that may need to be revised;

(4) investigate and implement cost-effective models of service delivery such as careful adaptation of clinically proven services that constitute one strategy for increasing the number of culturally relevant services available to currently underserved populations; and

(5) based on recommendations of the council, review identified department policies that maintain racial, ethnic, cultural, linguistic, and tribal disparities, and make adjustments to ensure those disparities are not perpetuated.

(b) The commissioner of human services or the commissioner's designee shall consult with the council and receive recommendations from the council when meeting the requirements in this subdivision.

Subd. 10. **Duties of council.** The Cultural and Ethnic Communities Leadership Council shall:

(1) recommend to the commissioner for review identified policies in the Department of Human Services that maintain racial, ethnic, cultural, linguistic, and tribal disparities;

(2) identify issues regarding disparities by engaging diverse populations in human services programs;

(3) engage in mutual learning essential for achieving human services parity and optimal wellness for service recipients;

(4) raise awareness about human services disparities to the legislature and media;

(5) provide technical assistance and consultation support to counties, private nonprofit agencies, and other service providers to build their capacity to provide equitable human services for persons from racial, ethnic, cultural, linguistic, and tribal communities who experience disparities in access and outcomes;

(6) provide technical assistance to promote statewide development of culturally and linguistically appropriate, accessible, and cost-effective human services and related policies;

(7) provide training and outreach to facilitate access to culturally and linguistically appropriate, accessible, and cost-effective human services to prevent disparities;

(8) facilitate culturally appropriate and culturally sensitive admissions, continued services, discharges, and utilization review for human services agencies and institutions;

(9) form work groups to help carry out the duties of the council that include, but are not limited to, persons who provide and receive services and representatives of advocacy groups, and provide the work groups with clear guidelines, standardized parameters, and tasks for the work groups to accomplish;

(10) promote information-sharing in the human services community and statewide; and

(11) beginning November 15, 2014, and annually thereafter, prepare and submit a report to the chairs and ranking minority members of the committees in the house of representatives and senate with jurisdiction over human services that summarizes the activities of the council since the last report, identifies the major problems and issues confronting racial and ethnic groups in accessing human services, makes recommendations to address issues, and list the specific objectives that the council seeks to attain during the next biennium.

Subd. 11. **Duties of council members.** The members of the council shall:

(1) attend and participate in scheduled meetings and be prepared by reviewing meeting notes;

(2) maintain open communication channels with respective constituencies;

(3) identify and communicate issues and risks that could impact the timely completion of tasks;

(4) collaborate on disparity reduction efforts;

(5) communicate updates of the council's work progress and status on the Department of Human Services Web site; and

(6) participate in any activities the council or chair deem appropriate and necessary to facilitate the goals and duties of the council.

Subd. 12. **Expiration.** Notwithstanding section 15.059, the council does not expire unless directed by the commissioner.

ARTICLE 3

INTERNAL AUDITS

Section 1. Minnesota Statutes 2012, section 256.017, subdivision 1, is amended to read:

Subdivision 1. **Authority and purpose.** The commissioner shall administer a compliance system for the Minnesota family investment program, the food stamp or food support program, emergency assistance, general assistance, medical assistance, ~~general assistance medical care,~~ emergency general assistance, Minnesota supplemental assistance, preadmission screening, alternative care grants, ~~and~~ the child care assistance program, and all other programs administered by the commissioner or on behalf of the commissioner under the powers and authorities named in section 256.01, subdivision 2. The purpose of the compliance system is to permit the commissioner to supervise the administration of public assistance programs and to enforce timely and accurate distribution of benefits, completeness of service and efficient and effective program management and operations, to increase uniformity and consistency in the administration and delivery of public assistance programs throughout the state, and to reduce the possibility of sanctions and fiscal disallowances for noncompliance with federal regulations and state statutes. The commissioner, or the commissioner's representative, may issue administrative subpoenas as needed in administering the compliance system.

The commissioner shall utilize training, technical assistance, and monitoring activities, as specified in section 256.01, subdivision 2, to encourage county agency compliance with written policies and procedures.

ARTICLE 4

TECHNICAL CHANGES

Section 1. Minnesota Statutes 2012, section 245.4661, subdivision 2, is amended to read:

Subd. 2. **Program design and implementation.** ~~(a)~~ The pilot projects shall be established to design, plan, and improve the mental health service delivery system for adults with serious and persistent mental illness that would:

(1) provide an expanded array of services from which clients can choose services appropriate to their needs;

(2) be based on purchasing strategies that improve access and coordinate services without cost shifting;

(3) incorporate existing state facilities and resources into the community mental health infrastructure through creative partnerships with local vendors; and

(4) utilize existing categorical funding streams and reimbursement sources in combined and creative ways, except appropriations to regional treatment centers and all funds that are attributable to the operation of state-operated services are excluded unless appropriated specifically by the legislature for a purpose consistent with this section or section 246.0136, subdivision 1.

~~(b) All projects funded by January 1, 1997, must complete the planning phase and be operational by June 30, 1997; all projects funded by January 1, 1998, must be operational by June 30, 1998.~~

Sec. 2. Minnesota Statutes 2012, section 245.4661, subdivision 6, is amended to read:

Subd. 6. **Duties of commissioner.** (a) For purposes of the pilot projects, the commissioner shall facilitate integration of funds or other resources as needed and requested by each project. These resources may include:

~~(1) residential services funds administered under Minnesota Rules, parts 9535.2000 to 9535.3000, in an amount to be determined by mutual agreement between the project's managing entity and the commissioner of human services after an examination of the county's historical utilization of facilities located both within and outside of the county and licensed under Minnesota Rules, parts 9520.0500 to 9520.0690;~~

~~(2)~~ (1) community support services funds administered under Minnesota Rules, parts 9535.1700 to 9535.1760;

~~(3)~~ (2) other mental health special project funds;

~~(4)~~ (3) medical assistance, general assistance medical care, MinnesotaCare and group residential housing if requested by the project's managing entity, and if the commissioner determines this would be consistent with the state's overall health care reform efforts; and

~~(5)~~ (4) regional treatment center resources consistent with section 246.0136, subdivision 1.

(b) The commissioner shall consider the following criteria in awarding start-up and implementation grants for the pilot projects:

(1) the ability of the proposed projects to accomplish the objectives described in subdivision 2;

(2) the size of the target population to be served; and

(3) geographical distribution.

