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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3972

03/02/2020

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The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act

1.2 relating to human services; amending training requirements; amending Minnesota

1.3 Statutes 2018, sections 245A.041, by adding a subdivision; 245A.11, by adding

1.4 a subdivision; Minnesota Statutes 2019 Supplement, sections 245A.18, subdivision

1.5 2; 256B.064, subdivision 2; proposing coding for new law in Minnesota Statutes,

1.6 chapter 245A.

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

1.8 Section 1. Minnesota Statutes 2018, section 245A.041, is amended by adding a subdivision

1.9 to read:

1.10 Subd. 5. **First date of direct contact.** Except for family child care and family foster

1.11 care for children or adults provided in the license holder's residence, license holders must

1.12 document the first date a background study subject has direct contact with persons served

1.13 by the program, as defined in section 245C.02, subdivision 11. Unless otherwise required

1.14 by this chapter, if this date is not documented in the program's personnel files, the license

1.15 holder must be able to provide documentation that contains the date for each background

1.16 study subject to the commissioner upon request.

1.17 **EFFECTIVE DATE.** This section is effective August 1, 2020.

1.18 Sec. 2. Minnesota Statutes 2018, section 245A.11, is amended by adding a subdivision to

1.19 read:

1.20 Subd. 13. **License holder qualifications for child foster care.** (a) Child foster care

1.21 license holders and household members must maintain the ability to care for a foster child.

1.22 Child foster care license holders and adult household members must continue to be free

2.1 from substance use problems. License holders must immediately notify the licensing agency
 2.2 of:

2.3 (1) any changes to the license holder or household member's health that may affect their
 2.4 ability to care for a foster child or pose a risk to a foster child's health;

2.5 (2) a license holder or adult household member's substance use problems; and

2.6 (3) the removal of a child for whom the license holder is responsible from the license
 2.7 holder's home.

2.8 (b) The licensing agency may request a license holder or adult household member to
 2.9 undergo an evaluation by a specialist in such areas as health, mental health, or substance
 2.10 use disorders to evaluate the license holder's ability to provide a safe environment for a
 2.11 foster child.

2.12 **EFFECTIVE DATE.** This section is effective January 1, 2021.

2.13 Sec. 3. Minnesota Statutes 2019 Supplement, section 245A.18, subdivision 2, is amended
 2.14 to read:

2.15 Subd. 2. **Child passenger restraint systems; training requirement.** (a) Programs
 2.16 licensed by the Department of Human Services under Minnesota Rules, chapter 2960, that
 2.17 serve a child or children under eight years of age must document training that fulfills the
 2.18 requirements in this subdivision.

2.19 (b) Before a license holder, staff person, or caregiver transports a child or children under
 2.20 age eight in a motor vehicle, the person transporting the child must satisfactorily complete
 2.21 training on the proper use and installation of child restraint systems in motor vehicles.
 2.22 Training completed under this section may be used to meet initial or ongoing training under
 2.23 Minnesota Rules, part 2960.3070, subparts 1 and 2.

2.24 (c) Training required under this section must be completed at orientation or initial training
 2.25 and repeated at least once every five years. At a minimum, the training must address the
 2.26 proper use of child restraint systems based on the child's size, weight, and age, and the
 2.27 proper installation of a car seat or booster seat in the motor vehicle used by the license
 2.28 holder to transport the child or children.

2.29 (d) Training under paragraph (c) must be provided by individuals who are certified and
 2.30 approved by the Department of Public Safety, Office of Traffic Safety. License holders may
 2.31 obtain a list of certified and approved trainers through the Department of Public Safety
 2.32 website or by contacting the agency.

