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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 4336

03/16/2026 Authored by Roach, Rymer, Davis, Schultz, Gordon and others
The bill was read for the first time and referred to the Committee on Children and Families Finance and Policy

A bill for an act

relating to children; repealing the child care assistance program; repealing Minnesota Statutes 2024, sections 13.461, subdivisions 7b, 28; 142C.01; 142C.02; 142C.03; 142C.04; 142C.05; 142C.06, subdivisions 1, 2, 3; 142C.07; 142C.08; 142C.09; 142C.10; 142C.11, subdivisions 1, 2, 3, 4, 5, 6, 7, 9, 10; 142C.12, subdivisions 2, 3, 4, 5, 7; 142C.13; 142C.14; 142C.15; 142C.16; 142C.17; 142C.18; 142E.01, subdivisions 2, 3, 6, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 23, 24, 25, 27, 28; 142E.02, subdivisions 1, 2, 3, 4, 5, 6, 7, 9; 142E.021; 142E.03, subdivisions 1, 2, 4, 5, 6; 142E.04; 142E.05; 142E.06; 142E.07; 142E.08; 142E.09; 142E.10; 142E.11, subdivisions 3, 4; 142E.12; 142E.13, subdivision 1; 142E.14; 142E.15, subdivision 2; 142E.16, subdivisions 1, 2, 4, 5, 6, 8, 9; 142E.17, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 10; 142E.18; 142E.19, subdivision 4; 142E.50, subdivisions 1, 4, 7; 142E.51, subdivisions 1, 3, 4, 7; 142E.52; 142E.53; 142E.54; 142E.55; 142E.56, subdivisions 1, 2; 142E.57; 142G.21, subdivision 12; Minnesota Statutes 2025 Supplement, sections 142C.06, subdivision 4; 142C.11, subdivision 8; 142C.12, subdivisions 1, 6; 142E.01, subdivisions 5a, 8a, 8b, 15a, 17a, 19a, 19b, 22a, 23a, 26; 142E.03, subdivision 3; 142E.11, subdivisions 1, 2; 142E.13, subdivision 2; 142E.15, subdivision 1; 142E.16, subdivisions 3, 7; 142E.17, subdivision 9; 142E.19, subdivisions 1, 2, 3; 142E.20; 142E.51, subdivisions 2, 5, 6, 6a.

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

Section 1. **REVISOR INSTRUCTION.**

The revisor of statutes must identify, in consultation with the House Research Department; Senate Counsel, Research and Fiscal Analysis; and the commissioner of children, youth, and families, all of the statutory changes necessary to remove references to the child care assistance program and the sections and subdivisions repealed by this act. By February 1, 2027, the revisor of statutes must submit to the chairs and ranking minority members of relevant legislative committees and divisions draft legislation with the statutory changes necessary to implement this act.

Sec. 2. **REPEALER.**

(a) Minnesota Statutes 2024, sections 13.461, subdivisions 7b and 28; 142C.01; 142C.02; 142C.03; 142C.04; 142C.05; 142C.06, subdivisions 1, 2, and 3; 142C.07; 142C.08; 142C.09; 142C.10; 142C.11, subdivisions 1, 2, 3, 4, 5, 6, 7, 9, and 10; 142C.12, subdivisions 2, 3, 4, 5, and 7; 142C.13; 142C.14; 142C.15; 142C.16; 142C.17; 142C.18; 142E.01, subdivisions 2, 3, 6, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 23, 24, 25, 27, and 28; 142E.02, subdivisions 1, 2, 3, 4, 5, 6, 7, and 9; 142E.021; 142E.03, subdivisions 1, 2, 4, 5, and 6; 142E.04; 142E.05; 142E.06; 142E.07; 142E.08; 142E.09; 142E.10; 142E.11, subdivisions 3 and 4; 142E.12; 142E.13, subdivision 1; 142E.14; 142E.15, subdivision 2; 142E.16, subdivisions 1, 2, 4, 5, 6, 8, and 9; 142E.17, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, and 10; 142E.18; 142E.19, subdivision 4; 142E.50, subdivisions 1, 4, and 7; 142E.51, subdivisions 1, 3, 4, and 7; 142E.52; 142E.53; 142E.54; 142E.55; 142E.56, subdivisions 1 and 2; 142E.57; and 142G.21, subdivision 12, are repealed.

(b) Minnesota Statutes 2025 Supplement, sections 142C.06, subdivision 4; 142C.11, subdivision 8; 142C.12, subdivisions 1 and 6; 142E.01, subdivisions 5a, 8a, 8b, 15a, 17a, 19a, 19b, 22a, 23a, and 26; 142E.03, subdivision 3; 142E.11, subdivisions 1 and 2; 142E.13, subdivision 2; 142E.15, subdivision 1; 142E.16, subdivisions 3 and 7; 142E.17, subdivision 9; 142E.19, subdivisions 1, 2, and 3; 142E.20; and 142E.51, subdivisions 2, 5, 6, and 6a, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2027.

13.461 HUMAN SERVICES DATA CODED ELSEWHERE.

Subd. 7b. **Child care provider and recipient fraud investigations.** Data related to child care fraud and recipient fraud investigations are governed by section 142E.58.

Subd. 28. **Child care assistance program.** Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance are classified under section 142E.02, subdivision 6, paragraph (a). Child care assistance program payment data is classified under section 142E.02, subdivision 6, paragraph (b).

142C.01 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given in this section.

Subd. 2. **Applicant.** "Applicant" means an individual or organization that is subject to certification under this chapter and that applied for but is not yet granted certification under this chapter.

Subd. 3. **Authorized agent.** "Authorized agent" means the individual designated by the certification holder who is responsible for communicating with the commissioner of children, youth, and families regarding all items pursuant to this chapter.

Subd. 4. **Center operator or program operator.** "Center operator" or "program operator" means the person exercising supervision or control over the center's or program's operations, planning, and functioning.

Subd. 5. **Certification holder.** "Certification holder" means the individual or organization that is legally responsible for the operation of the center, and granted certification by the commissioner under this chapter.

Subd. 6. **Certified license-exempt child care center.** "Certified license-exempt child care center" means the commissioner's written authorization for a child care center excluded from licensure under section 142B.05, subdivision 2, paragraph (a), clause (3), (7) to (9), (15), (18), (26), or (30), to register to receive child care assistance payments under chapter 142E.

Subd. 7. **Disinfecting.** "Disinfecting" means the use of a product capable of destroying or inactivating harmful germs, except bacterial spores, consistent with label directions on environmental surfaces including bathroom toilets and floors, diaper-changing surfaces, and surfaces exposed to blood or other bodily fluids.

Subd. 8. **Infant.** "Infant" means a child who is at least six weeks old but less than 16 months old.

Subd. 9. **Preschooler.** "Preschooler" means a child who is at least 33 months old but who has not yet attended the first day of kindergarten.

Subd. 10. **School-age child.** "School-age child" means a child who is of sufficient age to have attended the first day of kindergarten or is eligible to enter kindergarten within four months and who:

(1) is no more than 13 years old;

(2) is 14 years old and has a disability and is eligible for child care assistance under chapter 142E;

(3) is eligible for child care assistance until redetermination under section 142E.10, subdivision 1, paragraph (e); or

(4) attends a certified center that serves only school-age children in a setting that has no students enrolled in a grade higher than 8th grade.

Subd. 11. **Staff person.** "Staff person" means an employee of a certified center who provides direct contact services to children.

Subd. 12. **Substitute.** "Substitute" means an adult who is temporarily filling a position as a staff person for less than 240 hours total in a calendar year due to the absence of a regularly employed staff person who provides direct contact services to a child.

Subd. 13. **Toddler.** "Toddler" means a child who is at least 16 months old but less than 33 months old.

Subd. 14. **Unsupervised volunteer.** "Unsupervised volunteer" means an individual who: (1) assists in the care of a child in care; (2) is not under the continuous direct supervision of a staff person; and (3) is not employed by the certified center.

142C.02 WHO MUST BE CERTIFIED.

A program that is exempt from licensure under section 142B.05, subdivision 2, paragraph (a), clause (3), (7) to (10), (12), (16), or (18), must be a certified license-exempt child care center according to this section to receive child care assistance payments under chapter 142E.

142C.03 APPLICATION PROCEDURES.

Subdivision 1. **Schedule.** The certification of license-exempt child care centers shall be implemented by September 30, 2017. Certification applications shall be received and processed on a phased-in schedule as determined by the commissioner.

Subd. 2. **Application submission.** The commissioner shall provide application instructions and information about the rules and requirements of other state agencies that affect the applicant. The certification application must be submitted in a manner prescribed by the commissioner. Upon implementation of the provider licensing and reporting hub, applicants must use the hub in the manner prescribed by the commissioner. The commissioner shall act on the application within 90 working days of receiving a completed application.

Subd. 3. **Incomplete applications.** When the commissioner receives an application for initial certification that is incomplete because the applicant failed to submit required documents or is deficient because the documents submitted do not meet certification requirements, the commissioner shall provide the applicant written notice that the application is incomplete or deficient. In the notice, the commissioner shall identify documents that are missing or deficient and give the applicant 45 days to resubmit a second application that is complete. An applicant's failure to submit a complete application after receiving notice from the commissioner is basis for certification denial.

Subd. 4. **Reconsideration of certification denial.** (a) The applicant may request reconsideration of the denial by notifying the commissioner by certified mail, by personal service, or through the provider licensing and reporting hub. The request must be made in writing. If sent by certified mail, the request must be postmarked and sent to the commissioner within 20 calendar days after the applicant received the order. If a request is made by personal service, it must be received by the commissioner within 20 calendar days after the applicant received the order. If the order is issued through the provider hub, the request must be received by the commissioner within 20 calendar days from the date the commissioner issued the order through the hub. The applicant may submit with the request for reconsideration a written argument or evidence in support of the request for reconsideration.

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

Subd. 5. **Notification required.** (a) A certification holder must notify the commissioner, in a manner prescribed by the commissioner, and obtain the commissioner's approval before making any changes:

(1) to the certification holder as defined in section 142C.01, subdivision 5;

(2) to the authorized agent as defined in section 142C.01, subdivision 3;

(3) to the certification holder information on file with the secretary of state or Department of Revenue;

(4) in the location of the program certified under this chapter;

(5) to the ages of children served by the program; or

(6) to the certified center's schedule including its:

(i) yearly schedule;

(ii) hours of operation; or

(iii) days of the week it is open.

(b) When, for reasons beyond the certification holder's control, a certification holder cannot provide the commissioner with prior notice of the changes in paragraph (a), the certification holder

must notify the commissioner by the tenth business day after the change and must provide any additional information requested by the commissioner.

(c) When a certification holder notifies the commissioner of a change to the certification holder information on file with the secretary of state, the certification holder must provide documentation of the change.

(d) Upon implementation of the provider licensing and reporting hub, certification holders must enter and update information in the hub in a manner prescribed by the commissioner.

142C.04 COMMISSIONER'S RIGHT OF ACCESS.

(a) When the commissioner is exercising the powers conferred by this chapter, whenever the center is in operation and the information is relevant to the commissioner's inspection or investigation, the commissioner must be given access to:

(1) the physical facility and grounds where the program is provided;

(2) documentation and records, including electronically maintained records;

(3) children served by the center; and

(4) staff and personnel records of current and former staff.

(b) The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is investigating alleged maltreatment or a violation of a law or rule, or conducting an inspection. When conducting an inspection, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or certification holder shall allow the commissioner, at the commissioner's expense, to photocopy, photograph, and make audio and video recordings during an inspection.

142C.05 MONITORING AND INSPECTIONS.

(a) The commissioner must conduct an on-site inspection of a certified license-exempt child care center at least once each calendar year to determine compliance with the health, safety, and fire standards specific to a certified license-exempt child care center.

(b) The commissioner shall make publicly available on the department's website the results of inspection reports for all certified centers including the number of deaths, serious injuries, and instances of substantiated child maltreatment that occurred in certified centers each year.

142C.06 CORRECTION ORDER.

Subdivision 1. **Correction order and conditional certification requirements.** (a) If the applicant or certification holder fails to comply with a law or rule, the commissioner may issue a correction order. The correction order must state:

(1) the condition that constitutes a violation of the law or rule;

(2) the specific law or rule violated; and

(3) the time allowed to correct each violation.

(b) If the applicant or certification holder fails to comply with a law or rule, the commissioner may issue a conditional certification. When issuing a conditional certification, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program. The conditional order must state:

(1) the conditions that constitute a violation of the law or rule;

(2) the specific law or rule violated;

(3) the time allowed to correct each violation; and

(4) the length and terms of the conditional certification, and the reasons for making the certification conditional.

(c) Nothing in this section prohibits the commissioner from decertifying a center under section 142C.07 before issuing a correction order or conditional certification.

(d) The commissioner may issue a correction order or conditional certification to the applicant or certification holder through the provider licensing and reporting hub.

Subd. 2. **Reconsideration request.** (a) If the applicant or certification holder believes that the commissioner's correction order or conditional certification is erroneous, the applicant or certification holder may ask the commissioner to reconsider the part of the correction order or conditional certification that is allegedly erroneous. A request for reconsideration must be made in writing and postmarked or submitted through the provider licensing and reporting hub and sent to the commissioner within 20 calendar days after the applicant or certification holder received the correction order or conditional certification, and must:

(1) specify the part of the correction order or conditional certification that is allegedly erroneous;

(2) explain why the specified part is erroneous; and

(3) include documentation to support the allegation of error.

(b) A request for reconsideration of a correction order does not stay any provision or requirement of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal.

(c) A timely request for reconsideration of a conditional certification shall stay imposition of the terms of the conditional certification until the commissioner issues a decision on the request for reconsideration.

(d) Upon implementation of the provider licensing and reporting hub, the provider must use the hub to request reconsideration. If the order is issued through the provider hub, the request must be received by the commissioner within 20 calendar days from the date the commissioner issued the order through the hub.

Subd. 3. **Decertification following a correction order.** (a) If the commissioner finds that the applicant or certification holder failed to correct the violation specified in the correction order, the commissioner may decertify the license-exempt center pursuant to section 142C.07.