(c) The commissioner shall review overall status of the projects initiatives at least every two years and recommend any legislative changes needed by January 15 of each odd-numbered year.

(d) The commissioner may waive administrative rule requirements which are incompatible with the implementation of the pilot project.

(e) The commissioner may exempt the participating counties from fiscal sanctions for noncompliance with requirements in laws and rules which are incompatible with the implementation of the pilot project.

(f) The commissioner may award grants to an entity designated by a county board or group of county boards to pay for start-up and implementation costs of the pilot project.

Sec. 3. Minnesota Statutes 2012, section 245.482, subdivision 5, is amended to read:

Subd. 5. **Commissioner's consolidated reporting recommendations.** The commissioner's reports of February 15, 1990, required under ~~sections 245.461, subdivision 3, and~~ section 245.487, subdivision 4, shall include recommended measures to provide coordinated, interdepartmental efforts to ensure early identification and intervention for children with, or at risk of developing, emotional disturbance, to improve the efficiency of the mental health funding mechanisms, and to standardize and consolidate fiscal and program reporting. The recommended measures must provide that client needs are met in an effective and accountable manner and that state and county resources are used as efficiently as possible. The commissioner shall consider the advice of the state advisory council and the children's subcommittee in developing these recommendations.

Sec. 4. Minnesota Statutes 2012, section 256.01, subdivision 2, is amended to read:

Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall carry out the specific duties in paragraphs (a) through (cc):

(a) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(1) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(2) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(4) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(5) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(7) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(b) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(c) Administer and supervise all child welfare activities; promote the enforcement of laws protecting disabled, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the State Board of Control.

(d) Administer and supervise all noninstitutional service to disabled persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise disabled. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(e) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(f) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(h) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as developmentally disabled. For children under the guardianship of the commissioner or a tribe in Minnesota recognized by the Secretary of the Interior whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs or tribal social services, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative, tribal governing body, or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(j) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(k) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(l) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(1) the secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity; and

(2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

(m) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(n) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(1) one-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or

the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due; and

(2) notwithstanding the provisions of clause (1), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in clause (1), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to clause (1).

(o) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches $1,000,000. When the balance in the account exceeds $1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(p) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(q) Have the authority to establish and enforce the following county reporting requirements:

(1) the commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced;

(2) the county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines

or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner;

(3) if the required reports are not received by the deadlines established in clause (2), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received;

(4) a county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance;

(5) the final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period;

(6) the commissioner may not delay payments, withhold funds, or require repayment under clause (3) or (5) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under clause (3) or (5), the county board may appeal the action according to sections 14.57 to 14.69; and

(7) counties subject to withholding of funds under clause (3) or forfeiture or repayment of funds under clause (5) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under clause (3) or (5).

(r) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample in direct proportion to each county's claim for that period.

(s) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(t) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

~~(u) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.~~

~~(v)~~ (u) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

~~(w)~~ (v) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental rebate contract. Prior authorization of drugs shall be subject to the provisions of section 256B.0625, subdivision 13.

~~(x)~~ (w) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the

commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

~~(y)~~ (x) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

~~(z)~~ (y) Designate community information and referral call centers and incorporate cost reimbursement claims from the designated community information and referral call centers into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Existing information and referral centers provided by Greater Twin Cities United Way or existing call centers for which Greater Twin Cities United Way has legal authority to represent, shall be included in these designations upon review by the commissioner and assurance that these services are accredited and in compliance with national standards. Any reimbursement is appropriated to the commissioner and all designated information and referral centers shall receive payments according to normal department schedules established by the commissioner upon final approval of allocation methodologies from the United States Department of Health and Human Services Division of Cost Allocation or other appropriate authorities.

~~(aa)~~ (z) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

~~(bb)~~ (aa) Authorize the method of payment to or from the department as part of the human services programs administered by the department. This authorization includes the receipt or disbursement of funds held by the department in a fiduciary capacity as part of the human services programs administered by the department.

~~(cc) Have the authority to administer a drug rebate program for drugs purchased for persons eligible for general assistance medical care under section 256D.03, subdivision 3. For manufacturers that agree to participate in the general assistance medical care rebate program, the commissioner shall enter into a rebate agreement for covered drugs as defined in section 256B.0625, subdivisions 13 and 13d. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The manufacturers must provide payment within the terms and conditions used for the federal rebate program established under section 1927 of title XIX of the Social Security Act. The rebate program shall utilize the terms and conditions used for the federal rebate program established under section 1927 of title XIX of the Social Security Act.~~

~~Effective January 1, 2006, drug coverage under general assistance medical care shall be limited to those prescription drugs that:~~

~~(1) are covered under the medical assistance program as described in section 256B.0625, subdivisions 13 and 13d; and~~

~~(2) are provided by manufacturers that have fully executed general assistance medical care rebate agreements with the commissioner and comply with such agreements. Prescription drug coverage under general assistance medical care shall conform to coverage under the medical assistance program according to section 256B.0625, subdivisions 13 to 13g.~~

~~The rebate revenues collected under the drug rebate program are deposited in the general fund.~~

Sec. 5. Minnesota Statutes 2012, section 256B.055, subdivision 12, is amended to read:

Subd. 12. **Disabled children.** (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and the child requires a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with developmental disabilities, for whom home care is appropriate, provided that the cost to medical assistance under this section is not more than the amount that medical assistance would pay for if the child resides in an institution. After the child is determined to be eligible under

this section, the commissioner shall review the child's disability under United States Code, title 42, section 1382c(a) and level of care defined under this section no more often than annually and may elect, based on the recommendation of health care professionals under contract with the state medical review team, to extend the review of disability and level of care up to a maximum of four years. The commissioner's decision on the frequency of continuing review of disability and level of care is not subject to administrative appeal under section 256.045. The county agency shall send a notice of disability review to the enrollee six months prior to the date the recertification of disability is due. Nothing in this subdivision shall be construed as affecting other redeterminations of medical assistance eligibility under this chapter and annual cost-effective reviews under this section.