3.1 ~~(e) Notwithstanding paragraph (a), for an emergency relative placement under section~~
 3.2 ~~245A.035, the commissioner may grant a variance to the training required by this subdivision~~
 3.3 ~~for a relative who completes a child seat safety check up. The child seat safety check up~~
 3.4 ~~trainer must be approved by the Department of Public Safety, Office of Traffic Safety, and~~
 3.5 ~~must provide one-on-one instruction on placing a child of a specific age in the exact child~~
 3.6 ~~passenger restraint in the motor vehicle in which the child will be transported. Once granted~~
 3.7 ~~a variance, and if all other licensing requirements are met, the relative applicant may receive~~
 3.8 ~~a license and may transport a relative foster child younger than eight years of age. A child~~
 3.9 ~~seat safety check up must be completed each time a child requires a different size car seat~~
 3.10 ~~according to car seat and vehicle manufacturer guidelines. A relative license holder must~~
 3.11 ~~complete training that meets the other requirements of this subdivision prior to placement~~
 3.12 ~~of another foster child younger than eight years of age in the home or prior to the renewal~~
 3.13 ~~of the child foster care license.~~

3.14 **EFFECTIVE DATE.** This section is effective January 1, 2021.

3.15 Sec. 4. **[245A.70] FAMILY CHILD FOSTER CARE TRAINING REQUIREMENTS.**

3.16 Subdivision 1. **Applicability.** This section applies to programs licensed to provide foster
 3.17 care for children in the license holder's residence. For the purposes of this section, "foster
 3.18 parent" means the license holder or license holders.

3.19 Subd. 2. **Orientation.** (a) Each foster parent applicant must complete a minimum of six
 3.20 hours of orientation before being licensed. Orientation training hours do not count toward
 3.21 annual training hours. The commissioner may grant a variance regarding the number of
 3.22 orientation hours required under this subdivision.

3.23 (b) The foster parent's orientation must include training about the following:

3.24 (1) emergency procedures, including evacuation routes, emergency telephone numbers,
 3.25 severe storm and tornado procedures, and location of alarms and equipment;

3.26 (2) relevant laws and rules, including but not limited to this chapter; chapters 260 and
 3.27 260C; section 626.556; Minnesota Rules, chapter 9560; and related legal issues and reporting
 3.28 requirements;

3.29 (3) cultural diversity, gender sensitivity, culturally specific services, cultural competence,
 3.30 and information about discrimination and racial bias to ensure that caregivers are culturally
 3.31 competent to care for foster children according to section 260C.212, subdivision 11;

3.32 (4) the foster parent's roles and responsibilities in developing and implementing the case
 3.33 plan and in court and administrative reviews of the child's placement;

4.1 (5) the licensing agency's requirements;

4.2 (6) one hour relating to reasonable and prudent parenting standards for the child's
4.3 participation in age-appropriate or developmentally appropriate extracurricular, social, or
4.4 cultural activities according to section 260C.212, subdivision 14;

4.5 (7) two hours relating to children's mental health issues according to subdivision 3;

4.6 (8) if required by subdivision 4, the proper use and installation of child passenger restraint
4.7 systems in motor vehicles, if applicable;

4.8 (9) if required by subdivision 5, at least one hour about reducing the risk of sudden
4.9 unexpected infant death and abusive head trauma from shaking infants and young children,
4.10 if applicable; and

4.11 (10) if required by subdivision 6, operating medical equipment, if applicable.

4.12 Subd. 3. **Mental health training.** Prior to licensure, each foster parent, staff person, and
4.13 caregiver must complete two hours of training that addresses the causes, symptoms, and
4.14 key warning signs of mental health disorders; cultural considerations; and effective
4.15 approaches to managing a child's behaviors. Prior to caring for a foster child, each caregiver
4.16 must complete two hours of training that addresses the causes, symptoms, and key warning
4.17 signs of mental health disorders; cultural considerations; and effective approaches to
4.18 managing a child's behaviors. Each year, each foster parent, staff person, and caregiver must
4.19 complete at least one hour of training about children's mental health issues and treatment.
4.20 A short-term substitute caregiver is exempt from this subdivision. The commissioner of
4.21 human services shall approve a mental health training curriculum that satisfies the
4.22 requirements of this subdivision.