(b) Nothing in this section prohibits the commissioner from decertifying a center according to section 142C.07.

Subd. 4. **Requirement to post conditional certification.** Upon receipt of any order of conditional certification issued by the commissioner under this section, and notwithstanding a pending request for reconsideration of the order of conditional certification by the certification holder, the certification holder shall post the order of conditional certification in a place that is conspicuous to the people receiving services and all visitors to the facility for the duration of the conditional certification. When the order of conditional certification is accompanied by a maltreatment investigation memorandum prepared under chapter 260E, the investigation memoranda must be posted with the order of conditional certification.

142C.07 DECERTIFICATION.

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

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

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

(3) has authorization to receive child care assistance payments revoked pursuant to chapter 142E.

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

(c) When a center is decertified, the center is ineligible to receive a child care assistance payment under chapter 142E.

(d) The commissioner may issue a decertification order to a certification holder through the provider licensing and reporting hub.

Subd. 2. **Reconsideration of decertification.** (a) The certification holder may request reconsideration of the decertification by notifying the commissioner by certified mail, by personal

service, or through the provider licensing and reporting hub. The request must be made in writing. If sent by certified mail, the request must be postmarked and sent to the commissioner within 20 calendar days after the certification holder received the order. If a request is made by personal service, it must be received by the commissioner within 20 calendar days after the certification holder received the order. If the order is issued through the provider hub, the request must be received by the commissioner within 20 calendar days from the date the commissioner issued the order through the hub. With the request for reconsideration, the certification holder may submit a written argument or evidence in support of the request for reconsideration.

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

Subd. 3. **Decertification due to maltreatment.** If the commissioner decertifies a center pursuant to subdivision 1, paragraph (a), clause (1), based on a determination that the center was responsible for maltreatment, and if the center requests reconsideration of the decertification according to subdivision 2, paragraph (a), and appeals the maltreatment determination under section 260E.33, the final decertification determination is stayed until the commissioner issues a final decision regarding the maltreatment appeal.

Subd. 4. **Decertification due to revocation of child care assistance.** If the commissioner decertifies a center that had payments revoked pursuant to chapter 142E, and if the center appeals the revocation of the center's authorization to receive child care assistance payments, the final decertification determination is stayed until the appeal of the center's authorization under chapter 142E is resolved. If the center also requests reconsideration of the decertification, the center must do so according to subdivision 2, paragraph (a). The final decision on reconsideration is stayed until the appeal of the center's authorization under chapter 142E is resolved.

142C.08 STAFFING REQUIREMENTS.

Subdivision 1. **Staffing requirements.** (a) Except as provided in paragraph (b), during hours of operation, a certified center must have a director on site who is responsible for overseeing implementation of written policies relating to the management and control of the daily activities of the program, ensuring the health and safety of program participants, and supervising staff and volunteers.

(b) When the director is absent, a certified center must designate a staff person who is at least 18 years old to fulfill the director's responsibilities under this subdivision to ensure continuity of program oversight. The designee does not have to meet the director qualifications in subdivision 2 but must be aware of their designation and responsibilities under this subdivision.

Subd. 2. **Director qualifications.** The director must be 18 years of age or older and have completed at least 16 hours of training in any of the following topic areas: child development and learning; developmentally appropriate learning experiences; relationships with families; assessment, evaluation, and individualization; historical and contemporary development of early childhood education; professionalism; and health, safety, and nutrition.

Subd. 3. **Staff qualifications.** A staff person must be 16 years of age or older before providing direct, unsupervised care to a child.

Subd. 4. **Maximum group size.** (a) For an infant, the maximum group size is eight children.

(b) For a toddler, the maximum group size is 14 children.

(c) For a preschooler, the maximum group size is 20 children.

(d) For a school-age child, the maximum group size is 30 children.

(e) The maximum group size applies at all times except during group activity coordination time not exceeding 15 minutes, during a meal, outdoor activity, field trip, nap and rest, and special activity including a film, guest speaker, indoor large muscle activity, or holiday program.

Subd. 5. **Ratios.** (a) The minimally acceptable staff-to-child ratios are:

infants	1:4
toddlers	1:7
preschoolers	1:10
school-age children	1:15

(b) For mixed-age groups, the ratio for the age group of the youngest child applies.

142C.09 BACKGROUND STUDIES.

(a) The applicant or certification holder must submit a completed background study for each child care background study subject as defined in section 245C.02, subdivision 6a.

(b) To be accepted for certification, a background study on every individual applying for certification must be completed under chapter 245C and result in a not disqualified determination under section 245C.14 or a disqualification that was set aside under section 245C.22.

142C.10 REPORTING.

(a) The certification holder must comply and must have written policies for staff to comply with the reporting requirements for abuse and neglect specified in chapter 260E. A person mandated to report physical or sexual child abuse or neglect occurring within a certified center shall report the information to the commissioner.

(b) The certification holder must inform the commissioner within 24 hours of:

(1) the death of a child in the program; and

(2) any injury to a child in the program that required treatment by a physician, advanced practice registered nurse, or physician assistant.

142C.11 HEALTH AND SAFETY REQUIREMENTS.

Subdivision 1. **Exclusion of sick children and infectious disease outbreak control.** (a) A certified center must supervise and isolate a child from other children in the program when a child becomes sick and immediately notify the sick child's parent or legal guardian.

(b) A certified center must post or give notice to the parent or legal guardian of an exposed child the same day the program is notified of a child's contagious reportable disease specified in Minnesota Rules, part 4605.7040, or scabies, impetigo, ringworm, or chicken pox.

Subd. 2. **Immunizations.** By a child's date of attendance, the certified center must maintain or have access to a record detailing the child's current immunizations or applicable exemption.

Subd. 3. **Administration of medication.** (a) A certified center that chooses to administer medicine must meet the requirements in this subdivision.

(b) The certified center must obtain written permission from the child's parent or legal guardian before administering prescription medicine, nonprescription medicine, diapering product, sunscreen lotion, and insect repellent.

(c) The certified center must administer nonprescription medicine, diapering product, sunscreen lotion, and insect repellent according to the manufacturer's instructions unless provided written instructions by a licensed health professional to use a product differently.

(d) The certified center must obtain and follow written instructions from the prescribing health professional before administering prescription medicine. Medicine with the child's first and last name and current prescription information on the label is considered written instructions.

(e) The certified center must ensure all prescription and nonprescription medicine is:

(1) kept in the medicine's original container with a legible label stating the child's first and last name;

(2) given only to the child whose name is on the label;

(3) not given after an expiration date on the label; and

(4) returned to the child's parent or legal guardian or destroyed, if unused.

(f) The certified center must document in the child's record the administration of prescription and nonprescription medication, including the child's first and last name; the name of the medication or prescription number; the date, time, and dosage; and the name and signature of the person who administered the medicine. This documentation must be available to the child's parent or legal guardian.

(g) The certified center must store prescription and nonprescription medicines, insect repellents, and diapering products according to directions on the original container.

Subd. 4. **Preventing and responding to allergies.** (a) Before admitting a child for care, the certified center must obtain documentation of any known allergies from the child's parent or legal guardian. The certified center must maintain current allergy information in each child's record. The allergy information must include:

(1) a description of the allergy, specific triggers, avoidance techniques, and symptoms of an allergic reaction; and

(2) procedures for responding to an allergic reaction, including medication, dosages, and a doctor's contact information.

(b) The certified center must inform staff of each child's current allergy information. At least annually and when a change is made to allergy-related information in a child's record, the certified center must inform staff of any change. Documentation that staff were informed of the child's current allergy information must be kept on site.

(c) A child's allergy information must be available at all times including on site, when on field trips, or during transportation. Food allergy information must be readily available to staff in the area where food is prepared and served to the child.

Subd. 5. **Building and physical premises; free of hazards.** (a) To be accepted for certification, the applicant must demonstrate compliance with the State Fire Code, section 299F.011, by either:

(1) providing documentation of a fire marshal inspection completed within the previous three years by a state fire marshal or a local fire code inspector trained by the state fire marshal; or

(2) complying with the fire marshal inspection requirements according to section 142B.44.

(b) The certified center must designate a primary indoor and outdoor space used for child care on a facility site floor plan.

(c) The certified center must ensure the areas used by a child are clean and in good repair, with structurally sound and functional furniture and equipment that is appropriate to the age and size of a child who uses the area.

(d) The certified center must ensure hazardous items including but not limited to sharp objects, medicines, cleaning supplies, poisonous plants, and chemicals are out of reach of a child.

(e) The certified center must safely handle and dispose of bodily fluids and other potentially infectious fluids by using gloves, disinfecting surfaces that come in contact with potentially infectious bodily fluids, and disposing of bodily fluid in a securely sealed plastic bag.

Subd. 6. **Transporting children.** (a) If a certified center chooses to transport a child, the certified center must ensure that the driver of the vehicle holds a valid driver's license, appropriate to the vehicle driven.

(b) If a certified center chooses to transport a child, the center must comply with all seat belt and child passenger restraint system requirements under sections 169.685 and 169.686.

Subd. 7. **Risk reduction plan.** (a) The certified center must develop a risk reduction plan that identifies risks to children served by the child care center. The assessment of risk must include risks presented by (1) the physical plant where the certified services are provided, including electrical hazards; and (2) the environment, including the proximity to busy roads and bodies of water.

(b) The certification holder must establish policies and procedures to minimize identified risks. After any change to the risk reduction plan, the certification holder must inform staff of the change in the risk reduction plan and document that staff were informed of the change.

(c) If middle-school-age children are enrolled in the center and combined with elementary children, the certification holder must establish policies and procedures to ensure adequate supervision as defined in subdivision 10 when children are grouped together.

Subd. 8. **Required policies.** A certified center must have written policies for health and safety items in subdivisions 1 to 6, 9, and 10.

Subd. 9. **Behavior guidance.** The certified center must ensure that staff and volunteers use positive behavior guidance and do not subject children to:

(1) corporal punishment, including but not limited to rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, hitting, and spanking;

(2) humiliation;

(3) abusive language;

(4) the use of mechanical restraints, including tying;

(5) the use of physical restraints other than to physically hold a child when containment is necessary to protect a child or others from harm;

(6) prone restraints, as prohibited by section 245A.211; or

(7) the withholding or forcing of food and other basic needs.

Subd. 10. **Supervision.** Staff must supervise each child at all times. Staff are responsible for the ongoing activity of each child, appropriate visual or auditory awareness, physical proximity, and knowledge of activity requirements and each child's needs. Staff must intervene when necessary to ensure a child's safety. In determining the appropriate level of supervision of a child, staff must consider: (1) the age of a child; (2) individual differences and abilities; (3) indoor and outdoor layout of the child care program; and (4) environmental circumstances, hazards, and risks.

142C.12 TRAINING REQUIREMENTS.

Subdivision 1. **First aid and cardiopulmonary resuscitation.** (a) Before having unsupervised direct contact with a child, but within 90 days after the first date of direct contact with a child, the director, all staff persons, substitutes, and unsupervised volunteers must successfully complete pediatric first aid and pediatric cardiopulmonary resuscitation (CPR) training, unless the training has been completed within the previous two calendar years. Staff must complete the pediatric first aid and pediatric CPR training at least every other calendar year and the center must document the training in the staff person's personnel record.

(b) Training completed under this subdivision may be used to meet the in-service training requirements under subdivision 6.

(c) Training must include CPR and techniques for providing immediate care to people experiencing life-threatening cardiac emergencies, choking, bleeding, fractures and sprains, head injuries, poisoning, and burns. Training developed by the American Heart Association, the American Red Cross, or another organization that uses nationally recognized, evidence-based guidelines meets these requirements.

Subd. 2. **Sudden unexpected infant death.** A certified center that cares for an infant who is younger than one year of age must ensure that the director, all staff persons, including substitutes, unsupervised volunteers, and any other volunteers receive training according to section 142B.46 on reducing the risk of sudden unexpected infant death before assisting in the care of an infant.

Subd. 3. **Abusive head trauma.** A certified center that cares for a child under school age must ensure that the director and all staff persons, including substitutes and unsupervised volunteers, receive training on abusive head trauma before assisting in the care of a child under school age.

Subd. 4. **Child development.** Before having unsupervised direct contact with a child, but within 90 days after the first date of direct contact with a child, the director, all staff persons, substitutes, and unsupervised volunteers must complete child development and learning training. Child development and learning training must be repeated every second calendar year thereafter. The director and staff persons not including substitutes must complete at least two hours of training on child development. The training for substitutes and unsupervised volunteers is not required to be of a minimum length. For purposes of this subdivision, "child development and learning training" means how a child develops physically, cognitively, emotionally, and socially and learns as part of the child's family, culture, and community.

Subd. 5. **Orientation.** The certified center must ensure the director and all staff persons, substitutes, and unsupervised volunteers are trained at orientation on health and safety requirements in this section and sections 142C.10, 142C.11, and 142C.13. The certified center must provide orientation within 14 days after the first date of direct contact with a child. Before the completion of orientation, these individuals must be supervised while providing direct care to a child.

Subd. 6. **In-service training.** (a) The certified center must ensure that the director and all staff persons, including substitutes and unsupervised volunteers, are trained at least once each calendar year on health and safety requirements in this section and sections 142C.10, 142C.11, and 142C.13.

(b) The director and each staff person, not including substitutes, must complete at least six hours of training each calendar year. Substitutes must complete at least two hours of training each calendar

year. Training required under paragraph (a) may be used toward the hourly training requirements of this subdivision.

Subd. 7. **Documentation.** A certified center must document the date of a completed training required by this section in the personnel record of each staff person.

142C.13 EMERGENCY PREPAREDNESS.

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

(b) The plan must include:

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

(2) a designated relocation site and evacuation route;

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

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

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

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

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

(8) accommodations for infants and toddlers.

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

Subd. 2. **Staff person training.** The certification holder must train a staff person at orientation and at least once each calendar year on the emergency plan and document training in each personnel file. The certified center must conduct at least quarterly one evacuation drill and one shelter-in-place drill. The date and time of the drills must be documented.

142C.14 PERSONNEL RECORD.