(b) For purposes of this subdivision, "hospital" means an institution as defined in section 144.696, subdivision 3, 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and licensed pursuant to sections 144.50 to 144.58. For purposes of this subdivision, a child requires a level of care provided in a hospital if the child is determined by the commissioner to need an extensive array of health services, including mental health services, for an undetermined period of time, whose health condition requires frequent monitoring and treatment by a health care professional or by a person supervised by a health care professional, who would reside in a hospital or require frequent hospitalization if these services were not provided, and the daily care needs are more complex than a nursing facility level of care.

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing and chronic psychosis or severe, ongoing and chronic developmental problems requiring continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse. For purposes of this subdivision, a child requires the level of care provided in a nursing facility if the child is determined by the commissioner to meet

the requirements of the preadmission screening assessment document under section 256B.0911, adjusted to address age-appropriate standards for children age 18 and under.

(d) For purposes of this subdivision, "intermediate care facility for persons with developmental disabilities" or "ICF/MR" means a program licensed to provide services to persons with developmental disabilities under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota Department of Health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with developmental disabilities who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs. For purposes of this subdivision, a child requires a level of care provided in an ICF/MR if the commissioner finds that the child has a developmental disability in accordance with section 256B.092, is in need of a 24-hour plan of care and active treatment similar to persons with developmental disabilities, and there is a reasonable indication that the child will need ICF/MR services.

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner and published in March 1997 as the Minnesota Mental Health Level of Care for Children and Adolescents with Severe Emotional Disorders.

(f) The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the parent or guardian, the child's physician or physicians, and other professionals as requested by the commissioner. The commissioner shall establish a screening team to conduct the level of care determinations according to this subdivision.

(g) If a child meets the conditions in paragraph (b), (c), (d), or (e), the commissioner must assess the case to determine whether:

(1) the child qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance if residing in a medical institution; and

(2) the cost of medical assistance services for the child, if eligible under this subdivision, would not be more than the cost to medical assistance if the child resides in a medical institution to be determined as follows:

(i) for a child who requires a level of care provided in an ICF/MR, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICF's/MR;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

~~(h) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1, 1996. Children found to be ineligible may not be removed from the program until January 1, 1996.~~

Sec. 6. Minnesota Statutes 2012, section 256B.056, subdivision 11, is amended to read:

Subd. 11. **Treatment of annuities.** (a) Any person requesting medical assistance payment of long-term care services shall provide a complete description of any interest either the person or the person's spouse has in annuities on a form designated by the department. The form shall include a statement that the state becomes a preferred remainder beneficiary of annuities or similar financial instruments by virtue of the receipt of medical assistance payment of long-term care services. The person and the person's spouse shall furnish the agency responsible for determining eligibility with complete current copies of their annuities and related documents and complete the form designating the state as the preferred remainder beneficiary for each annuity in which the person or the person's spouse has an interest.

(b) The department shall provide notice to the issuer of the department's right under this section as a preferred remainder beneficiary under the annuity or similar financial instrument for medical assistance furnished to the person or the person's spouse, and provide notice of the issuer's responsibilities as provided in paragraph (c).

(c) An issuer of an annuity or similar financial instrument who receives notice of the state's right to be named a preferred remainder beneficiary as described in paragraph (b) shall provide confirmation to the requesting agency that the state has been made a preferred remainder beneficiary. The issuer shall also notify the county agency when a

change in the amount of income or principal being withdrawn from the annuity or other similar financial instrument or a change in the state's preferred remainder beneficiary designation under the annuity or other similar financial instrument occurs. The county agency shall provide the issuer with the name, address, and telephone number of a unit within the department that the issuer can contact to comply with this paragraph.

(d) "Preferred remainder beneficiary" for purposes of this subdivision and sections 256B.0594 and 256B.0595 means the state is a remainder beneficiary in the first position in an amount equal to the amount of medical assistance paid on behalf of the institutionalized person, or is a remainder beneficiary in the second position if the institutionalized person designates and is survived by a remainder beneficiary who is (1) a spouse who does not reside in a medical institution, (2) a minor child, or (3) a child of any age who is blind or permanently and totally disabled as defined in the Supplemental Security Income program. Notwithstanding this paragraph, the state is the remainder beneficiary in the first position if the spouse or child disposes of the remainder for less than fair market value.

(e) For purposes of this subdivision, "institutionalized person" and "long-term care services" have the meanings given in section 256B.0595, subdivision 1, paragraph ~~(h)~~ (g).

(f) For purposes of this subdivision, "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with developmental disabilities, nursing facility, or inpatient hospital.

Sec. 7. Minnesota Statutes 2012, section 256B.057, subdivision 3b, is amended to read:

Subd. 3b. **Qualifying individuals.** Beginning July 1, 1998, contingent upon federal funding, a person who would otherwise be eligible as a qualified Medicare beneficiary under subdivision 3, except that the person's income is in excess of the limit, is eligible as a qualifying individual ~~according to the following criteria:~~.

~~(1)~~ If the person's income is greater than 120 percent, but less than 135 percent of the official federal poverty guidelines for the applicable family size, the person is eligible for medical assistance reimbursement of Medicare Part B premiums~~; or~~.

~~(2) if the person's income is equal to or greater than 135 percent but less than 175 percent of the official federal poverty guidelines for the applicable family size, the person is eligible for medical assistance reimbursement of that portion of the Medicare Part B premium attributable to an increase in Part B expenditures which resulted from the shift of home care services from Medicare Part A to Medicare Part B under Public Law 105-33, section 4732, the Balanced Budget Act of 1997.~~

The commissioner shall limit enrollment of qualifying individuals under this subdivision according to the requirements of Public Law 105-33, section 4732.

Sec. 8. Minnesota Statutes 2012, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. **Prohibited transfers.** ~~(a) For transfers of assets made on or before August 10, 1993, if an institutionalized person or the institutionalized person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security program, within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.~~

~~(b)~~ (a) Effective for transfers made after August 10, 1993, an institutionalized person, an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or institutionalized person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the Supplemental Security Income program, for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person requests medical assistance payment of long-term care services, or 36 months before or any time after a medical assistance recipient becomes an institutionalized person, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the institutionalized person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the institutionalized person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. In the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, or in the case of any other disposal of assets made on or after February 8, 2006, any transfers made within 60 months before or any time after an institutionalized person requests medical assistance payment of long-term care services and within 60 months before or any time after a medical assistance recipient becomes an institutionalized person, may be considered.