4.23 Subd. 4. **Child passenger restraint systems.** (a) An applicant must complete the training
4.24 required by this subdivision prior to licensure if an applicant intends to accept placement
4.25 of a child younger than eight years of age. Each foster parent, staff person, and caregiver
4.26 must satisfactorily complete training about the proper use and installation of child passenger
4.27 restraint systems in motor vehicles before transporting a child younger than eight years of
4.28 age in a motor vehicle.

4.29 (b) Training must be provided by an individual who is certified and approved by the
4.30 Department of Public Safety, Office of Traffic Safety. At a minimum, the training must
4.31 address the proper use of child passenger restraint systems based on the child's size, weight,
4.32 and age, and the proper installation of a car seat or booster seat in the motor vehicle

5.1 transporting the child. The training required under this subdivision must be repeated at least
5.2 once every five years.

5.3 (c) Notwithstanding paragraph (a), for an emergency relative placement under section
5.4 245A.035, the commissioner may grant a variance to the training required by this subdivision
5.5 for a relative who completes a child seat safety checkup. The child seat safety checkup
5.6 trainer must be approved by the Department of Public Safety, Office of Traffic Safety, and
5.7 must provide one-on-one instruction on placing a child of a specific age in the exact child
5.8 passenger restraint in the motor vehicle in which the child will be transported. Once granted
5.9 a variance, and if all other licensing requirements are met, the relative applicant may receive
5.10 a license and may transport a relative foster child younger than eight years of age. A child
5.11 seat safety checkup must be completed each time a child requires a different size car seat
5.12 according to car seat and vehicle manufacturer guidelines. A relative license holder must
5.13 complete training that meets the requirements of this subdivision prior to placement of
5.14 another foster child younger than eight years of age in the home or prior to the renewal of
5.15 the child foster care license.

5.16 Subd. 5. **Training about the risk of sudden unexpected infant death and abusive**
5.17 **head trauma.** Each foster parent, staff person, and caregiver who cares for an infant or a
5.18 child five years of age and younger must satisfactorily complete at least one hour of training
5.19 about reducing the risk of sudden unexpected infant death and abusive head trauma from
5.20 shaking infants and young children. The county or private licensing agency monitoring the
5.21 foster care provider under section 245A.16 must approve of the training about reducing the
5.22 risk of sudden unexpected infant death and abusive head trauma from shaking infants and
5.23 young children. At a minimum, the training must address the risk factors related to sudden
5.24 unexpected infant death and abusive head trauma, means of reducing the risk of sudden
5.25 unexpected infant death and abusive head trauma, and license holder communication with
5.26 parents regarding reducing the risk of sudden unexpected infant death and abusive head
5.27 trauma. Each foster parent must complete this training prior to licensure. Each staff person
5.28 and caregiver must complete this training prior to caring for an infant or a child five years
5.29 of age and younger. The training required by this subdivision must be completed at least
5.30 once every five years.

5.31 Subd. 6. **Training on use of medical equipment.** (a) If caring for a child who relies on
5.32 medical equipment to sustain life or monitor a medical condition, each foster parent, staff
5.33 person, and caregiver must satisfactorily complete training to operate the child's equipment
5.34 with a health care professional or an individual who provides training on the equipment.

5.35 (b) A foster parent, staff person, or caregiver is exempt from this subdivision if:

6.1 (1) the foster parent, staff person, or caregiver is currently caring for an individual who
6.2 is using the same equipment in the foster home; or

6.3 (2) the foster parent, staff person, or caregiver has written documentation that the foster
6.4 parent, staff person, or caregiver has cared for an individual who relied on the same
6.5 equipment within the past six months.

6.6 Subd. 7. **Fetal alcohol spectrum disorders training.** Each foster parent, staff person,
6.7 and caregiver must complete at least one hour of the annual training requirement about fetal
6.8 alcohol spectrum disorders. A provider who is also licensed to provide home and
6.9 community-based services under chapter 245D and the provider's staff are exempt from
6.10 this subdivision. A short-term substitute caregiver is exempt from this subdivision. The
6.11 commissioner of human services shall approve a fetal alcohol spectrum disorders training
6.12 curriculum that satisfies the requirements of this subdivision.