The certification holder must maintain a personnel record for each staff person at the program that must contain:

(1) the staff person's name, home address, telephone number, and date of birth;

(2) documentation that the staff person completed training required by section 142C.12;

(3) documentation of the date the program initiated a background study for the staff person; and

(4) documentation of the date the staff person first had direct contact and access to a child while supervised, and the date the staff person first had direct contact and access to a child while unsupervised.

142C.15 CERTIFICATION STANDARDS.

The commissioner shall regularly consult with stakeholders for input related to implementing the standards in this chapter.

142C.16 PARENTAL ACCESS.

An enrolled child's parent or legal guardian must be allowed access to the parent's or legal guardian's child at any time while the child is in care.

142C.17 PRONE RESTRAINT PROHIBITION.

Programs certified under this chapter must comply with the requirements of section 245A.211.

142C.18 CHILDREN'S RECORDS.

(a) A certification holder must maintain a record for each child enrolled in the certification holder's program. The record must contain:

(1) the child's full name, birth date, and home address;

(2) the name and telephone number of the child's parents or legal guardians;

(3) the name and telephone number of at least one emergency contact person other than the child's parents who can be reached in an emergency or when there is an injury requiring medical attention and who is authorized to pick up the child; and

(4) the names and telephone numbers of any additional persons authorized by the parents or legal guardians to pick up the child from the center.

(b) The certification holder must maintain in the child's record and ensure that during all hours of operation staff can access the following information:

(1) immunization information as required under section 121A.15 and Minnesota Rules, chapter 4604;

(2) medication administration documentation as required under section 142C.11, subdivision 3; and

(3) documentation of any known allergy as required under section 142C.11, subdivision 4.

142E.01 DEFINITIONS.

Subd. 2. **Applicant.** "Child care fund applicants" means all parents; stepparents; legal guardians; eligible relative caregivers; relative custodians who accepted a transfer of permanent legal and physical custody of a child under section 260C.515, subdivision 4, or similar permanency disposition in Tribal code; successor custodians or guardians as established by section 142A.605, subdivision 10; or foster parents providing care to a child placed in a family foster home under section 260C.007, subdivision 16b. Applicants must be members of the family and reside in the household that applies for child care assistance under the child care fund.

Subd. 3. **Application.** "Application" means the submission to a county agency, by or on behalf of a family, of a completed, signed, and dated:

(1) child care assistance universal application form; or

(2) child care addendum form in combination with a combined application form for MFIP or Supplemental Nutrition Assistance Program (SNAP) benefits.

Subd. 5a. **Child care assistance program.** "Child care assistance program" means any of the assistance programs under this chapter.

Subd. 6. **Child care fund.** "Child care fund" means a program under this chapter providing:

(1) financial assistance for child care to parents engaged in employment, job search, or education and training leading to employment, or an at-home infant child care subsidy; and

(2) grants to develop, expand, and improve the access and availability of child care services statewide.

Subd. 8a. **Controlling individual.** "Controlling individual" has the meaning given in section 142B.01, subdivision 8.

Subd. 8b. **County.** "County" means a local county child care assistance program staff or subcontracted staff, or a county investigator acting on behalf of the commissioner.

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

Subd. 11. **Diversionary work program.** "Diversionary work program" means the program established under section 142G.90.

Subd. 12. **Education program.** "Education program" means remedial or basic education or English as a second language instruction, a program leading to a commissioner of education-selected high school equivalency certification or high school diploma, postsecondary programs excluding postbaccalaureate programs, and other education and training needs as documented in an employment plan, as defined in subdivision 13. The employment plan must outline education and training needs

of a recipient, meet state requirements for employment plans, meet the requirements of this chapter, and Minnesota Rules, parts 3400.0010 to 3400.0230, and meet the requirements of programs that provide federal reimbursement for child care services.

Subd. 13. **Employment plan.** "Employment plan" means employment of recipients financially eligible for child care assistance, or other work activities defined under section 142G.50, approved in an employability development, job search support plan, or employment plan that is developed by the county agency, if it is acting as an employment and training service provider, or by an employment and training service provider certified by the commissioner of employment and economic development or an individual designated by the county to provide employment and training services. The plans and designation of a service provider must meet the requirements of this chapter and chapter 142G or 256K, Minnesota Rules, parts 3400.0010 to 3400.0230, and other programs that provide federal reimbursement for child care services.

Subd. 14. **Family.** "Family" means parents; stepparents; guardians and their spouses; other eligible relative caregivers and their spouses; relative custodians who accepted a transfer of permanent legal and physical custody of a child under section 260C.515, subdivision 4, or similar permanency disposition in Tribal code, and their spouses; successor custodians or guardians as established by section 142A.605, subdivision 10, and their spouses; foster parents providing care to a child placed in a family foster home under section 260C.007, subdivision 16b, and their spouses; and the blood-related dependent children and adoptive siblings under the age of 18 years living in the same home as any of the above. Family includes children temporarily absent from the household in settings such as schools, foster care, and residential treatment facilities and adults temporarily absent from the household in settings such as schools, military service, or rehabilitation programs. An adult family member who is not in an authorized activity under this chapter may be temporarily absent for up to 60 days. When a minor parent or parents and his, her, or their child or children are living with other relatives, and the minor parent or parents apply for a child care subsidy, "family" means only the minor parent or parents and their child or children. An adult age 18 or older who meets this definition of family and is a full-time high school or postsecondary student may be considered a dependent member of the family unit if 50 percent or more of the adult's support is provided by the parents; stepparents; guardians and their spouses; relative custodians who accepted a transfer of permanent legal and physical custody of a child under section 260C.515, subdivision 4, or similar permanency disposition in Tribal code, and their spouses; successor custodians or guardians as established by section 142A.605, subdivision 10, and their spouses; foster parents providing care to a child placed in a family foster home under section 260C.007, subdivision 16b, and their spouses; or eligible relative caregivers and their spouses residing in the same household.

Subd. 15. **Family stabilization services.** "Family stabilization services" means the services under section 142G.75.

Subd. 15a. **Financial misconduct or misconduct.** "Financial misconduct" or "misconduct" means an entity's or individual's acts or omissions that result in fraud and abuse or error against the Department of Children, Youth, and Families. Financial misconduct includes acting as a recruiter offering conditional employment on behalf of a provider that has received funds from the child care assistance program.

Subd. 16. **Homeless.** "Homeless" means a self-declared housing status as defined in the McKinney-Vento Homeless Assistance Act and United States Code, title 42, section 11302, paragraph (a).

Subd. 17. **Human services board.** "Human services board" means a board established under section 402.02, Laws 1974, chapter 293, or Laws 1976, chapter 340.

Subd. 17a. **Identify.** "Identify" means to furnish the full name, current or last known address, phone number, and email address of the individual or business entity.

Subd. 18. **Income.** "Income" means earned income as defined under section 256P.01, subdivision 3; unearned income as defined under section 256P.01, subdivision 8; income under Minnesota Rules, part 3400.0170; and public assistance cash benefits, including the Minnesota family investment program, work benefit, Minnesota supplemental aid, general assistance, refugee cash assistance, at-home infant child care subsidy payments, and child support and maintenance distributed to the family under section 518A.81, subdivision 2a.

The following are deducted from income: funds used to pay for health insurance premiums for family members, and child or spousal support paid to or on behalf of a person or persons who live outside of the household. Income sources not included in this subdivision; section 256P.06, subdivision 3; and Minnesota Rules, part 3400.0170, are not counted as income.

Subd. 19a. **License holder.** "License holder" has the meaning given in section 142B.01, subdivision 17.

Subd. 19b. **Mail.** "Mail" means the use of any mail service with proof of delivery and receipt.

Subd. 21. **Postsecondary educational systems.** "Postsecondary educational systems" means the University of Minnesota Board of Regents and the Board of Trustees of the Minnesota State Colleges and Universities.

Subd. 22a. **Recipient.** "Recipient" means a family receiving assistance as defined under subdivision 14.

Subd. 23. **Recoupment of overpayments.** "Recoupment of overpayments" means the reduction of child care assistance payments to an eligible family or a child care provider in order to correct an overpayment of child care assistance.

Subd. 23a. **Recruiter offering conditional employment.** "Recruiter offering conditional employment" means a child care provider, center owner, director, manager, license holder, or other controlling individual or agent who, for pecuniary gain, directly procures or solicits an applicant or a prospective employee and requires as a condition of employment that the applicant or prospective employee has one or more children who are eligible for or receive child care assistance.

Subd. 24. **Registration.** "Registration" means the process used by the commissioner to determine whether the provider selected by a family applying for or receiving child care assistance to care for that family's children meets the requirements necessary for payment of child care assistance for care provided by that provider. The commissioner shall create a process for statewide registration by April 28, 2025.

Subd. 25. **Service period.** "Service period" means the biweekly period used by the child care assistance program for billing and payment purposes.

Subd. 26. **Student parent.** "Student parent" means a person who is:

(1) under 21 years of age and has a child;

(2) pursuing a high school diploma or commissioner of education-selected high school equivalency certification;

(3) residing within a county that has a basic sliding fee waiting list under section 142E.04, subdivision 4; and

(4) not an MFIP participant.

Subd. 27. **Transition year extension families.** "Transition year extension families" means families who have completed their transition year of child care assistance under this subdivision and who are eligible for, but on a waiting list for, services under section 142E.04. For purposes of sections 142E.04, subdivision 3, and 142E.08, subdivision 1, clause (2), families participating in extended transition year shall not be considered transition year families. Notwithstanding Minnesota Rules, parts 3400.0040, subpart 10, and 3400.0090, subpart 2, transition year extension child care may be used to support employment, approved education or training programs, or a job search that meets the requirements of section 142E.12 for the length of time necessary for families to be moved from the basic sliding fee waiting list into the basic sliding fee program.

Subd. 28. **Transition year families.** "Transition year families" means families who have received MFIP assistance, who were eligible to receive MFIP assistance after choosing to discontinue receipt of the cash portion of MFIP assistance under section 142G.21, subdivision 12, or who have received DWP assistance under section 142G.90 for at least one of the last six months before losing eligibility for MFIP or DWP. Notwithstanding Minnesota Rules, parts 3400.0040, subpart 10, and 3400.0090, subpart 2, transition year child care may be used to support employment, approved education or training programs, or job search that meets the requirements of section 142E.12. Transition year child care is not available to families who have been disqualified from MFIP or DWP due to fraud.

142E.02 DUTIES OF COMMISSIONER.

Subdivision 1. **Child care services.** The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The rules

shall provide that funds received as a lump-sum payment of child support arrearages shall not be counted as income to a family in the month received but shall be prorated over the 12 months following receipt and added to the family income during those months. The commissioner shall maximize the use of federal money under title I and title IV of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

Subd. 2. **Contractual agreements with tribes.** The commissioner may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs under sections 142E.04 and 142E.08. An agreement may allow the state to make payments for child care assistance services provided under section 142E.08. 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 child care services. Funding to support services under section 142E.04 may be transferred to the federally recognized Indian tribe with a reservation in Minnesota from allocations available to counties in which reservation boundaries lie. When funding is transferred under section 142E.04, the amount shall be commensurate to estimates of the proportion of reservation residents with characteristics identified in section 142E.04, subdivision 6, to the total population of county residents with those same characteristics.

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

Subd. 4. **Universal application form.** The commissioner must develop and make available to all counties a universal application form for child care assistance under this chapter. The commissioner may develop and make available to all counties a child care addendum form to be used to supplement the combined application form for MFIP or Supplemental Nutrition Assistance Program (SNAP) benefits or to supplement other statewide application forms for public assistance programs for families applying for one of these programs in addition to child care assistance. The application must provide notice of eligibility requirements for assistance and penalties for wrongfully obtaining assistance.

Subd. 5. **Program integrity.** For child care assistance programs under this chapter, the commissioner shall enforce the requirements for program integrity and fraud prevention investigations under sections 256.046, 256.98, and 256.983.

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

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

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

(2) when the commissioner or county agency either:

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

(ii) refused a child care authorization, revoked a child care authorization, stopped payment, or denied payment for a bill for the center under section 142E.17, subdivision 9, paragraph (d); or

(iii) made a finding of financial misconduct under section 142E.51.

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

Subd. 9. **Administrative expenses.** The commissioner shall use up to 1/21 of the state and federal funds available for the basic sliding fee program and 1/21 of the state and federal funds available for the MFIP child care program for payments to counties for administrative expenses. The commissioner shall make monthly payments to each county based on direct service expenditures. Payments may be withheld if monthly reports are incomplete or untimely.

142E.021 AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER PERIODS.

The commissioner may waive requirements under this chapter for up to nine months after the disaster in areas where a federal disaster has been declared under United States Code, title 42, section 5121, et seq., or the governor has exercised authority under chapter 12. The commissioner may waive requirements retroactively from the date of the disaster. The commissioner shall notify the chairs of the house of representatives and senate committees with jurisdiction over this chapter and the house of representatives Ways and Means Committee within five business days after the commissioner grants a waiver under this section.

142E.03 DUTIES OF COUNTIES.

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

(1) identity of adults;

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

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

(4) age;

(5) immigration status, if related to eligibility;

(6) Social Security number, if given;

(7) counted income;

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

(9) residence; and

(10) inconsistent information, if related to eligibility.

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

(c) For an applicant who declares that the applicant is homeless and who meets the definition of homeless in section 142E.01, subdivision 16, the county must:

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

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

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

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

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

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

Subd. 2. **Social Security numbers.** The county must request Social Security numbers from all applicants for child care assistance under this chapter. A county may not deny child care assistance solely on the basis of failure of an applicant to report a Social Security number.

Subd. 3. **Redeterminations.** (a) Notwithstanding Minnesota Rules, part 3400.0180, item A, the county shall conduct a redetermination according to paragraphs (b) and (c).

(b) The county shall use the redetermination form developed by the commissioner. The county must verify the factors listed in subdivision 1, paragraph (a), as part of the redetermination.