~~(c)~~ (b) This section applies to transfers, for less than fair market value, of income or assets, including assets that are considered income in the month received, such as

inheritances, court settlements, and retroactive benefit payments or income to which the institutionalized person or the institutionalized person's spouse is entitled but does not receive due to action by the institutionalized person, the institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or the institutionalized person's spouse.

~~(d)~~ (c) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

~~(e)~~ (d) This section applies to the portion of any asset or interest that an institutionalized person, an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or the institutionalized person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the institutionalized person or institutionalized person's spouse while alive, based on estimated life expectancy as determined according to the current actuarial tables published by the Office of the Chief Actuary of the Social Security Administration. The commissioner may adopt rules reducing life expectancies based on the need for long-term care. This section applies to an annuity purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

~~(f)~~ (e) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, by or on behalf of an institutionalized person who has applied for or is receiving long-term care services or the institutionalized person's spouse shall be treated as the disposal of an asset for less than fair market value unless the department is named a preferred remainder beneficiary as described in section 256B.056, subdivision 11. Any subsequent change to the designation of the department as a preferred remainder beneficiary shall result in the annuity being treated as a disposal of assets for less than fair market value. The amount of such transfer shall be the maximum amount the institutionalized person or the institutionalized person's spouse could receive from

the annuity or similar financial instrument. Any change in the amount of the income or principal being withdrawn from the annuity or other similar financial instrument at the time of the most recent disclosure shall be deemed to be a transfer of assets for less than fair market value unless the institutionalized person or the institutionalized person's spouse demonstrates that the transaction was for fair market value. In the event a distribution of income or principal has been improperly distributed or disbursed from an annuity or other retirement planning instrument of an institutionalized person or the institutionalized person's spouse, a cause of action exists against the individual receiving the improper distribution for the cost of medical assistance services provided or the amount of the improper distribution, whichever is less.

~~(g)~~ (f) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, by or on behalf of an institutionalized person applying for or receiving long-term care services shall be treated as a disposal of assets for less than fair market value unless it is:

(i) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

(ii) purchased with proceeds from:

(A) an account or trust described in subsection (a), (c), or (p) of section 408 of the Internal Revenue Code;

(B) a simplified employee pension within the meaning of section 408(k) of the Internal Revenue Code; or

(C) a Roth IRA described in section 408A of the Internal Revenue Code; or

(iii) an annuity that is irrevocable and nonassignable; is actuarially sound as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration; and provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

~~(h)~~ (g) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with developmental disabilities, and home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with developmental disabilities or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

~~(i)~~ (h) This section applies to funds used to purchase a promissory note, loan, or mortgage unless the note, loan, or mortgage:

(1) has a repayment term that is actuarially sound;

(2) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

(3) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not meet an exception in clauses (1) to (3), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the institutionalized person's request for medical assistance payment of long-term care services.

~~(j)~~ (i) This section applies to the purchase of a life estate interest in another person's home unless the purchaser resides in the home for a period of at least one year after the date of purchase.

~~(k)~~ (j) This section applies to transfers into a pooled trust that qualifies under United States Code, title 42, section 1396p(d)(4)(C), by:

(1) a person age 65 or older or the person's spouse; or

(2) any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of a person age 65 or older or the person's spouse.

Sec. 9. Minnesota Statutes 2012, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. **Period of ineligibility for long-term care services.** ~~(a) For any uncompensated transfer occurring on or before August 10, 1993, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.~~

~~(b)~~ (a) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was reported to the local agency after the date that advance notice of a period of ineligibility that affects the next month could be provided to the recipient and the recipient received medical assistance services or the transfer was not reported to the local agency, and the applicant or recipient received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for that portion of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

(1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer;

(2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or

(3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

~~(c)~~ (b) For uncompensated transfers made on or after February 8, 2006, the period of ineligibility:

(1) for uncompensated transfers by or on behalf of individuals receiving medical assistance payment of long-term care services, begins the first day of the month following advance notice of the period of ineligibility, but no later than the first day of the month that follows three full calendar months from the date of the report or discovery of the transfer; or

(2) for uncompensated transfers by individuals requesting medical assistance payment of long-term care services, begins the date on which the individual is eligible for medical assistance under the Medicaid state plan and would otherwise be receiving long-term care services based on an approved application for such care but for the period of ineligibility resulting from the uncompensated transfer; and

(3) cannot begin during any other period of ineligibility.

~~(d)~~ (c) If a calculation of a period of ineligibility results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction.

~~(e)~~ (d) In the case of multiple fractional transfers of assets in more than one month for less than fair market value on or after February 8, 2006, the period of ineligibility is calculated by treating the total, cumulative, uncompensated value of all assets transferred during all months on or after February 8, 2006, as one transfer.

~~(f)~~ (e) A period of ineligibility established under paragraph ~~(e)~~ (b) may be eliminated if all of the assets transferred for less than fair market value used to calculate the period of ineligibility, or cash equal to the value of the assets at the time of the transfer, are returned. A period of ineligibility must not be adjusted if less than the full amount of the transferred assets or the full cash value of the transferred assets are returned.

Sec. 10. Minnesota Statutes 2012, section 256B.0595, subdivision 4, is amended to read:

Subd. 4. **Other exceptions to transfer prohibition.** (a) An institutionalized person, as defined in subdivision 1, paragraph ~~(h)~~ (g), who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of the following conditions applies:

(1) the assets were transferred to the individual's spouse or to another for the sole benefit of the spouse; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship and grants a waiver of a period of ineligibility

resulting from a transfer for less than fair market value based on an imminent threat to the individual's health and well-being. Imminent threat to the individual's health and well-being means that imposing a period of ineligibility would endanger the individual's health or life or cause serious deprivation of food, clothing, or shelter. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that the applicant or recipient may request a waiver of the period of ineligibility if the denial of eligibility will cause undue hardship. With the written consent of the individual or the personal representative of the individual, a long-term care facility in which an individual is residing may file an undue hardship waiver request, on behalf of the individual who is denied eligibility for long-term care services on or after July 1, 2006, due to a period of ineligibility resulting from a transfer on or after February 8, 2006.