6.13 Subd. 8. **Ongoing training requirement.** (a) Each foster parent, staff person, and
6.14 caregiver must complete a minimum of 12 hours of training per calendar year. If a foster
6.15 parent fails to complete the required annual training and does not show good cause why the
6.16 foster parent did not complete the training, the foster parent is prohibited from accepting a
6.17 new foster child placement until the foster parent completes the training. The commissioner
6.18 may grant a variance to the required number of annual training hours.

6.19 (b) Each year, each foster parent, staff person, and caregiver must complete one hour
6.20 of training about children's mental health issues according to subdivision 3, and one hour
6.21 of training about fetal alcohol spectrum disorders, if required by subdivision 7.

6.22 (c) At least once every five years, each foster parent, staff person, and caregiver must
6.23 complete one hour of training about reducing the risk of sudden unexpected infant death
6.24 and abusive head trauma, if required by subdivision 5.

6.25 (d) At least once every five years, each foster parent, staff person, and caregiver must
6.26 complete training regarding child passenger restraint systems, if required by subdivision 4.

6.27 (e) The commissioner may provide a nonexclusive list of training topics eligible to fulfill
6.28 the remaining hours of required ongoing annual training.

6.29 Subd. 9. **Documentation of training.** (a) The licensing agency must document the
6.30 trainings required by this section on a form that the commissioner has developed.

6.31 (b) For training required under subdivision 6, the agency must also retain a training and
6.32 skills form on file and update the form each year for each foster care provider who completes
6.33 training about caring for a child who relies on medical equipment to sustain life or monitor

7.1 a medical condition. The agency placing the child must obtain a copy of the training and
 7.2 skills form from the foster parent or from the agency supervising the foster parent. The
 7.3 agency must retain the form and any updated information on file for the placement's duration.
 7.4 The form must be available to the parent or guardian and the child's social worker for the
 7.5 social worker to make an informed placement decision. The agency must use the training
 7.6 and skills form that the commissioner has developed.

7.7 **EFFECTIVE DATE.** This section is effective January 1, 2021.

7.8 Sec. 5. **[245A.75] FOSTER RESIDENCE SETTING STAFF TRAINING**
 7.9 **REQUIREMENTS.**

7.10 Subdivision 1. **Applicability.** For the purposes of this section, "foster residence setting"
 7.11 means foster care that a license holder provides in a home in which the license holder does
 7.12 not reside. "Foster residence setting" does not include any program licensed or certified
 7.13 under Minnesota Rules, parts 2960.0010 to 2960.0710.

7.14 Subd. 2. **Orientation.** The license holder must ensure that all staff attend and successfully
 7.15 complete at least six hours of orientation training before having unsupervised contact with
 7.16 a foster child. Orientation training hours are not counted toward the hours of annual training.
 7.17 Orientation must include training on the following:

7.18 (1) emergency procedures, including evacuation routes, emergency telephone numbers,
 7.19 severe storm and tornado procedures, and location of facility alarms and equipment;

7.20 (2) relevant laws, rules, and legal issues, including reporting requirements for abuse and
 7.21 neglect specified in sections 626.556 and 626.557 and other reporting requirements based
 7.22 on the children's ages;

7.23 (3) cultural diversity, gender sensitivity, culturally specific services, and information
 7.24 about discrimination and racial bias to ensure that caregivers are culturally sensitive and
 7.25 culturally competent to care for foster children according to section 260C.212, subdivision
 7.26 11;

7.27 (4) general and special needs, including disability needs, of children and families served;

7.28 (5) operational policies and procedures of the license holder;

7.29 (6) data practices requirements and issues;

7.30 (7) two hours of training about mental health disorders in accordance with subdivision
 7.31 3;

8.1 (8) if required by subdivision 4, the proper use and installation of child passenger restraint
8.2 systems in motor vehicles, if applicable;

8.3 (9) if required by subdivision 5, at least one hour of training about reducing the risk of
8.4 sudden unexpected infant death and abusive head trauma from shaking infants and young
8.5 children, if applicable; and

8.6 (10) if required by subdivision 6, caring for a child who relies on medical equipment to
8.7 sustain life or monitor a medical condition, if applicable.