(c) An applicant's eligibility must be redetermined no more frequently than every 12 months. The following criteria apply:

(1) a family meets the eligibility redetermination requirements if a complete redetermination form and all required verifications are received within 30 days after the date the form was due;

(2) if the 30th day after the date the form was due falls on a Saturday, Sunday, or holiday, the 30-day time period is extended to include the next day that is not a Saturday, Sunday, or holiday. Assistance shall be payable retroactively from the redetermination due date;

(3) for a family where at least one parent is younger than 21 years of age, does not have a high school degree or commissioner of education-selected high school equivalency certification, and is a student in a school district or another similar program that provides or arranges for child care, parenting, social services, career and employment supports, and academic support to achieve high school graduation, the redetermination of eligibility may be deferred beyond 12 months, to the end of the student's school year;

(4) starting May 25, 2026, if a new eligible child is added to the family and has care authorized, the redetermination of eligibility must be extended 12 months from the eligible child's arrival date; and

(5) a family and the family's providers must be notified that the family's redetermination is due at least 45 days before the end of the family's 12-month eligibility period.

Subd. 4. **Changes in eligibility.** (a) The county shall process a change in eligibility factors according to paragraphs (b) to (g).

(b) A family is subject to the reporting requirements in section 256P.07, subdivision 6.

(c) If a family reports a change or a change is known to the agency before the family's regularly scheduled redetermination, the county must act on the change. The commissioner shall establish standards for verifying a change.

(d) A change in income occurs on the day the participant received the first payment reflecting the change in income.

(e) During a family's 12-month eligibility period, if the family's income increases and remains at or below 85 percent of the state median income, adjusted for family size, there is no change to the family's eligibility. The county shall not request verification of the change. The co-payment fee shall not increase during the remaining portion of the family's 12-month eligibility period.

(f) During a family's 12-month eligibility period, if the family's income increases and exceeds 85 percent of the state median income, adjusted for family size, the family is not eligible for child care assistance. The family must be given 15 calendar days to provide verification of the change. If the required verification is not returned or confirms ineligibility, the family's eligibility ends following a subsequent 15-day adverse action notice.

(g) Notwithstanding Minnesota Rules, parts 3400.0040, subpart 3, and 3400.0170, subpart 1, if an applicant or participant reports that employment ended, the agency may accept a signed statement from the applicant or participant as verification that employment ended.

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

Subd. 6. **Extension of employment opportunities.** The county board shall ensure that child care services available to eligible residents are well advertised and that everyone who receives or applies for MFIP assistance is informed of training and employment opportunities and programs, including child care assistance and child care resource and referral services.

142E.04 BASIC SLIDING FEE PROGRAM.

Subdivision 1. **Notice of allocation.** By October 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.

Subd. 2. **Waiting list.** Each county that receives funds under this section must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy or have requested child care assistance. Counties shall perform a preliminary determination of eligibility when a family requests child care assistance. At a minimum, a county must make a preliminary determination of eligibility based on family size, income, and authorized activity. A family seeking child care assistance must provide the required information to the county. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. The waiting list must identify students in need of child care. Counties must review and update their waiting list at least every six months.

Subd. 3. **Eligible participants.** Families that meet the eligibility requirements under sections 142E.10 and 142E.12, except MFIP participants and transition year families, are eligible for child care assistance under the basic sliding fee program. Families enrolled in the basic sliding fee program shall be continued until they are no longer eligible. Child care assistance provided through the child care fund is considered assistance to the parent.

Subd. 4. **Funding priorities.** (a) In the event that inadequate funding necessitates the use of waiting lists, priority for child care assistance under the basic sliding fee assistance program shall be determined according to this subdivision.

(b) First priority must be given to eligible non-MFIP families who do not have a high school diploma or commissioner of education-selected high school equivalency certification or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. This includes student parents as defined under section 142E.01, subdivision 26. Within this priority, the following subpriorities must be used:

(1) child care needs of minor parents;

(2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

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

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

(e) Fourth priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 10.

(f) Fifth priority must be given to eligible families receiving services under section 142E.01, subdivision 27, if the parents have completed their MFIP transition year.

(g) Families under paragraph (f) must be added to the basic sliding fee waiting list on the date they complete their transition year under section 142E.01, subdivision 28.

Subd. 5. **Review of use of funds; reallocation.** (a) After each quarter, the commissioner shall review the use of basic sliding fee program allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full allocation or may allow a county to expend up to ten percent of its allocation in the subsequent allocation period.

(b) Any unexpended state and federal appropriations from the first year of the biennium may be carried forward to the second year of the biennium.

Subd. 6. **Allocation formula.** The allocation component of basic sliding fee state and federal funds shall be allocated on a calendar year basis. Funds shall be allocated first in amounts equal to each county's guaranteed floor according to subdivision 9, with any remaining available funds allocated according to the following formula:

(a) One-fourth of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

(b) Up to one-fourth of the funds shall be allocated in proportion to the number of families participating in the transition year child care program as reported during and averaged over the most recent six months completed at the time of the notice of allocation. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (e).

(c) Up to one-half of the funds shall be allocated in proportion to the average of each county's most recent 12 months of reported waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (e).

(d) The amount necessary to serve all families in paragraphs (b) and (c) shall be calculated based on the basic sliding fee average cost of care per family in the county with the highest cost in the most recently completed calendar year.

(e) Funds in excess of the amount necessary to serve all families in paragraphs (b) and (c) shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

Subd. 7. **Allocation due to increased funding.** When funding increases are implemented within a calendar year, every county must receive an allocation at least equal to its original allocation for the same time period. The remainder of the allocation must be recalculated to reflect the funding increase, according to formulas identified in subdivision 7.

Subd. 8. **Allocation due to decreased funding.** When funding decreases are implemented within a calendar year, county allocations must be reduced in an amount proportionate to the reduction in the total allocation for the same time period. This applies when a funding decrease necessitates the revision of an existing calendar year allocation.

Subd. 9. **Guaranteed floor.** (a) Each county's guaranteed floor shall equal 90 percent of the allocation received in the preceding calendar year.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, for the purpose of establishing the guaranteed floor.

Subd. 10. **Portability pool.** (a) The commissioner shall establish a pool of up to five percent of the annual appropriation for the basic sliding fee program to provide continuous child care assistance for eligible families who move between Minnesota counties. At the end of each allocation period, any unspent funds in the portability pool must be used for assistance under the basic sliding fee program. If expenditures from the portability pool exceed the amount of money available, the reallocation pool must be reduced to cover these shortages.

(b) A family that has moved from a county in which it was receiving basic sliding fee assistance to a county with a waiting list for the basic sliding fee program must:

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

(2) notify the family's previous county of residence of the family's move to a new county of residence.

(c) The receiving county must:

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

(2) continue portability pool basic sliding fee assistance until the family is able to receive assistance under the county's regular basic sliding program; and

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

Subd. 11. **Application; entry points.** Two or more methods of applying for the basic sliding fee program must be available to applicants in each county. To meet the requirements of this subdivision, a county may provide alternative methods of applying for assistance, including, but not limited to, a mail application, or application sites that are located outside of government offices.

142E.05 AT-HOME INFANT CHILD CARE PROGRAM.

Subdivision 1. **Establishment.** A family in which a parent provides care for the family's infant child may receive a subsidy in lieu of assistance if the family is eligible for or is receiving assistance under the basic sliding fee program. An eligible family must meet the eligibility factors under section 142E.10, except as provided in subdivision 4, and the requirements of this section. Subject to federal match and maintenance of effort requirements for the child care and development fund, and up to available appropriations, the commissioner shall provide assistance under the at-home infant child care program and for administrative costs associated with the program. At the end of a fiscal year, the commissioner may carry forward any unspent funds under this section to the next fiscal year within the same biennium for assistance under the basic sliding fee program.

Subd. 2. **Eligible families.** A family with an infant under the age of one year is eligible for assistance if:

(1) the family is not receiving MFIP, other cash assistance, or other child care assistance;

(2) the family has not previously received a lifelong total of 12 months of assistance under this section; and

(3) the family is participating in the basic sliding fee program or provides verification of participating in an authorized activity at the time of application and meets the program requirements.

Subd. 3. **Eligible parent.** A family is eligible for assistance under this section if one parent cares for the family's infant child. The eligible parent must:

(1) be over the age of 18;

(2) care for the infant full time in the infant's home; and

(3) care for any other children in the family who are eligible for child care assistance under this chapter.

For purposes of this section, "parent" means birth parent, adoptive parent, or stepparent.

Subd. 4. **Assistance.** (a) A family is limited to a lifetime total of 12 months of assistance under subdivision 2. The maximum rate of assistance is equal to 68 percent of the rate established under section 142E.17 for care of infants in licensed family child care in the applicant's county of residence.

(b) A participating family must report income and other family changes as specified in sections 256P.06 and 256P.07, and the county's plan under section 142E.09, subdivision 3.

(c) Persons who are admitted to the at-home infant child care program retain their position in any basic sliding fee program. Persons leaving the at-home infant child care program reenter the basic sliding fee program at the position they would have occupied.

(d) Assistance under this section does not establish an employer-employee relationship between any member of the assisted family and the county or state.

Subd. 5. **Implementation.** The commissioner shall implement the at-home infant child care program under this section through counties that administer the basic sliding fee program under section 142E.04. The commissioner must develop and distribute consumer information on the at-home infant child care program to assist parents of infants or expectant parents in making informed child care decisions.

142E.06 FEDERAL CHILD CARE AND DEVELOPMENT FUND.

Subdivision 1. **Commissioner to administer program.** The commissioner is authorized and directed to receive, administer, and expend funds available under the child care and development fund under Public Law 104-193, Title VI.

Subd. 2. **Rulemaking authority.** The commissioner may adopt rules under chapter 14 to administer the child care and development fund.

142E.07 FEDERAL CHILD CARE AND DEVELOPMENT BLOCK GRANT.

Subdivision 1. **Commissioner to administer block grant.** The commissioner is authorized and directed to receive, administer, and expend child care funds available under the child care and development block grant authorized under the Child Care and Development Block Grant Act of 2014, Public Law 113-186.

Subd. 2. **Rulemaking authority.** The commissioner may adopt rules under chapter 14 to administer the child care development block grant program.

Subd. 3. **Child care development fund plan development; review.** In an effort to improve state legislative involvement in the development of the Minnesota child care and development fund plan, the commissioner must present a draft copy of the plan to the legislative finance committees that oversee child care assistance funding no less than 30 days prior to the required deadline for submission of the plan to the federal government. The legislature must submit any adjustments to the plan to the commissioner for consideration within ten business days of receiving the draft plan. The commissioner must present a copy of the final plan to the chairs of the legislative finance committees that oversee child care assistance funding no less than four days prior to the deadline for submission of the plan to the federal government.

142E.08 MFIP CHILD CARE ASSISTANCE PROGRAM.

Subdivision 1. **Eligible participants.** Families eligible for child care assistance under the MFIP child care program are:

(1) MFIP participants who are employed or in job search and meet the requirements of section 142E.12;

(2) persons who are members of transition year families under section 142E.01, subdivision 28, and meet the requirements of section 142E.12;

(3) MFIP families who are participating in work job search, job support, employment, or training activities as required in their employment plan, or in appeals, hearings, assessments, or orientations according to chapter 142G;

(4) MFIP families who are participating in social services activities under chapter 142G as required in their employment plan approved according to chapter 142G;

(5) families who are participating in services or activities that are included in an approved family stabilization plan under section 142G.75;

(6) MFIP child-only families under section 142G.01, subdivision 8, for up to 20 hours of child care per week for children ages six and under, as recommended by the treating mental health professional as defined in section 245I.04, subdivision 2, when the child's primary caregiver has a diagnosis of a mental illness;

(7) families who are participating in programs as required in tribal contracts under section 142E.02, subdivision 2, or 142A.20, subdivision 2;

(8) families who are participating in the transition year extension under section 142E.01, subdivision 27;

(9) student parents as defined under section 142E.01, subdivision 26; and

(10) student parents who turn 21 years of age and who continue to meet the other requirements under section 142E.01, subdivision 26. A student parent continues to be eligible until the student parent is approved for basic sliding fee child care assistance or until the student parent's redetermination, whichever comes first. At the student parent's redetermination, if the student parent was not approved for basic sliding fee child care assistance, a student parent's eligibility ends following a 15-day adverse action notice.

Subd. 2. **Contracts; other uses allowed.** Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

Subd. 3. **Federal reimbursement.** Counties shall maximize their federal reimbursement under federal reimbursement programs for money spent for persons eligible under this chapter. The

commissioner shall allocate any federal earnings to the county to be used to expand child care services under this chapter.

142E.09 REPORTING AND PAYMENTS.

Subdivision 1. **Reports.** The commissioner shall specify requirements for reports under the authority provided in section 142A.03, subdivision 2, paragraph (o).

Subd. 2. **Monthly payments.** The commissioner shall make monthly payments on a reimbursement basis for expenditures reported outside of the electronic system used to administer child care assistance. Payments may be withheld if monthly reports are incomplete or untimely.

Subd. 3. **Child care fund plan.** The county and designated administering agency shall submit a biennial child care fund plan to the commissioner. The commissioner shall establish the dates by which the county must submit the plans. The plan shall include:

(1) a description of strategies to coordinate and maximize public and private community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development, in particular to coordinate child care assistance with existing community-based programs and service providers including child care resource and referral programs, early childhood family education, school readiness, Head Start, local interagency early intervention committees, special education services, early childhood screening, and other early childhood care and education services and programs to the extent possible, to foster collaboration among agencies and other community-based programs that provide flexible, family-focused services to families with young children and to facilitate transition into kindergarten. The county must describe a method by which to share information, responsibility, and accountability among service and program providers;

(2) a description of procedures and methods to be used to make copies of the proposed state plan reasonably available to the public, including members of the public particularly interested in child care policies such as parents, child care providers, culturally specific service organizations, child care resource and referral programs, interagency early intervention committees, potential collaborative partners and agencies involved in the provision of care and education to young children, and allowing sufficient time for public review and comment; and

(3) information as requested by the department to ensure compliance with the child care fund statutes and rules promulgated by the commissioner.

The commissioner shall notify counties within 90 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.

142E.10 FINANCIAL ELIGIBILITY.

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

(1) have household income less than or equal to 67 percent of the state median income, adjusted for family size, at application and redetermination, and meet the requirements of section 142E.08; receive MFIP assistance; and are participating in employment and training services under chapter 142G; or

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

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

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations for all children in the family at application and redetermination as a condition of program eligibility. For purposes of this section, a family is considered to meet the requirement for cooperation when the family complies with the requirements of section 518A.81.