(b) Subject to paragraph (c), when evaluating a hardship waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, whether the individual has taken any action to prevent the designation of the department as a remainder beneficiary on an annuity as described in section 256B.056, subdivision 11, and other factors relevant to a determination of hardship.

(c) In the case of an imminent threat to the individual's health and well-being, the local agency shall approve a hardship waiver of the portion of an individual's period of ineligibility resulting from a transfer of assets for less than fair market value by or to a person:

(1) convicted of financial exploitation, fraud, or theft upon the individual for the transfer of assets; or

(2) against whom a report of financial exploitation upon the individual has been substantiated. For purposes of this paragraph, "financial exploitation" and "substantiated" have the meanings given in section 626.5572.

(d) The local agency shall make a determination within 30 days of the receipt of all necessary information needed to make such a determination. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services provided within:

(1) 30 months of a transfer made on or before August 10, 1993;

(2) 60 months of a transfer if the assets were transferred after August 30, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law;

(3) 36 months of a transfer if transferred in any other manner after August 10, 1993, but prior to February 8, 2006; or

(4) 60 months of any transfer made on or after February 8, 2006,

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action; or

(5) for transfers occurring after August 10, 1993, the assets were transferred by the person or person's spouse: (i) into a trust established for the sole benefit of a son or daughter of any age who is blind or disabled as defined by the Supplemental Security Income program; or (ii) into a trust established for the sole benefit of an individual who is under 65 years of age who is disabled as defined by the Supplemental Security Income program.

"For the sole benefit of" has the meaning found in section 256B.059, subdivision 1.

Sec. 11. Minnesota Statutes 2012, section 256B.0595, subdivision 9, is amended to read:

Subd. 9. **Filing cause of action; limitation.** (a) The county of financial responsibility under chapter 256G may bring a cause of action under any or all of the following:

(1) subdivision 1, paragraph ~~(f)~~ (e);

(2) subdivision 2, ~~paragraphs~~ paragraph (a) ~~and (b)~~;

(3) subdivision 3, paragraph (b);

(4) subdivision 4, paragraph (d); and

(5) subdivision 8

on behalf of the claimant who must be the commissioner.

(b) Notwithstanding any other law to the contrary, a cause of action under subdivision 2, paragraph (a) or (b), or 8, must be commenced within six years of the date the local agency determines that a transfer was made for less than fair market value. Notwithstanding any other law to the contrary, a cause of action under subdivision 3, paragraph (b), or 4, clause (5), must be commenced within six years of the date of approval of a waiver of the penalty period for a transfer for less than fair market value based on undue hardship.

Sec. 12. Minnesota Statutes 2012, section 256D.02, subdivision 12a, is amended to read:

Subd. 12a. **Resident.** (a) For purposes of eligibility for general assistance and general assistance medical care, a person must be a resident of this state.

(b) A "resident" is a person living in the state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. Time spent in a shelter for battered women shall count toward satisfying the 30-day residency requirement. All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:

(1) by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner; or

(2) by verifying residence according to Minnesota Rules, part 9500.1219, subpart 3, item C.

(c) ~~For general assistance medical care, a county agency shall waive the 30-day residency requirement in cases of medical emergencies.~~ For general assistance, a county shall waive the 30-day residency requirement where unusual hardship would result from denial of general assistance. For purposes of this subdivision, "unusual hardship" means the applicant is without shelter or is without available resources for food.

The county agency must report to the commissioner within 30 days on any waiver granted under this section. The county shall not deny an application solely because the applicant does not meet at least one of the criteria in this subdivision, but shall continue to process the application and leave the application pending until the residency requirement is met or until eligibility or ineligibility is established.

(d) For purposes of paragraph (c), the following definitions apply (1) "metropolitan statistical area" is as defined by the United States Census Bureau; (2) "shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the applicant is eligible, provided the applicant does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(e) Migrant workers as defined in section 256J.08 and, until March 31, 1998, their immediate families are exempt from the residency requirements of this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least $1,000 in gross wages during the time the migrant worker worked in this state.

(f) For purposes of eligibility for emergency general assistance, the 30-day residency requirement under this section shall not be waived.

(g) If any provision of this subdivision is enjoined from implementation or found unconstitutional by any court of competent jurisdiction, the remaining provisions shall remain valid and shall be given full effect.

Sec. 13. Minnesota Statutes 2012, section 256J.30, subdivision 8, is amended to read:

Subd. 8. **Late MFIP household report forms.** (a) Paragraphs (b) to (e) apply to the reporting requirements in subdivision 7.

(b) When the county agency receives an incomplete MFIP household report form, the county agency must immediately return the incomplete form and clearly state what the caregiver must do for the form to be complete.

(c) The automated eligibility system must send a notice of proposed termination of assistance to the assistance unit if a complete MFIP household report form is not received by a county agency. The automated notice must be mailed to the caregiver by approximately the 16th of the month. When a caregiver submits an incomplete form on or after the date a notice of proposed termination has been sent, the termination is valid unless the caregiver submits a complete form before the end of the month.

(d) An assistance unit required to submit an MFIP household report form is considered to have continued its application for assistance if a complete MFIP household report form is received within a calendar month after the month in which the form was due and assistance shall be paid for the period beginning with the first day of that calendar month.

(e) A county agency must allow good cause exemptions from the reporting requirements under ~~subdivisions~~ subdivision 5 ~~and 6~~ when any of the following factors cause a caregiver to fail to provide the county agency with a completed MFIP household report form before the end of the month in which the form is due:

(1) an employer delays completion of employment verification;

(2) a county agency does not help a caregiver complete the MFIP household report form when the caregiver asks for help;

(3) a caregiver does not receive an MFIP household report form due to mistake on the part of the department or the county agency or due to a reported change in address;

(4) a caregiver is ill, or physically or mentally incapacitated; or

(5) some other circumstance occurs that a caregiver could not avoid with reasonable care which prevents the caregiver from providing a completed MFIP household report form before the end of the month in which the form is due.