8.8 Subd. 3. **Mental health training.** Prior to caring for a child, staff must complete two
8.9 hours of training that addresses the causes, symptoms, and key warning signs of mental
8.10 health disorders; cultural considerations; and effective approaches to address a child's
8.11 behaviors. Foster residence staff must complete at least one hour of the annual training
8.12 requirement regarding children's mental health issues and treatment. A short-term substitute
8.13 caregiver is exempt from this subdivision. The commissioner of human services shall approve
8.14 a mental health training curriculum that satisfies the requirements of this subdivision.

8.15 Subd. 4. **Child passenger restraint systems.** Prior to transporting a child younger than
8.16 eight years of age in a motor vehicle, a license holder, staff person, or caregiver must
8.17 satisfactorily complete training about the proper use and installation of child restraint systems
8.18 in motor vehicles. Training must be provided by an individual who is certified and approved
8.19 by the Department of Public Safety, Office of Traffic Safety. At a minimum, the training
8.20 must address the proper use of child passenger restraint systems based on the child's size,
8.21 weight, and age and the proper installation of a car seat or booster seat in the motor vehicle
8.22 transporting the child. The training required under this subdivision must be completed at
8.23 least once every five years.

8.24 Subd. 5. **Training about the risk of sudden unexpected infant death and abusive**
8.25 **head trauma.** A license holder, staff person, or caregiver who cares for an infant or a child
8.26 five years of age and younger must satisfactorily complete at least one hour of training
8.27 approved by the county or private licensing agency that is responsible for monitoring the
8.28 child foster care provider under section 245A.16 about reducing the risk of sudden unexpected
8.29 infant death and abusive head trauma from shaking infants and young children. The county
8.30 or private licensing agency responsible for monitoring the child foster care provider under
8.31 section 245A.16 must approve of the training about reducing the risk of sudden unexpected
8.32 infant death and abusive head trauma from shaking infants and young children. At a
8.33 minimum, the training must address the risk factors related to sudden unexpected infant
8.34 death and abusive head trauma, means of reducing the risk of sudden unexpected infant

9.1 death and abusive head trauma, and license holder communication with parents regarding
9.2 reducing the risk of sudden unexpected infant death and abusive head trauma. The license
9.3 holder, staff person, or caregiver must complete this training prior to licensure or, for staff
9.4 and caregivers, prior to caring for an infant or a child five years of age and younger. The
9.5 license holder, staff person, or caregiver must complete the training required under this
9.6 subdivision at least once every five years.

9.7 Subd. 6. **Training on use of medical equipment.** (a) If caring for a child who relies on
9.8 medical equipment to sustain life or monitor a medical condition, the license holder or staff
9.9 person must complete training to operate the child's equipment. A health care professional
9.10 or an individual who provides training on the equipment must train the license holder or
9.11 staff person about how to operate the child's equipment.

9.12 (b) A license holder is exempt from this subdivision if:

9.13 (1) the license holder is currently caring for an individual who is using the same
9.14 equipment in the foster home and each staff person has received training to use the
9.15 equipment; or

9.16 (2) the license holder has written documentation that, within the past six months, the
9.17 license holder has cared for an individual who relied on the same equipment and each current
9.18 staff person has received training to use the same equipment.

9.19 Subd. 7. **Fetal alcohol spectrum disorder training.** (a) Each staff person must complete
9.20 at least one hour of the annual training requirement about fetal alcohol spectrum disorders.
9.21 The commissioner of human services shall approve a fetal alcohol spectrum disorder training
9.22 curriculum that satisfies the requirements of this subdivision.