(d) All applicants for child care assistance and families currently receiving child care assistance must pay the co-payment fee under section 142E.15, subdivision 2, as a condition of eligibility. The co-payment fee may include additional recoupment fees due to a child care assistance program overpayment.

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

Subd. 2. **Priorities; allocations.** If a county projects that its child care allocation is insufficient to meet the needs of all eligible families, it may prioritize among the families that remain to be served after the county has complied with the priority requirements of section 142E.04. Counties that have established a priority for families who are not MFIP participants beyond those established under section 142E.04 must submit the policy in the annual child care fund plan.

Subd. 3. **Eligibility; annual income; calculation.** (a) Annual income of the applicant family is the current monthly income of the family multiplied by 12 or the income for the 12-month period immediately preceding the date of application, or income calculated by the method which provides the most accurate assessment of income available to the family.

(b) Self-employment income must be calculated based on section 256P.05, subdivision 2.

(c) Income changes are processed under section 142E.03, subdivision 4. Included lump sums counted as income under section 256P.06, subdivision 3, must be annualized over 12 months. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of the income.

Subd. 4. **Temporary ineligibility of military personnel.** Counties must reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance due to increased income from active military service. Activated military personnel may be temporarily ineligible until deactivation. A county must reserve a military family's position on the basic sliding fee waiting list under the child care assistance fund if a family is approved to receive child care assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.

Subd. 5. **Provider choice.** Parents may choose child care providers as defined under section 142E.01, subdivision 22, that best meet the needs of their family. Counties shall make resources available to parents in choosing quality child care services. Counties may require a parent to sign a release stating their knowledge and responsibilities in choosing a legal provider described under section 142E.01, subdivision 22. When a county knows that a particular provider is unsafe, or that the circumstances of the child care arrangement chosen by the parent are unsafe, the county may deny a child care subsidy. A county may not restrict access to a general category of provider allowed under section 142E.01, subdivision 22.

Subd. 6. **Maximum child care assistance.** The maximum amount of child care assistance a local agency may pay for in a two-week period is 120 hours per child.

Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was received by the county; the beginning date of employment, education, or training; the date the infant is born for applicants to the at-home infant care program; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, or chapter 142G.

(b) Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 142E.05. Payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later. Payment of child care assistance for MFIP participants in employment and training services is effective the date of commencement of the services or the date of MFIP eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

(c) Notwithstanding paragraph (b), payment of child care assistance for participants eligible under section 142E.08 may only be made retroactive for a maximum of three months from the date of application for child care assistance.

Subd. 8. **No employee-employer relationships.** Receipt of federal, state, or local funds by a child care provider either directly or through a parent who is a child care assistance recipient does

not establish an employee-employer relationship between the child care provider and the county or state.

Subd. 9. **Licensed and legal nonlicensed family child care providers; assistance.** This subdivision applies to any provider providing care in a setting other than a child care center. Licensed and legal nonlicensed family child care providers and their employees are not eligible to receive child care assistance subsidies under this chapter for their own children or children in their family during the hours they are providing child care or being paid to provide child care. Child care providers and their employees are eligible to receive child care assistance subsidies for their children when they are engaged in other activities that meet the requirements of this chapter and for which child care assistance can be paid. The hours for which the provider or their employee receives a child care subsidy for their own children must not overlap with the hours the provider provides child care services.

Subd. 10. **Child care centers; assistance.** (a) A child care center may receive authorizations for 25 or fewer children who are dependents of the center's employees. If a child care center is authorized for more than 25 children who are dependents of center employees, the county cannot authorize additional dependents of an employee until the number of children falls below 25.

(b) Funds paid to providers during the period of time when a center is authorized for more than 25 children who are dependents of center employees must not be treated as overpayments under section 142E.14, subdivision 2, due to noncompliance with this subdivision.

(c) Nothing in this subdivision precludes the commissioner from conducting fraud investigations relating to child care assistance, imposing sanctions, and obtaining monetary recovery as otherwise provided by law.

Subd. 11. **Payment of funds.** All federal, state, and local child care funds must be paid directly to the parent when a provider cares for children in the children's own home. In all other cases, all federal, state, and local child care funds must be paid directly to the child care provider, either licensed or legal nonlicensed, on behalf of the eligible family. Funds distributed under this chapter must not be used for child care services that are provided for a child by a child care provider who resides in the same household or occupies the same residence as the child.

Subd. 12. **Payment of other child care expenses.** Payment by a source other than the family, of part or all of a family's child care expenses not payable under this chapter, does not affect the family's eligibility for child care assistance, and the amount paid is excluded from the family's income, if the funds are paid directly to the family's child care provider on behalf of the family. Child care providers who accept third-party payments must maintain family-specific documentation of payment source, amount, type of expenses, and time period covered by the payment.

Subd. 13. **Sliding fee.** Child care services to families must be made available on a sliding fee basis. The commissioner shall convert eligibility requirements in this section and parent fee schedules in section 142E.15 to state median income, based on a family size of three, adjusted for family size.

Subd. 14. **Child care in the child's home.** (a) Child care assistance must only be authorized in the child's home if:

(1) the child's parents have authorized activities outside of the home; or

(2) one parent in a two-parent family is in an authorized activity outside of the home and one parent is unable to care for the child and meets the requirements in Minnesota Rules, part 3400.0040, subpart 5.

(b) In order for child care assistance to be authorized under paragraph (a), clause (1) or (2), one or more of the following circumstances must be met:

(1) the authorized activity occurs during times when out-of-home care is not available or when out-of-home care would result in disruption of the child's nighttime sleep schedule. If child care is needed during any period when out-of-home care is not available, in-home care can be approved for the entire time care is needed;

(2) the family lives in an area where out-of-home care is not available; or

(3) a child has a verified illness or disability that would place the child or other children in an out-of-home facility at risk or creates a hardship for the child and the family to take the child out of the home to a child care home or center.

142E.11 CHILD CARE AUTHORIZATIONS.

Subdivision 1. **General authorization requirements.** (a) When authorizing the amount of child care, the county agency must consider the amount of time the parent reports on the application or redetermination form that the child attends preschool, a Head Start program, or school while the parent is participating in an authorized activity.

(b) Care must be authorized and scheduled with a provider based on the applicant's or participant's verified activity schedule when:

(1) the family requests care from more than one provider per child;

(2) the family requests care from a legal nonlicensed provider; or

(3) an applicant or participant is employed by any child care center that is licensed by the Department of Children, Youth, and Families or has been identified as a high-risk Medicaid-enrolled provider.

This paragraph expires March 2, 2026.

(c) If the family remains eligible at redetermination, a new authorization with fewer hours, the same hours, or increased hours may be determined.

Subd. 2. **Maintain steady child care authorizations.** (a) Notwithstanding Minnesota Rules, chapter 3400, the amount of child care authorized under section 142E.12 for employment, education, or an MFIP employment plan shall continue at the same number of hours or more hours until redetermination, including:

(1) when the other parent moves in and is employed or has an education plan under section 142E.12, subdivision 3, or has an MFIP employment plan; or

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

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

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

(1) the child's school schedule;

(2) the custody schedule; or

(3) the provider's availability.

(d) The amount of child care authorized for a family subject to subdivision 1, paragraph (b), must change when the participant's activity schedule changes. Paragraph (a) does not apply to a family subject to subdivision 1, paragraph (b). This paragraph expires March 2, 2026.

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

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

Subd. 4. **Authorization with a secondary provider.** (a) If a child uses any combination of the following providers paid by child care assistance, a parent must choose one primary provider and one secondary provider per child that can be paid by child care assistance:

(1) an individual or child care center licensed under chapter 142B;

(2) an individual or child care center or facility holding a valid child care license issued by another state or tribe; or

(3) a child care center exempt from licensing under section 142B.05.

(b) The amount of child care authorized with the secondary provider cannot exceed 20 hours per two-week service period, per child, and the amount of care paid to a child's secondary provider is limited under section 142E.17, subdivision 1. The total amount of child care authorized with both the primary and secondary provider cannot exceed the amount of child care allowed based on the parents' eligible activity schedule, the child's school schedule, and any other factors relevant to the family's child care needs.

142E.12 EMPLOYMENT, EDUCATION, OR TRAINING ELIGIBILITY.

Subdivision 1. **Assistance for persons seeking and retaining employment.** (a) Persons who are seeking employment and who are eligible for assistance under this section are eligible to receive up to 240 hours of child care assistance per calendar year.

(b) At application and redetermination, employed persons who work at least an average of 20 hours and full-time students who work at least an average of ten hours a week and receive at least a minimum wage for all hours worked are eligible for child care assistance for employment. For purposes of this section, work-study programs must be counted as employment. An employed person with an MFIP employment plan shall receive child care assistance as specified in the person's employment plan. Child care assistance during employment must be authorized as provided in paragraphs (c) and (d).

(c) When the person works for an hourly wage and the hourly wage is equal to or greater than the applicable minimum wage, child care assistance shall be provided for the hours of employment, break, and mealtime during the employment and travel time up to two hours per day.

(d) When the person does not work for an hourly wage, child care assistance must be provided for the lesser of:

(1) the amount of child care determined by dividing gross earned income by the applicable minimum wage, up to one hour every eight hours for meals and break time, plus up to two hours per day for travel time; or

(2) the amount of child care equal to the actual amount of child care used during employment, including break and mealtime during employment, and travel time up to two hours per day.

Subd. 2. **Financial eligibility required.** Persons participating in employment programs, training programs, or education programs are eligible for continued assistance from the child care fund, if they are financially eligible under the sliding fee scale set by the commissioner in section 142E.15.

Subd. 3. **Assistance for persons attending an approved education or training program.** (a) Money for an eligible person according to sections 142E.04, subdivision 3, and 142E.08, subdivision 1, shall be used to reduce child care costs for a student. The county shall not limit the duration of child care subsidies for a person in an employment or educational program unless the person is ineligible for child care funds. Any other limitation must be based on county policies included in the approved child care fund plan.

(b) To be eligible, the student must be in good standing and be making satisfactory progress toward the degree. The maximum length of time a student is eligible for child care assistance under the child care fund for education and training is no more than the time necessary to complete the credit requirements for an associate's or baccalaureate degree as determined by the educational institution. Time limitations for child care assistance do not apply to basic or remedial educational programs needed for postsecondary education or employment. Basic or remedial educational programs include high school, commissioner of education-selected high school equivalency, and English as a second language programs. A program exempt from this time limit must not run concurrently with a postsecondary program.

(c) If a student meets the conditions of paragraphs (a) and (b), child care assistance must be authorized for all hours of class time and credit hours, including independent study and internships, and up to two hours of travel time per day. A postsecondary student shall receive four hours of child care assistance per credit hour for study time and academic appointments per service period.

(d) For an MFIP participant, child care assistance must be authorized according to the person's approved employment plan. If an MFIP participant receiving MFIP child care assistance under this chapter moves to another county, continues to participate in an authorized educational or training program, and remains eligible for MFIP child care assistance, the participant must receive continued child care assistance from the county responsible for the person's current employment plan under section 256G.07.

(e) If a person with an approved education program under section 142E.04, subdivision 3, or 142E.08, subdivision 1, begins receiving MFIP assistance, the person continues to receive child care assistance for the approved education program until the person's education is included in an approved MFIP employment plan or until redetermination, whichever occurs first.

(f) If a person's MFIP assistance ends and the approved MFIP employment plan included education, the person continues to be eligible for child care assistance for education under transition year child care assistance until the person's education is included in an approved education plan or until redetermination.

142E.13 EXTENDED ELIGIBILITY AND AUTHORIZATION.

Subdivision 1. **Three-month extended eligibility period.** (a) A family in a situation under paragraph (b) continues to be eligible for up to three months or until the family's redetermination, whichever occurs first, rather than losing eligibility or having the family's eligibility suspended. During extended eligibility, the amount of child care authorized shall continue at the same number or more hours. The family must continue to meet all other eligibility requirements under this chapter.

(b) The family's three-month extended eligibility period applies when:

(1) a participant's employment or education program ends permanently;

(2) the other parent moves in and does not participate in an authorized activity;

(3) a participant's MFIP assistance ends and the participant is not participating in an authorized activity or the participant's participation in an authorized activity is unknown;

(4) a student parent under section 142E.01, subdivision 26, stops attending school; or

(5) a participant receiving basic sliding fee child care assistance or transition year child care assistance applied for MFIP assistance and is not participating in an authorized activity or the participant's participation in an authorized activity is unknown.

Subd. 2. **Extended eligibility and redetermination.** (a) If the family received three months of extended eligibility and redetermination is not due, to continue receiving child care assistance the participant must be employed or have an education plan that meets the requirements of section 142E.12, subdivision 3, or have an MFIP employment plan. Notwithstanding Minnesota Rules, part 3400.0110, if child care assistance continues, the amount of child care authorized shall continue at the same number or more hours until redetermination, unless a condition in section 142E.11, subdivision 2, paragraph (c), applies.

(b) If the family's redetermination occurs before the end of the three-month extended eligibility period to continue receiving child care assistance, the participant must verify that the participant meets eligibility and activity requirements for child care assistance under this chapter. Notwithstanding Minnesota Rules, part 3400.0110, if child care assistance continues, the amount of child care authorized is based on section 142E.12.

142E.14 COUNTY CONTRIBUTION.

Subdivision 1. **County contributions required.** (a) In addition to payments from basic sliding fee child care program participants, each county shall contribute from county tax or other sources a fixed local match equal to its calendar year 1996 required county contribution reduced by the administrative funding loss that would have occurred in state fiscal year 1996 under section 142E.02, subdivision 9. The commissioner shall recover funds from the county as necessary to bring county expenditures into compliance with this subdivision. The commissioner may accept county contributions, including contributions above the fixed local match, in order to make state payments.

(b) The commissioner may accept payments from counties to:

(1) fulfill the county contribution as required under subdivision 1;

(2) pay for services authorized under this chapter beyond those paid for with federal or state funds or with the required county contributions; or

(3) pay for child care services in addition to those authorized under this chapter, as authorized under other federal, state, or local statutes or regulations.