Sec. 14. Minnesota Statutes 2012, section 256J.30, subdivision 9, is amended to read:

Subd. 9. **Changes that must be reported.** A caregiver must report the changes or anticipated changes specified in clauses (1) to (16) within ten days of the date they occur, at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or within eight calendar days of a reporting period as in subdivision 5 ~~or 6~~, whichever occurs first. A caregiver must report other changes at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or at the end of a reporting period under

subdivision 5 ~~or 6~~, as applicable. A caregiver must make these reports in writing to the county agency. When a county agency could have reduced or terminated assistance for one or more payment months if a delay in reporting a change specified under clauses (1) to (15) had not occurred, the county agency must determine whether a timely notice under section 256J.31, subdivision 4, could have been issued on the day that the change occurred. When a timely notice could have been issued, each month's overpayment subsequent to that notice must be considered a client error overpayment under section 256J.38. Calculation of overpayments for late reporting under clause (16) is specified in section 256J.09, subdivision 9. Changes in circumstances which must be reported within ten days must also be reported on the MFIP household report form for the reporting period in which those changes occurred. Within ten days, a caregiver must report:

(1) a change in initial employment;

(2) a change in initial receipt of unearned income;

(3) a recurring change in unearned income;

(4) a nonrecurring change of unearned income that exceeds $30;

(5) the receipt of a lump sum;

(6) an increase in assets that may cause the assistance unit to exceed asset limits;

(7) a change in the physical or mental status of an incapacitated member of the assistance unit if the physical or mental status is the basis for reducing the hourly participation requirements under section 256J.55, subdivision 1, or the type of activities included in an employment plan under section 256J.521, subdivision 2;

(8) a change in employment status;

(9) information affecting an exception under section 256J.24, subdivision 9;

(10) the marriage or divorce of an assistance unit member;

(11) the death of a parent, minor child, or financially responsible person;

(12) a change in address or living quarters of the assistance unit;

(13) the sale, purchase, or other transfer of property;

(14) a change in school attendance of a caregiver under age 20 or an employed child;

(15) filing a lawsuit, a workers' compensation claim, or a monetary claim against a third party; and

(16) a change in household composition, including births, returns to and departures from the home of assistance unit members and financially responsible persons, or a change in the custody of a minor child.

Sec. 15. Minnesota Statutes 2012, section 256J.37, subdivision 3a, is amended to read:

Subd. 3a. **Rental subsidies; unearned income.** (a) Effective July 1, 2003, the county agency shall count $50 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than $50. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

(1) age 60 or older;

(2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and severely limits the person's ability to obtain or maintain suitable employment; or

(3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified by a qualified professional and is expected to continue for more than 30 days.

(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the parental caregiver is an SSI recipient.

~~(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.~~

Sec. 16. Minnesota Statutes 2012, section 256J.395, subdivision 1, is amended to read:

Subdivision 1. **Vendor payment.** (a) Effective July 1, 1997, when a county is required to provide assistance to a participant in vendor form for shelter costs and utilities under this chapter~~,~~ or chapter ~~256,~~ 256D, ~~or 256K,~~ the cost of utilities for a given family may be assumed to be:

(1) the average of the actual monthly cost of utilities for that family for the prior 12 months at the family's current residence, if applicable;

(2) the monthly plan amount, if any, set by the local utilities for that family at the family's current residence; or

(3) the estimated monthly utility costs for the dwelling in which the family currently resides.

(b) For purposes of this section, "utility" means any of the following: municipal water and sewer service; electric, gas, or heating fuel service; or wood, if that is the heating source.

(c) In any instance where a vendor payment for rent is directed to a landlord not legally entitled to the payment, the county social services agency shall immediately institute proceedings to collect the amount of the vendored rent payment, which shall be considered a debt under section 270A.03, subdivision 5.

Sec. 17. Minnesota Statutes 2012, section 256J.575, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** (a) The following MFIP participants are eligible for the services under this section:

(1) a participant who meets the requirements for or has been granted a hardship extension under section 256J.425, subdivision 2 or 3, except that it is not necessary for the participant to have reached or be approaching 60 months of eligibility for this section to apply;

(2) a participant who is applying for Supplemental Security Income or Social Security disability insurance;

(3) a participant who is a noncitizen who has been in the United States for 12 or fewer months; and

(4) a participant who is age 60 or older.

~~(b) Families must meet all other eligibility requirements for MFIP established in this chapter. Families are eligible for financial assistance to the same extent as if they were participating in MFIP.~~

~~(c)~~ (b) A participant under paragraph (a), clause (3), must be provided with English as a second language opportunities and skills training for up to 12 months. After 12 months, the case manager and participant must determine whether the participant should continue with English as a second language classes or skills training, or both, and continue to receive family stabilization services.

~~(d)~~ (c) If a county agency or employment services provider has information that an MFIP participant may meet the eligibility criteria set forth in this subdivision, the

county agency or employment services provider must assist the participant in obtaining the documentation necessary to determine eligibility.

Sec. 18. Minnesota Statutes 2012, section 256J.626, subdivision 6, is amended to read:

Subd. 6. **Base allocation to counties and tribes; definitions.** (a) For purposes of this section, the following terms have the meanings given.

(1) "2002 historic spending base" means the commissioner's determination of the sum of the reimbursement related to fiscal year 2002 of county or tribal agency expenditures for the base programs listed in clause (6), items (i) through (iv), and earnings related to calendar year 2002 in the base program listed in clause (6), item (v), and the amount of spending in fiscal year 2002 in the base program listed in clause (6), item (vi), issued to or on behalf of persons residing in the county or tribal service delivery area.

(2) "Adjusted caseload factor" means a factor weighted:

(i) 47 percent on the MFIP cases in each county at four points in time in the most recent 12-month period for which data is available multiplied by the county's caseload difficulty factor; and

(ii) 53 percent on the count of adults on MFIP in each county and tribe at four points in time in the most recent 12-month period for which data is available multiplied by the county or tribe's caseload difficulty factor.

(3) "Caseload difficulty factor" means a factor determined by the commissioner for each county and tribe based upon the self-support index described in section 256J.751, subdivision 2, clause (6).

(4) "Initial allocation" means the amount potentially available to each county or tribe based on the formula in paragraphs (b) through (d).

(5) "Final allocation" means the amount available to each county or tribe based on the formula in paragraphs (b) through (d), after adjustment by subdivision 7.