(c) The county payments must be deposited in an account in the special revenue fund. Money in this account is appropriated to the commissioner for child care assistance under this chapter and other applicable statutes and regulations and is in addition to other state and federal appropriations.

Subd. 2. **Recovery of overpayments.** (a) An amount of child care assistance paid to a recipient or provider in excess of the payment due is recoverable by the county agency or commissioner under paragraphs (b) and (e), even when the overpayment was caused by circumstances outside the responsibility and control of the family or provider. Overpayments designated solely as agency error, and not the result of acts or omissions on the part of a provider or recipient, must not be established or collected.

(b) An overpayment must be recouped or recovered from the family if the overpayment benefited the family by causing the family to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements. The recoupment or recovery shall proceed as follows:

(1) if the family remains eligible for child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part 3400.0187, except that the overpayments must be calculated and collected on a service period basis;

(2) if the family no longer remains eligible for child care assistance and the overpayments were the result of fraud under section 256.98 or 256.046, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent receipt of benefits for a program administered by the county or commissioner, the county or commissioner shall seek voluntary repayment from the family and shall initiate civil court proceedings to recover the overpayment if the county or commissioner is unable to recoup the overpayment through voluntary repayment;

(3) if the family no longer remains eligible for child care assistance, the overpayments were not the result of fraud, theft, or a federal crime as described in clause (2), and the overpayment is less than $50, the county or commissioner may choose to initiate efforts to recover overpayments from the family; or

(4) if the family no longer remains eligible for child care assistance, the overpayments were not the result of fraud, theft, or a federal crime as described in clause (2), and the overpayment is greater than or equal to $50, the county or commissioner shall seek voluntary repayment of the overpayment from the family. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment.

(c) The commissioner's authority to recoup and recover overpayments from families in paragraph (b) is limited to investigations conducted under chapter 142E.

(d) A family with an outstanding debt under this subdivision is not eligible for child care assistance until:

(1) the debt is paid in full;

(2) satisfactory arrangements are made with the county or commissioner to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with the arrangements; or

(3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

(e) The county or commissioner must recover an overpayment from a provider if the overpayment did not benefit the family by causing it to receive more child care assistance or to pay less for child care expenses than the family otherwise would have been eligible to receive or required to pay under child care assistance program requirements, and benefited the provider by causing the provider to receive more child care assistance than otherwise would have been paid on the family's behalf under child care assistance program requirements. The recovery shall proceed as follows:

(1) if the provider continues to care for children receiving child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part 3400.0187, and the provider may not charge families using that provider more to cover the cost of recouping the overpayment;

(2) if the provider no longer cares for children receiving child care assistance and the overpayment was the result of fraud under section 256.98 or 256.046, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent billing for a program administered by the county or commissioner, the county or commissioner shall seek voluntary repayment from the provider and shall initiate civil court

proceedings to recover the overpayment if the county or commissioner is unable to recoup the overpayment through voluntary repayment;

(3) if the provider no longer cares for children receiving child care assistance, the overpayment was not the result of fraud, theft, or a federal crime as described under clause (2), and the overpayment is less than $50, the county or commissioner may choose to initiate efforts to recover the overpayment; or

(4) if the provider no longer cares for children receiving child care assistance, the overpayment was not the result of fraud, theft, or a federal crime as described under clause (2), and the overpayment is greater than or equal to $50, the county or commissioner shall seek voluntary repayment of the overpayment from the provider. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment.

(f) A provider with an outstanding debt under this subdivision is not eligible to care for children receiving child care assistance until:

(1) the debt is paid in full;

(2) satisfactory arrangements are made with the county or commissioner to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the provider is in compliance with the arrangements; or

(3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

(g) When both the family and the provider acted together to intentionally cause the overpayment, both the family and the provider are jointly liable for the overpayment regardless of who benefited from the overpayment. The county or commissioner must recover the overpayment as provided in paragraphs (b) and (e). When the family or the provider is in compliance with a repayment agreement, the party in compliance is eligible to receive child care assistance or to care for children receiving child care assistance despite the other party's noncompliance with repayment arrangements.

(h) Neither a county agency nor the commissioner shall recover an overpayment from a family or a provider that occurred more than six years before the county or the commissioner determined the amount of the overpayment. This paragraph does not apply to overpayments that are the result of fraud under section 256.046 or 256.98, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent receipt of benefits.

Subd. 3. **Federal money; state recovery.** The commissioner shall recover from counties any state or federal money that was spent for persons found to be ineligible, except if the recovery is made by a county agency using any method other than recoupment, the county may keep 25 percent of the recovery. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

Subd. 4. **Maintenance of funding effort.** To receive money through this program, each county shall certify, in its annual plan to the commissioner, that the county has not reduced allocations from other federal and state sources, which, in the absence of the child care fund, would have been available for child care assistance. However, the county must continue contributions, as necessary, to maintain on the basic sliding fee program, families who are receiving assistance on July 1, 1995, until the family loses eligibility for the program or until a family voluntarily withdraws from the program. This subdivision does not affect the local match required for this program under other sections of the law.

142E.15 SLIDING FEE SCALE.

Subdivision 1. **Fee schedule.** All changes to parent fees must be implemented on the first Monday of the service period following the effective date of the change.

PARENT FEE SCHEDULE. The parent fee schedule is as follows, except as noted in subdivision 2:

Income Range (as a percent of the state median income, except for the first tier and at the start of the second tier)	Co-payment (as a percentage of adjusted gross income)
0-99.99% of federal poverty guidelines	$0/biweekly
100.00% of federal poverty guidelines-27.99%	2.6%
28.00-30.99%	2.6%
31.00-33.99%	2.6%
34.00-36.99%	2.9%
37.00-39.99%	3.2%
40.00-42.99%	3.8%
43.00-45.99%	4.4%
46.00-48.99%	5.0%
49.00-51.99%	5.6%
52.00-54.99%	6.2%
55.00-57.99%	6.8%
58.00-60.99%	6.9%
61.00-63.99%	6.9%
64.00-67.00%	6.9%
Greater than 67.00%	ineligible

A family's biweekly co-payment fee is the fixed percentage established for the income range multiplied by the lowest possible income within that income range.

Subd. 2. **Parent fee.** A family must be assessed a parent fee for each service period. A family's parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 142E.04 and 142E.08. Income must be as defined in section 142E.01, subdivision 18. The fixed percentage is based on the relationship of the family's annual gross income to 100 percent of the annual state median income. Parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and 100 percent of poverty level must be $2 per biweekly period. Parent fees must provide for graduated movement to full payment. At initial application, the parent fee is established for the family's 12-month eligibility period. At redetermination, if the family remains eligible, the parent fee is recalculated and is established for the next 12-month eligibility period. A parent fee shall not increase during the 12-month eligibility period. Payment of part or all of a family's parent fee directly to the family's child care provider on behalf of the family by a source other than the family shall not affect the family's eligibility for child care assistance, and the amount paid shall be excluded from the family's income. Child care providers who accept third-party payments must maintain family specific documentation of payment source, amount, and time period covered by the payment.

142E.16 PROVIDER REQUIREMENTS.

Subdivision 1. **Authorization.** The commissioner must authorize the provider chosen by an applicant or a participant before the county can authorize payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers. A provider must be reauthorized every two years.

Subd. 2. **Background study required.** (a) This subdivision only applies to legal, nonlicensed family child care providers.

(b) Prior to authorization, the commissioner of children, youth, and families shall perform a background study on individuals identified under section 245C.02, subdivision 6a.

(c) After authorization, a background study must also be performed when an individual identified under section 245C.02, subdivision 6a, joins the household. The provider must report all family changes that would require a new background study.

(d) At each reauthorization, the commissioner of children, youth, and families must ensure that a background study through NETStudy 2.0 has been performed on all individuals in the provider's household for whom a background study is required under paragraphs (b) and (c).

(e) Prior to a background study through NETStudy 2.0 expiring, another background study must be completed on all individuals for whom the background study is expiring.

(f) The commissioner of children, youth, and families shall forward the background study determination to the commissioner of children, youth, and families, who shall grant or deny authorization as a legal nonlicensed family child care provider based on the commissioner of human service's determination.

Subd. 3. **Training required.** (a) Prior to initial authorization as required in subdivision 1, a legal nonlicensed family child care provider must complete first aid and CPR training and provide the verification of first aid and CPR training to the commissioner. The training documentation must have valid effective dates as of the date the registration request is submitted to the commissioner. The training must have been provided by an individual approved to provide first aid and CPR instruction and have included CPR techniques for infants and children.

(b) Upon each reauthorization after the authorization period when the initial first aid and CPR training requirements are met, a legal nonlicensed family child care provider must provide verification of at least eight hours of additional training listed in the Minnesota Center for Professional Development Registry.

(c) Every 12 months, a legal nonlicensed family child care provider who is unrelated to the child they care for must complete two hours of training in caring for children approved by the commissioner.

(d) This subdivision only applies to legal nonlicensed family child care providers.

Subd. 4. **Persons who cannot be authorized.** (a) The provider seeking authorization under this section shall collect the information required under section 245C.05 and forward the information to the commissioner of children, youth, and families. The background study must include a review of the information required under section 245C.08, subdivision 3.

(b) A legal nonlicensed family child care provider is not authorized under this section if:

(1) the commissioner of children, youth, and families determines that any household member who is the subject of a background study is disqualified from direct contact with, or from access to, persons served by the program and that disqualification has not been set aside or a variance has not been granted under chapter 245C;

(2) the person has refused to give written consent for disclosure of criminal history records;

(3) the person has been denied a family child care license;

(4) the person has a family child care licensing disqualification that has not been set aside; or

(5) the person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for child care assistance application purposes or was used in submitting child care assistance bills for payment.

Subd. 5. **Authorization exception.** When the commissioner denies a person authorization as a legal nonlicensed family child care provider under subdivision 2, paragraph (f), the commissioner later may authorize that person as a provider if the following conditions are met:

(1) after receiving notice of the denial of the authorization, the person applies for and obtains a valid child care license issued under chapter 142B, issued by a Tribe, or issued by another state;

(2) the person maintains the valid child care license; and

(3) the person is providing child care in the state of licensure or in the area under the jurisdiction of the licensing Tribe.

Subd. 6. **Unsafe care.** (a) The commissioner may deny authorization as a child care provider to any applicant or rescind authorization of any provider when a county or the commissioner knows or has reason to believe that the provider is unsafe or that the circumstances of the chosen child care arrangement are unsafe, based on statewide criteria developed by the commissioner.

(b) The commissioner shall develop and introduce statewide criteria for unsafe care.

Subd. 7. **Record-keeping requirement.** (a) As a condition of payment, all providers receiving child care assistance payments must:

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

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

(3) submit data on child enrollment and attendance in the form and manner specified by the commissioner.

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

(c) When the county or the commissioner knows or has reason to believe that a current or former provider has not complied with the record-keeping requirement in this subdivision:

(1) the commissioner may:

(i) deny or revoke a provider's authorization to receive child care assistance payments under section 142E.17, subdivision 9, paragraph (d);

(ii) pursue an administrative disqualification under sections 142E.51, subdivision 5, and 256.98; or

(iii) take an action against the provider under section 142E.51; or

(2) a county or the commissioner may establish an attendance record overpayment under paragraph (d).

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

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

Subd. 8. **Failure to comply with attendance record requirements.** (a) In establishing an overpayment claim for failure to provide attendance records in compliance with subdivision 7, the county or commissioner is limited to the six years prior to the date the county or the commissioner requested the attendance records.

(b) The commissioner or county may periodically audit child care providers to determine compliance with subdivision 7.

(c) When the commissioner or county establishes an overpayment claim against a current or former provider, the commissioner or county must provide notice of the claim to the provider. A notice of overpayment claim must specify the reason for the overpayment, the authority for making the overpayment claim, the time period in which the overpayment occurred, the amount of the overpayment, and the provider's right to appeal.

(d) The commissioner or county shall seek to recoup or recover overpayments paid to a current or former provider.

(e) When a provider has been disqualified or convicted of fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent billing for a program administered by the commissioner or a county, recoupment or recovery must be sought regardless of the amount of overpayment.

Subd. 9. **Reporting required for child's part-time attendance.** A provider must report to the county and report on the billing form as required when a child's attendance in child care falls to less than half of the child's authorized hours or days for a four-week period. If requested by the

county or the commissioner, the provider must provide additional information to the county or commissioner on the attendance of specific children.

142E.17 CHILD CARE RATES.

Subdivision 1. **Subsidy restrictions.** (a) Beginning October 30, 2023, the maximum rate paid for child care assistance in any county or county price cluster under the child care fund shall be the greater of the 75th percentile of the 2021 child care provider rate survey or the rates in effect at the time of the update.

(b) Beginning the first full service period on or after January 1, 2025, and every three years thereafter, the maximum rate paid for child care assistance in a county or county price cluster under the child care fund shall be the greater of the 75th percentile of the most recent child care provider rate survey or the rates in effect at the time of the update.

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

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

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

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

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

(g) If a child uses two providers under section 142E.11, subdivision 4, the maximum payment must not exceed:

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

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

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

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

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

(j) Beginning October 30, 2023, the maximum registration fee paid for child care assistance in any county or county price cluster under the child care fund shall be the greater of the 75th percentile of the most recent child care provider rate survey or the registration fee in effect at the time of the update.

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

Subd. 2. **Legal nonlicensed family child care provider rates.** (a) Legal nonlicensed family child care providers receiving reimbursement under this chapter must be paid on an hourly basis for care provided to families receiving assistance.

(b) The maximum rate paid to legal nonlicensed family child care providers must be 90 percent of the county maximum hourly rate for licensed family child care providers. In counties or county price clusters where the maximum hourly rate for licensed family child care providers is higher than the maximum weekly rate for those providers divided by 50, the maximum hourly rate that may be paid to legal nonlicensed family child care providers is the rate equal to the maximum

weekly rate for licensed family child care providers divided by 50 and then multiplied by 0.90. The maximum payment to a provider for one day of care must not exceed the maximum hourly rate times ten. The maximum payment to a provider for one week of care must not exceed the maximum hourly rate times 50.