(6) "Base programs" means the:

(i) MFIP employment and training services under Minnesota Statutes 2002, section 256J.62, subdivision 1, in effect June 30, 2002;

(ii) bilingual employment and training services to refugees under Minnesota Statutes 2002, section 256J.62, subdivision 6, in effect June 30, 2002;

(iii) work literacy language programs under Minnesota Statutes 2002, section 256J.62, subdivision 7, in effect June 30, 2002;

(iv) supported work program authorized in Laws 2001, First Special Session chapter 9, article 17, section 2, in effect June 30, 2002;

(v) administrative aid program under section 256J.76 in effect December 31, 2002; and

(vi) emergency assistance program under Minnesota Statutes 2002, section 256J.48, in effect June 30, 2002.

(b) The commissioner shall~~:~~

~~(1) beginning July 1, 2003, determine the initial allocation of funds available under this section according to clause (2);~~

~~(2) allocate all of the funds available for the period beginning July 1, 2003, and ending December 31, 2004, to each county or tribe in proportion to the county's or tribe's share of the statewide 2002 historic spending base;~~

~~(3) determine for calendar year 2005 the initial allocation of funds to be made available under this section in proportion to the county or tribe's initial allocation for the period of July 1, 2003, to December 31, 2004;~~

~~(4) determine for calendar year 2006 the initial allocation of funds to be made available under this section based 90 percent on the proportion of the county or tribe's share of the statewide 2002 historic spending base and ten percent on the proportion of the county or tribe's share of the adjusted caseload factor;~~

~~(5) determine for calendar year 2007 the initial allocation of funds to be made available under this section based 70 percent on the proportion of the county or tribe's share of the statewide 2002 historic spending base and 30 percent on the proportion of the county or tribe's share of the adjusted caseload factor; and~~

~~(6)~~ determine for calendar year 2008 and subsequent years the initial allocation of funds to be made available under this section based 50 percent on the proportion of the county or tribe's share of the statewide 2002 historic spending base and 50 percent on the proportion of the county or tribe's share of the adjusted caseload factor.

(c) With the commencement of a new or expanded tribal TANF program or an agreement under section 256.01, subdivision 2, paragraph (g), in which some or all of the responsibilities of particular counties under this section are transferred to a tribe, the commissioner shall:

(1) in the case where all responsibilities under this section are transferred to a tribal program, determine the percentage of the county's current caseload that is transferring to a tribal program and adjust the affected county's allocation accordingly; and

(2) in the case where a portion of the responsibilities under this section are transferred to a tribal program, the commissioner shall consult with the affected county or counties to determine an appropriate adjustment to the allocation.

(d) Effective January 1, 2005, counties and tribes will have their final allocations adjusted based on the performance provisions of subdivision 7.

Sec. 19. Minnesota Statutes 2012, section 256J.626, subdivision 7, is amended to read:

Subd. 7. **Performance base funds.** (a) For the purpose of this section, the following terms have the meanings given.

(1) "Caseload Reduction Credit" (CRC) means the measure of how much Minnesota TANF and separate state program caseload has fallen relative to federal fiscal year 2005 based on caseload data from October 1 to September 30.

(2) "TANF participation rate target" means a 50 percent participation rate reduced by the CRC for the previous year.

(b) ~~For calendar year 2010 and yearly thereafter,~~ Each county and tribe will be allocated 95 percent of their initial calendar year allocation. Counties and tribes will be allocated additional funds based on performance as follows:

(1) a county or tribe that achieves the TANF participation rate target or a five percentage point improvement over the previous year's TANF participation rate under section 256J.751, subdivision 2, clause (7), as averaged across 12 consecutive months for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation;

(2) a county or tribe that performs within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(3) a county or tribe that does not achieve the TANF participation rate target or a five percentage point improvement over the previous year's TANF participation rate under section 256J.751, subdivision 2, clause (7), as averaged across 12 consecutive months for the most recent year for which the measurements are available, will not receive an additional 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner; or

(4) a county or tribe that does not perform within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will not receive an additional allocation equal to 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner.

(c) For calendar year 2009 and yearly thereafter, performance-based funds for a federally approved tribal TANF program in which the state and tribe have in place a contract under section 256.01, addressing consolidated funding, will be allocated as follows:

(1) a tribe that achieves the participation rate approved in its federal TANF plan using the average of 12 consecutive months for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(2) a tribe that performs within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to 2.5 percent of its initial allocation; or

(3) a tribe that does not achieve the participation rate approved in its federal TANF plan using the average of 12 consecutive months for the most recent year for which the measurements are available, will not receive an additional allocation equal to 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner; or

(4) a tribe that does not perform within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will not receive an additional allocation equal to 2.5 percent until after negotiating a multiyear improvement plan with the commissioner.

(d) Funds remaining unallocated after the performance-based allocations in paragraph (b) are available to the commissioner for innovation projects under subdivision 5.

(1) If available funds are insufficient to meet county and tribal allocations under paragraph (b), the commissioner may make available for allocation funds that are unobligated and available from the innovation projects through the end of the current biennium.

(2) If after the application of clause (1) funds remain insufficient to meet county and tribal allocations under paragraph (b), the commissioner must proportionally reduce the allocation of each county and tribe with respect to their maximum allocation available under paragraph (b).

Sec. 20. Minnesota Statutes 2012, section 256J.72, subdivision 1, is amended to read:

Subdivision 1. **Nondisplacement protection.** For job assignments under jobs programs established under this chapter or chapter 256, or 256D, ~~or 256K,~~ the county agency must provide written notification to and obtain the written concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under

collective bargaining agreements and ensure that no work assignment under this chapter or chapter 256~~,~~ or 256D~~, or 256K~~ results in:

(1) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section;

(2) the hiring of an individual if any other person is on layoff, including seasonal layoff, from the same or a substantially equivalent job;

(3) any infringement of the promotional opportunities of any currently employed individual;

(4) the impairment of existing contract for services of collective bargaining agreements; or

(5) a participant filling an established unfilled position vacancy, except for on-the-job training.

The written notification must be provided to the appropriate exclusive bargaining representatives at least 14 days in advance of placing recipients in temporary public service employment. The notice must include the number of individuals involved, their work locations and anticipated hours of work, a summary of the tasks to be performed, and a description of how the individuals will be trained and supervised.