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

(d) Legal nonlicensed family child care providers receiving reimbursement under this chapter may not be paid registration fees for families receiving assistance.

Subd. 3. **Provider rate for care of children with disabilities or special needs.** Counties shall reimburse providers for the care of children with disabilities or special needs, at a special rate to be approved by the county for care of these children, subject to the approval of the commissioner.

Subd. 4. **Provider rate differential for accreditation.** A family child care provider or child care center shall be paid a 15 percent differential above the maximum rate established in subdivision 1, up to the actual provider rate, if the provider or center holds a current early childhood development credential or is accredited. For a family child care provider, early childhood development credential and accreditation includes an individual who has earned a child development associate degree, a child development associate credential, a diploma in child development from a Minnesota state technical college, or a bachelor's or post baccalaureate degree in early childhood education from an accredited college or university, or who is accredited by the National Association for Family Child Care or the Competency Based Training and Assessment Program. For a child care center, accreditation includes accreditation that meets the following criteria: the accrediting organization must demonstrate the use of standards that promote the physical, social, emotional, and cognitive development of children. The accreditation standards shall include, but are not limited to, positive interactions between adults and children, age-appropriate learning activities, a system of tracking children's learning, use of assessment to meet children's needs, specific qualifications for staff, a learning environment that supports developmentally appropriate experiences for children, health and safety requirements, and family engagement strategies. Based on an application process developed by the commissioner in conjunction with the commissioners of education and health, the Department of Children, Youth, and Families must accept applications from accrediting organizations on an annual basis. The provider rate differential shall be paid to centers holding an accreditation from an approved accrediting organization beginning on a billing cycle to be determined by the commissioner, no later than the last Monday in February of a calendar year. The commissioner shall annually publish a list of approved accrediting organizations. An approved accreditation must be reassessed by the commissioner every two years. If an approved accrediting organization is determined to no longer meet the approval criteria, the organization and centers being paid the differential under that accreditation must be given a 90-day notice by the commissioner and the differential payment must end after a 15-day notice to affected families and centers as directed in Minnesota Rules, part 3400.0185, subparts 3 and 4. The following accreditations shall be recognized for the provider rate differential until an approval process is implemented: the National Association for the Education of Young Children, the Council on Accreditation, the National Early Childhood Program Accreditation, the National School-Age Care Association, or the National Head Start Association Program of Excellence. For Montessori programs, accreditation includes the American Montessori Society, Association of Montessori International-USA, or the National Center for Montessori Education.

Subd. 5. **Provider rate differential for Parent Aware.** A family child care provider or child care center shall be paid a 15 percent differential if they hold a three-star Parent Aware rating or a 20 percent differential if they hold a four-star Parent Aware rating. A 15 percent or 20 percent rate differential must be paid above the maximum rate established in subdivision 1, up to the actual provider rate.

Subd. 6. **Weekly rate paid for children attending high-quality care.** A licensed child care provider or license-exempt center may be paid up to the applicable weekly maximum rate, not to exceed the provider's actual charge, when the following conditions are met:

(1) the child is age birth to five years, but not yet in kindergarten;

(2) the child attends a child care provider that qualifies for the rate differential identified in subdivision 3a or 3b; and

(3) the applicant's activities qualify for at least 30 hours of care per week under sections 142E.04, 142E.08, and 142E.12, and Minnesota Rules, chapter 3400.

Subd. 7. **Rates charged to publicly subsidized families.** Child care providers receiving reimbursement under this chapter may not charge a rate to clients receiving assistance under this chapter that is higher than the private, full-paying client rate. This subdivision shall not prohibit a child care provider receiving reimbursement under this chapter from providing discounts, scholarships, or other financial assistance to any clients.

Subd. 8. **Provider notice.** The county shall inform both the family receiving assistance under this chapter and the child care provider of the payment amount and how and when payment will be received. If the county sends a family a notice that child care assistance will be terminated, the county shall inform the provider that unless the family requests to continue to receive assistance pending an appeal, child care payments will no longer be made. The notice to the provider must not contain any private data on the family or information on why payment will no longer be made.

Subd. 9. **Provider payments.** (a) A provider shall bill only for services documented according to section 142E.16, subdivision 7. The provider shall bill for services provided within ten days of the end of the service period. Payments under the child care fund shall be made within 21 days of receiving a complete bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(b) If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A bill submitted more than 60 days after the last date of service must be paid if the county determines that the provider has shown good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 142E.09, subdivision 3, and the definition of good cause must include county error. Any bill submitted more than a year after the last date of service on the bill must not be paid.

(c) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of three months from the date the provider is issued an authorization of care and a billing form. For a family at application, if a provider provided child care during a time period without receiving an authorization of care and a billing form, a county may only make child care assistance payments to the provider retroactively from the date that child care began, or from the date that the family's eligibility began under section 142E.10, subdivision 7, or from the date that the family meets authorization requirements, not to exceed six months from the date that the provider is issued an authorization of care and a billing form, whichever is later.

(d) The commissioner may refuse to issue a child care authorization to a certified, licensed, or legal nonlicensed provider; revoke an existing child care authorization to a certified, licensed, or legal nonlicensed provider; stop payment issued to a certified, licensed, or legal nonlicensed provider; or refuse to pay a bill submitted by a certified, licensed, or legal nonlicensed provider if:

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

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

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

(4) the provider is operating after:

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

(ii) an order of revocation of the provider's license issued by the commissioner; or

(iii) an order of decertification issued to the provider;

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

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

(7) the provider fails to report decreases in a child's attendance as required under section 142E.16, subdivision 9.

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

(f) A county's payment policies must be included in the county's child care plan under section 142E.09, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

(g) If the commissioner suspends or refuses payment to a provider under paragraph (d), clause (1) or (2), or sections 142E.51 to 142E.58 and the provider has:

(1) a disqualification for wrongfully obtaining assistance under section 256.98, subdivision 8, paragraph (c);

(2) an administrative disqualification under section 142E.51, subdivision 5; or

(3) a termination under section 142E.51, subdivision 4, paragraph (c), clause (4), or 142E.55;

then the provider forfeits the payment to the commissioner or the responsible county agency, regardless of the amount assessed in an overpayment, charged in a criminal complaint, or ordered as criminal restitution.

Subd. 10. **Absent days.** (a) Licensed child care providers and license-exempt centers must not be reimbursed for more than 25 full-day absent days per child, excluding holidays, in a calendar year, or for more than ten consecutive full-day absent days. "Absent day" means any day that the child is authorized and scheduled to be in care with a licensed provider or license-exempt center, and the child is absent from the care for the entire day. Legal nonlicensed family child care providers must not be reimbursed for absent days. If a child attends for part of the time authorized to be in care in a day, but is absent for part of the time authorized to be in care in that same day, the absent time must be reimbursed but the time must not count toward the absent days limit. Child care providers must only be reimbursed for absent days if the provider has a written policy for child absences and charges all other families in care for similar absences.

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

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

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

(e) A family must not be assessed an overpayment for an absent day payment unless (1) there was an error in the amount of care authorized for the family, or (2) all of the allowed full-day absent payments for the child have been paid.

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

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

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

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

142E.18 FAIR HEARING PROCESS.

Subdivision 1. **Fair hearing allowed for applicants and recipients.** (a) An applicant or recipient adversely affected by an action of a county agency or the commissioner, for an action taken directly against the applicant or recipient, may request and receive a fair hearing in accordance with this subdivision and section 142A.20. An applicant or recipient does not have a right to a fair hearing if a county agency or the commissioner takes action against a provider.

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

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

Subd. 2. **Fair hearing allowed for providers.** (a) This subdivision applies to providers caring for children receiving child care assistance.

(b) A provider may request a fair hearing according to section 142A.20 only if a county agency or the commissioner:

(1) denies or revokes a provider's authorization, unless the action entitles the provider to:

(i) an administrative review under section 142E.19; or

(ii) a contested case hearing or an administrative reconsideration under section 142A.12;

(2) assigns responsibility for an overpayment to a provider under section 142E.14, subdivision 2;

(3) establishes an overpayment for failure to comply with section 142E.16, subdivision 7;

(4) seeks monetary recovery or recoupment under section 142E.51, subdivision 7, paragraph (c), clause (2);

(5) ends a provider's rate differential under section 142E.17, subdivision 4 or 5;

(6) initiates an administrative fraud disqualification; or

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

(c) A provider may request a fair hearing by submitting a written request to the state agency. A provider's request must be received by the state agency no later than 30 days after the date a county or the commissioner sends the notice under subdivision 4.

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

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

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

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

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

Subd. 3. **Joint fair hearings.** The human services judge assigned to a fair hearing may join a family or a provider as a party to the fair hearing whenever joinder of that party is necessary to fully and fairly resolve issues raised in the appeal.

Subd. 4. **Notice to providers.** (a) Before taking an action appealable under subdivision 2, paragraph (b), clauses (1) to (5), a county agency or the commissioner must send written notice to the provider against whom the action is being taken. Unless otherwise specified under this chapter

or Minnesota Rules, chapter 3400, a county agency or the commissioner must send the written notice at least 15 calendar days before the adverse action's effective date. If the appealable action is a denial of an authorization under subdivision 2, paragraph (b), clause (1), the provider's notice is effective on the date the notice is sent.

(b) The notice of adverse action in paragraph (a) shall state (1) the factual basis for the county agency or department's determination, (2) the action the county agency or department intends to take, (3) the dollar amount of the monetary recovery or recoupment, if known, and (4) the provider's right to appeal the department's proposed action.

(c) Notice requirements for administrative fraud disqualifications under subdivision 2, paragraph (b), clause (6), are set forth in section 142E.51, subdivision 5.

(d) A provider must receive notices that include:

(1) the right to appeal if a county issues a payment and the provider disagrees with the amount of the payment under subdivision 2, paragraph (b), clause (7), at the time of authorization and reauthorization under section 142E.16, subdivision 7; and

(2) the amount of each payment when a payment is issued.

(e) A provider's request to appeal a payment amount must be received by the state agency no later than 30 days after the date a county sends the notice informing the provider of its payment amount.

Subd. 5. **Fair hearing stayed.** (a) If the commissioner denies or revokes a provider's authorization based on a licensing action under section 142B.18, and the provider appeals, the provider's fair hearing must be stayed until the commissioner issues an order as required under section 142B.20, subdivision 6.

(b) If the commissioner denies or revokes a provider's authorization based on decertification under section 142C.07, and the provider appeals, the provider's fair hearing must be stayed until the commissioner issues a final order as required under section 142C.07.

Subd. 6. **Final department action.** Unless the commissioner receives a timely and proper request for an appeal, a county agency's or the commissioner's action shall be considered a final department action.

142E.19 ADMINISTRATIVE REVIEW.

Subdivision 1. **Applicability.** A provider has the right to an administrative review under this section if (1) a payment was suspended under sections 142E.51 to 142E.58, or (2) the provider's authorization was denied or revoked under section 142E.17, subdivision 9, paragraph (d), clause (1) or (2).

Subd. 2. **Notice.** (a) The commissioner must send written notice to a provider within five days of suspending payment or denying or revoking the provider's authorization under subdivision 1.

(b) The notice must:

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

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

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

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

(c) Notwithstanding Minnesota Rules, part 3400.0185, if the commissioner suspends payment to a provider under sections 142E.51 to 142E.58 or denies or revokes a provider's authorization under section 142E.17, subdivision 9, paragraph (d), clause (1) or (2), a county agency or the commissioner must send notice of service authorization closure to each affected family. The notice sent to an affected family is effective on the date the notice is created.

Subd. 3. **Duration.** If a provider's payment is suspended under sections 142E.51 to 142E.58 or a provider's authorization is denied or revoked under section 142E.17, subdivision 9, paragraph

(d), clause (1) or (2), the provider's denial, revocation, temporary suspension, or payment suspension remains in effect until:

(1) the commissioner or a law enforcement authority determines that there is insufficient evidence warranting the action and the commissioner does not pursue an additional administrative remedy under sections 142E.51 to 142E.58 or section 256.98; or

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

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

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

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

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

142E.20 RECONSIDERATION OF CORRECTION ORDERS.

(a) If a provider believes that the contents of the commissioner's correction order issued under sections 142E.51 to 142E.58 are in error, the provider may ask the commissioner to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be made in writing and must be postmarked and sent to the commissioner or submitted in the provider licensing and reporting hub within 30 calendar days from the date the correction order was mailed or issued through the hub to the provider, and:

(1) specify the parts of the correction order that are alleged to be in error;

(2) explain why they are in error; and

(3) include documentation to support the allegation of error.

(b) Upon implementation of the provider licensing and reporting hub, the provider must use the hub to request reconsideration.

(c) A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The commissioner's decision is appealable by petition for writ of certiorari under chapter 606.

142E.50 DEFINITIONS.

Subdivision 1. **Application.** For purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of children, youth, and families.

Subd. 7. **Department.** "Department" means the Department of Children, Youth, and Families.

142E.51 INVESTIGATIONS OF FINANCIAL MISCONDUCT.

Subdivision 1. **Investigating provider or recipient financial misconduct.** The department shall investigate alleged or suspected financial misconduct by providers and errors related to payments issued by the child care assistance program under this chapter. Recipients, employees, and staff may be investigated when the evidence shows that their conduct is related to the financial misconduct of a provider, license holder, or controlling individual. When the alleged or suspected financial misconduct relates to acting as a recruiter offering conditional employment on behalf of a provider that has received funds from the child care assistance program, the department may investigate the provider, center owner, director, manager, license holder, or other controlling individual or agent, who is alleged to have acted as a recruiter offering conditional employment.

Subd. 2. **Provider definitions.** For the purposes of this section, "provider" includes:

(1) individuals or entities meeting the definition of provider in section 142E.01, subdivision 22; and

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

Subd. 3. **Scope of investigations.** (a) The department may contact any person, agency, organization, or other entity that is necessary to an investigation.

(b) The department may examine or interview any individual, document, or piece of evidence that may lead to information that is relevant to child care assistance program benefits, payments, and child care provider authorizations. This includes, but is not limited to:

(1) child care assistance program payments;

(2) services provided by the program or related to child care assistance program recipients;

(3) services provided to a provider;

(4) provider financial records of any type;

(5) daily attendance records of the children receiving services from the provider;

(6) billings; and

(7) verification of the credentials of a license holder, controlling individual, employee, staff person, contractor, subcontractor, and entities under contract with the provider to provide services or maintain service and the provider's financial records related to those services.

Subd. 4. **Determination of investigation.** After completing its investigation, the department shall issue one of the following determinations:

(1) no violation of child care assistance requirements occurred;

(2) there is insufficient evidence to show that a violation of child care assistance requirements occurred;

(3) a preponderance of evidence shows a violation of child care assistance program law, rule, or policy; or

(4) there exists a credible allegation of fraud.

Subd. 5. **Administrative disqualification of child care providers caring for children receiving child care assistance.** (a) The department shall pursue an administrative disqualification if the child care provider is accused of committing an intentional program violation, in lieu of a criminal action when it has not been pursued. Intentional program violations include intentionally making false or misleading statements; intentionally offering, providing, soliciting, or receiving illegal remuneration as described in subdivision 6a or in violation of section 609.542, subdivision 2; intentionally misrepresenting, concealing, or withholding facts; and repeatedly and intentionally violating program regulations under this chapter. Intent may be proven by demonstrating a pattern of conduct that violates program rules under this chapter.

(b) To initiate an administrative disqualification, the commissioner must send written notice using a signature-verified confirmed delivery method to the provider against whom the action is being taken. Unless otherwise specified under this chapter or Minnesota Rules, chapter 3400, the commissioner must send the written notice at least 15 calendar days before the adverse action's effective date. The notice shall state (1) the factual basis for the agency's determination, (2) the action the agency intends to take, (3) the dollar amount of the monetary recovery or recoupment, if known, and (4) the provider's right to appeal the agency's proposed action.

(c) The provider may appeal an administrative disqualification by submitting a written request to the state agency. A provider's request must be received by the state agency no later than 30 days after the date the commissioner mails the notice.

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

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

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

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

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

(e) On appeal, the issuing agency bears the burden of proof to demonstrate by a preponderance of the evidence that the provider committed an intentional program violation.

(f) The hearing is subject to the requirements of section 142A.20. The human services judge may combine a fair hearing and administrative disqualification hearing into a single hearing if the factual issues arise out of the same or related circumstances and the provider receives prior notice that the hearings will be combined.

(g) A provider found to have committed an intentional program violation and is administratively disqualified must be disqualified, for a period of three years for the first offense and permanently for any subsequent offense, from receiving any payments from any child care program under this chapter.

(h) Unless a timely and proper appeal made under this section is received by the department, the administrative determination of the department is final and binding.

Subd. 6. **Prohibited hiring practices.** A person must not hire a child care center employee when, as a condition of employment, the employee is required to have one or more children who are eligible for or receive child care assistance, if:

(1) the individual hiring the employee is, or is acting at the direction of or in cooperation with, a child care center provider, center owner, director, manager, license holder, or other controlling individual; and

(2) the individual hiring the employee knows or has reason to know the purpose in hiring the employee is to obtain child care assistance program funds.

Subd. 6a. **Illegal remuneration.** (a) Except as provided in paragraph (b), program applicants, participants, and providers must not offer, provide, solicit, or receive money, a discount, a credit, a waiver, a rebate, a good, a service, employment, or anything else of value in exchange for:

(1) obtaining or attempting to obtain child care assistance program benefits; or

(2) directing a person's child care assistance program benefits to a particular provider.

(b) The prohibition in paragraph (a) does not apply to:

(1) marketing or promotional offerings that directly benefit an applicant or recipient's child or dependent for whom the child care provider is providing child care services; or

(2) child care provider discounts, scholarships, or other financial assistance allowed under section 142E.17, subdivision 7.

(c) An attempt to buy or sell access to a family's child care assistance program benefits to an unauthorized person by an applicant, a participant, or a provider is an intentional program violation under subdivision 5 and wrongfully obtaining assistance under section 256.98.

Subd. 7. **Actions or administrative sanctions.** (a) After completing the determination under subdivision 4, the department may take one or more of the actions or sanctions specified in this subdivision.

(b) The department may take the following actions:

(1) refer the investigation to law enforcement or a county attorney for possible criminal prosecution;

(2) refer relevant information to the department's licensing division, the child care assistance program, the Department of Education, the federal Child and Adult Care Food Program, or appropriate child or adult protection agency;

(3) enter into a settlement agreement with a provider, license holder, controlling individual, or recipient; or

(4) refer the matter for review by a prosecutorial agency with appropriate jurisdiction for possible civil action under the Minnesota False Claims Act, chapter 15C.

(c) In addition to section 256.98, the department may impose sanctions by:

(1) pursuing administrative disqualification through hearings or waivers;

(2) establishing and seeking monetary recovery or recoupment;

(3) issuing an order of corrective action that states the practices that are violations of child care assistance program policies, laws, or regulations, and that they must be corrected; or

(4) suspending, denying, or terminating payments to a provider.

(d) Upon a finding by the commissioner that any child care provider, center owner, director, manager, license holder, or other controlling individual of a child care center has employed, used, or acted as a recruiter offering conditional employment for a child care center that has received child care assistance program funding, the commissioner shall:

(1) immediately suspend all program payments to all child care centers in which the person employing, using, or acting as a recruiter offering conditional employment is an owner, director, manager, license holder, or other controlling individual. The commissioner shall suspend program payments under this clause even if services have already been provided; and

(2) immediately and permanently revoke the licenses of all child care centers of which the person employing, using, or acting as a recruiter offering conditional employment is an owner, director, manager, license holder, or other controlling individual.

142E.52 DUTY TO PROVIDE ACCESS.

Subdivision 1. **Affirmative duty.** A provider, license holder, controlling individual, employee, staff person, or recipient has an affirmative duty to provide access upon request to information specified under section 142E.54 or the program facility.

Subd. 2. **Failure to provide access.** Failure to provide access may result in denial or termination of authorizations for or payments to a recipient, provider, license holder, or controlling individual in the child care assistance program.

Subd. 3. **Notice of denial or termination.** When a provider fails to provide access, a 15-day notice of denial or termination must be issued to the provider, which prohibits the provider from participating in the child care assistance program. Notice must be sent to recipients whose children are under the provider's care pursuant to Minnesota Rules, part 3400.0185.

Subd. 4. **Continued or repeated failure to provide access.** If the provider continues to fail to provide access at the expiration of the 15-day notice period, child care assistance program payments to the provider must be denied beginning the 16th day following notice of the initial failure or refusal to provide access. The department may rescind the denial based upon good cause if the provider submits in writing a good cause basis for having failed or refused to provide access. The writing must be postmarked no later than the 15th day following the provider's notice of initial failure to provide access. Additionally, the provider, license holder, or controlling individual must immediately provide complete, ongoing access to the department. Repeated failures to provide access must, after the initial failure or for any subsequent failure, result in termination from participation in the child care assistance program.

Subd. 5. **Duplication of records.** The department, at its own expense, may photocopy or otherwise duplicate records referenced in section 142E.54. Photocopying must be done on the provider's premises on the day of the request or other mutually agreeable time, unless removal of records is specifically permitted by the provider. If requested, a provider, license holder, or controlling individual, or a designee, must assist the investigator in duplicating any record, including a hard copy or electronically stored data, on the day of the request.

Subd. 6. **Department access to program or records.** A provider, license holder, controlling individual, employee, or staff person must grant the department access during the department's normal business hours, and any hours that the program is operated, to examine the provider's program or the records listed in section 142E.54. A provider shall make records available at the provider's place of business on the day for which access is requested, unless the provider and the department both agree otherwise. The department's normal business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding state holidays as defined in section 645.44, subdivision 5.

142E.53 HONEST AND TRUTHFUL STATEMENTS.

It shall be unlawful for a provider, license holder, controlling individual, or recipient to:

(1) falsify, conceal, or cover up by any trick, scheme, or device a material fact;

(2) make any materially false, fictitious, or fraudulent statement or representation; or

(3) make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry related to any child care assistance program services that

the provider, license holder, or controlling individual supplies or in relation to any child care assistance payments received by a provider, license holder, or controlling individual or to any fraud investigator or law enforcement officer conducting a financial misconduct investigation.

142E.54 RECORD RETENTION.

Subdivision 1. **Records required to be retained.** The following records must be maintained, controlled, and made immediately accessible to license holders, providers, and controlling individuals. The records must be organized and labeled to correspond to categories that make them easy to identify so that they can be made available immediately upon request to an investigator acting on behalf of the commissioner at the provider's place of business:

(1) payroll ledgers, canceled checks, bank deposit slips, and any other accounting records;

(2) daily attendance records required by and that comply with section 142E.16, subdivision 7;

(3) billing transmittal forms requesting payments from the child care assistance program and billing adjustments related to child care assistance program payments;

(4) records identifying all persons, corporations, partnerships, and entities with an ownership or controlling interest in the provider's child care business;

(5) employee records identifying those persons currently employed by the provider's child care business or who have been employed by the business at any time within the previous five years. The records must include each employee's name, hourly and annual salary, qualifications, position description, job title, and dates of employment. In addition, employee records that must be made available include the employee's time sheets, current home address of the employee or last known address of any former employee, and documentation of background studies required under this chapter or chapter 245C;

(6) records related to transportation of children in care, including but not limited to:

(i) the dates and times that transportation is provided to children for transportation to and from the provider's business location for any purpose. For transportation related to field trips or locations away from the provider's business location, the names and addresses of those field trips and locations must also be provided;

(ii) the name, business address, phone number, and website address, if any, of the transportation service utilized; and

(iii) all billing or transportation records related to the transportation.

Subd. 2. **Time period for record retention.** (a) A provider, license holder, or controlling individual must retain all records in subdivision 1 for at least six years after the last date of service. Microfilm or electronically stored records satisfy the record-keeping requirements of this subdivision.

(b) In the event of an appealed case, the provider must retain all records required in subdivision 1 for the duration of the appeal or six years, whichever is longer.

Subd. 3. **Withdrawal or termination from program.** A provider, license holder, or controlling individual who withdraws or is terminated from the child care assistance program must retain the records required under subdivision 1 and make them available to the department on demand.

Subd. 4. **Provider change of ownership.** If the ownership of a provider changes, the transferor, unless otherwise provided by law or by written agreement with the transferee, is responsible for maintaining, preserving, and upon request from the department, making available the records related to the provider that were generated before the date of the transfer. Any written agreement affecting this provision must be held in the possession of the transferor and transferee. The written agreement must be provided to the department or county immediately upon request, and the written agreement must be retained by the transferor and transferee for six years after the agreement is fully executed.

Subd. 5. **Electronic record keeping or signatures.** A provider's use of electronic record keeping or electronic signatures is governed by chapter 325L.

142E.55 ADMINISTRATIVE SANCTIONS.

Subdivision 1. **Factors regarding imposition of administrative sanctions.** (a) The department shall consider the following factors in determining the administrative sanctions to be imposed:

(1) nature and extent of financial misconduct;

(2) history of financial misconduct;

(3) actions taken or recommended by other state agencies, other divisions of the department, and court and administrative decisions;

(4) prior imposition of sanctions;

(5) size and type of provider;

(6) information obtained through an investigation from any source;

(7) convictions or pending criminal charges; and

(8) any other information relevant to the acts or omissions related to the financial misconduct.

(b) Any single factor under paragraph (a) may be determinative of the department's decision of whether and what sanctions are imposed.

Subd. 2. **Appeal of department action.** A provider's rights related to the department's action taken under this chapter against a provider are established in sections 142A.12, 142E.18, 142E.19, and142E.20.

142E.56 MONETARY RECOVERY.

Subdivision 1. **Grounds for and methods of monetary recovery.** (a) The department may obtain monetary recovery from a provider who has been improperly paid by the child care assistance program, regardless of whether the error was intentional. Overpayments designated solely as agency error, and not the result of acts or omissions on the part of a provider or recipient, must not be established or collected. The department does not need to establish a pattern as a precondition of monetary recovery of erroneous or false billing claims, duplicate billing claims, or billing claims based on false statements or financial misconduct.

(b) The department shall obtain monetary recovery from providers by the following means:

(1) permitting voluntary repayment of money, either in lump-sum payment or installment payments;

(2) using any legal collection process;

(3) deducting or withholding program payments; or

(4) utilizing the means set forth in chapter 16D.

Subd. 2. **Monetary recovery; random sample extrapolation.** The department is authorized to calculate the amount of monetary recovery from a provider, license holder, or controlling individual based upon extrapolation from a statistical random sample of claims submitted by the provider, license holder, or controlling individual and paid by the child care assistance program. The department's random sample extrapolation shall constitute a rebuttable presumption of the accuracy of the calculation of monetary recovery. If the presumption is not rebutted by the provider, license holder, or controlling individual in the appeal process, the department shall use the extrapolation as the monetary recovery figure. The department may use sampling and extrapolation to calculate the amount of monetary recovery if the claims to be reviewed represent services to 50 or more children in care.

142E.57 REPORTING OF SUSPECTED FRAUDULENT ACTIVITY.

(a) A person who, in good faith, makes a report of or testifies in any action or proceeding in which financial misconduct is alleged, and who is not involved in, has not participated in, or has not aided and abetted, conspired, or colluded in the financial misconduct, shall have immunity from any liability, civil or criminal, that results by reason of the person's report or testimony. For the purpose of any proceeding, the good faith of any person reporting or testifying under this provision shall be presumed.

(b) If a person that is or has been involved in, participated in, aided and abetted, conspired, or colluded in the financial misconduct reports the financial misconduct, the department may consider that person's report and assistance in investigating the misconduct as a mitigating factor in the department's pursuit of civil, criminal, or administrative remedies.

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

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

142G.21 APPLICANT AND PARTICIPANT RIGHTS; COUNTY AGENCY DUTY.

Subd. 12. **Right to discontinue cash assistance.** A participant who is not in vendor payment status may discontinue receipt of the cash assistance portion of the MFIP assistance grant and retain eligibility for child care assistance under section 142E.08. For the months a participant chooses to discontinue the receipt of the cash portion of the MFIP grant, the assistance unit accrues months of eligibility to be applied toward eligibility for child care under section 142E.08.