Sec. 21. Minnesota Statutes 2012, section 256J.72, subdivision 3, is amended to read:

Subd. 3. **Status of participant.** A participant may not work in a temporary public service or community service job for a public employer for more than 67 working days or 536 hours, whichever is greater, as part of a work program established under this chapter, ~~or~~ chapter 256, or chapter 256D~~, or 256K~~. A participant who exceeds the time limits in this subdivision is a public employee, as that term is used in chapter 179A. Upon the written request of the exclusive bargaining representative, a county or public service employer shall make available to the affected exclusive bargaining representative a report of hours worked by participants in temporary public service or community service jobs.

Sec. 22. **REPEALER.**

Minnesota Statutes 2012, sections 245.461, subdivision 3; 245.463, subdivisions 1, 3, and 4; 256.01, subdivisions 2a, 13, and 23a; 256B.0185; 256D.02, subdivision 4a; 256J.575, subdivision 4; 256J.74, subdivision 4; and 256L.04, subdivision 9, are repealed.

APPENDIX
Article locations in S0872-3

245.461 POLICY AND CITATION.

Subd. 3. **Report.** By February 15, 1988, and annually after that until February 15, 1994, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

245.463 PLANNING FOR A MENTAL HEALTH SYSTEM.

Subdivision 1. **Planning effort.** Starting on the effective date of sections 245.461 to 245.486 and ending June 30, 1988, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide mental health system. The system must be planned and developed by stages until it is operating at full capacity.

Subd. 3. **Report on increase in community-based residential programs.** The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.

Subd. 4. **Review of funding.** The commissioner shall complete a review of funding for mental health services and make recommendations for any changes needed. The commissioner shall submit a report on the review and recommendations to the legislature by January 31, 1991.

256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.

Subd. 2a. **Authorization for test sites for health care programs.** In coordination with the development and implementation of HealthMatch, an automated eligibility system for medical assistance, general assistance medical care, and MinnesotaCare, the commissioner, in cooperation with county agencies, is authorized to test and compare a variety of administrative models to demonstrate and evaluate outcomes of integrating health care program business processes and points of access. The models will be evaluated for ease of enrollment for health care program applicants and recipients and administrative efficiencies. Test sites will combine the administration of all three programs and will include both local county and centralized statewide customer assistance. The duration of each approved test site shall be no more than one year. Based on the evaluation, the commissioner shall recommend the most efficient and effective administrative model for statewide implementation.

Subd. 13. **Pilot project; protocols for persons lacking proficiency in English.** The commissioner of human services shall establish pilot projects in Hennepin and Ramsey Counties to provide language assistance to clients applying for or receiving aid through the county social service agency. The projects shall be designed to provide translation, in the five foreign languages that are most common to applicants and recipients in the pilot counties, to individuals lacking proficiency in English, who are applying for or receiving assistance under any program supervised by the commissioner of human services. As part of the project, the commissioner shall ensure that the Combined Application Form (CAF) is available in these five languages. The projects shall also provide language assistance to individuals applying for or receiving aid under programs which the department of human services operates jointly with other executive branch agencies, including all work and training programs operated under this chapter and chapter 256D. The purpose of the pilot projects is to ensure that information regarding a program is presented in translation to applicants for and recipients of assistance who lack proficiency in English. In preparing the protocols to be used in the pilot programs, the commissioner shall seek input from the following groups: advocacy organizations that represent non-English-speaking clients, county social service agencies, legal advocacy groups, employment and training providers, and other affected groups. The commissioner shall develop the protocols by October 1, 1995, and shall implement them as soon as feasible in the pilot counties. The commissioner shall report to the legislature by February 1, 1996, on the protocols developed, on the status of their implementation in the pilot counties, and shall include recommendations for statewide implementation.

Subd. 23a. **Administration of publicly funded health care programs.** (a) The commissioner of human services, in cooperation with the representatives of county human services agencies and with input from organizations that advocate on behalf of families and children, shall develop a plan that, to the extent feasible, seeks to align standards, income and

asset methodologies, and procedures for families and children under medical assistance and MinnesotaCare. The commissioner shall evaluate the impact of different approaches toward alignment on the number of potential medical assistance and MinnesotaCare enrollees who are families and children, and on administrative, health care, and other costs to the state. The commissioner shall present recommendations to the legislative committees with jurisdiction over health care by September 15, 2010.

(b) The commissioner shall report in detail to the chair of the Health Care and Human Services Finance Committee of the house of representatives and to the chair of the Health and Human Services Division of the Finance Committee of the senate, prior to entering into any contracts involving counties for streamlined electronic enrollment and eligibility determinations for publicly funded health care programs, if such contracts would require payment from either the general fund, or the health care access fund, as described in sections 295.58 and 297I.05.

256B.0185 REQUIRED REPORT.

Subdivision 1. **Pending application.** By December 15 of both 2005 and 2006, the commissioner must deliver to the legislature a report that identifies:

(1) each county in which an application for medical assistance from a person identified as residing in a long-term care facility is or was pending, at any time between January 1 and December 1 of the calendar year to which the report relates, for more than 60 days in the case of a person who is disabled, or for more than 45 days in the case of a person who is age 65 or older; and

(2) for each of the identified counties: the number of applications described in clause (1), the average number of days the applications were pending, the distribution of days for applications that were pending, and what percentage of the applications, respectively, the county approved and denied.

Subd. 2. **Time to process application.** The report must include specific recommendations for how counties, as a group, could shorten the time it takes to act on the applications described in subdivision 1, clause (1).

256D.02 DEFINITIONS.

Subd. 4a. **General assistance medical care.** "General assistance medical care" means payment of all or part of the cost of medical care and services approved by the commissioner pursuant to section 256D.03, subdivision 3, for individuals whose income and resources are insufficient to meet the cost of care.

256J.575 FAMILY STABILIZATION SERVICES.

Subd. 4. **Universal participation.** All caregivers must participate in family stabilization services as defined in subdivision 2, except for caregivers exempt under section 256J.561, subdivision 3.

256J.74 RELATIONSHIP TO OTHER PROGRAMS.

Subd. 4. **Medical assistance.** Medical assistance eligibility for MFIP participants shall be determined as described in chapter 256B.

256L.04 ELIGIBLE PERSONS.

Subd. 9. **General assistance medical care.** A person cannot have coverage under both MinnesotaCare and general assistance medical care in the same month. Eligibility for MinnesotaCare cannot be replaced by eligibility for general assistance medical care, and eligibility for general assistance medical care cannot be replaced by eligibility for MinnesotaCare.