9.23 (b) A provider who is also licensed to provide home and community-based services
9.24 under chapter 245D and the provider's staff are exempt from this subdivision. A short-term
9.25 substitute caregiver is exempt from this subdivision.

9.26 Subd. 8. **Prudent parenting standards training.** The license holder must have at least
9.27 one on-site staff person who is trained regarding the standards under section 260C.215,
9.28 subdivision 4, and authorized to apply the reasonable and prudent parenting standards to
9.29 decisions involving the approval of a foster child's participation in age-appropriate and
9.30 developmentally appropriate extracurricular, social, or cultural activities. The trained on-site
9.31 staff person is not required to be available 24 hours per day.

9.32 Subd. 9. **Annual training plan and hours.** (a) The license holder must develop an
9.33 annual training plan for staff and volunteers. The license holder must modify training for

10.1 staff and volunteers each year to meet each staff person's current needs and provide sufficient
 10.2 training to accomplish each staff person's duties. To determine the type and amount of
 10.3 training, the license holder must consider the foster care program's target population, the
 10.4 program's services, and outcomes expected from the services, as well as the employee's job
 10.5 description, tasks, and the position's performance indicators.

10.6 (b) Full-time staff who have direct contact with a child must complete at least 18 hours
 10.7 of in-service training per calendar year. Nine hours of training must be skill development
 10.8 training.

10.9 (c) Part-time direct care staff must complete sufficient training to competently care for
 10.10 children. The amount of training must be at least one hour of training for each 60 hours
 10.11 worked, up to 18 hours of training per part-time employee per year.

10.12 (d) Other foster residence staff and volunteers must complete in-service training
 10.13 requirements each year consistent with their duties.

10.14 Subd. 10. **Documentation of training.** (a) For each staff person and volunteer, the
 10.15 license holder must document the date, number of training hours, and the entity's name that
 10.16 provided the training.

10.17 (b) For training required under subdivision 6, the agency supervising the foster care
 10.18 provider must retain a training and skills form on file and update the form each year for
 10.19 each staff person that completes training about caring for a child who relies on medical
 10.20 equipment to sustain life or monitor a medical condition. The agency placing the child must
 10.21 obtain a copy of the training and skills form from the foster care provider or the agency
 10.22 supervising the foster care provider. The placing agency must retain the form and any
 10.23 updated information on file for the placement's duration. The form must be available to the
 10.24 child's parent or the child's primary caregiver and the child's social worker to make an
 10.25 informed placement decision. The agency must use the training and skills form that the
 10.26 commissioner has developed.

10.27 **EFFECTIVE DATE.** This section is effective January 1, 2021.

10.28 Sec. 6. Minnesota Statutes 2019 Supplement, section 256B.064, subdivision 2, is amended
 10.29 to read:

10.30 **Subd. 2. Imposition of monetary recovery and sanctions.** (a) The commissioner shall
 10.31 determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor
 10.32 of medical care under this section. Except as provided in paragraphs (b) and (d), neither a
 10.33 monetary recovery nor a sanction will be imposed by the commissioner without prior notice

11.1 and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed
11.2 action, provided that the commissioner may suspend or reduce payment to a vendor of
11.3 medical care, except a nursing home or convalescent care facility, after notice and prior to
11.4 the hearing if in the commissioner's opinion that action is necessary to protect the public
11.5 welfare and the interests of the program.

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

11.10 (1) the vendor is convicted of a crime involving the conduct described in subdivision
11.11 1a; or

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

11.15 (i) fraud hotline complaints;

11.16 (ii) claims data mining; and

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

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

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

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

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

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

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

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

12.3 The withholding or reduction of payments will not continue after the commissioner
12.4 determines there is insufficient evidence of fraud by the vendor, or after legal proceedings
12.5 relating to the alleged fraud are completed, unless the commissioner has sent notice of
12.6 intention to impose monetary recovery or sanctions under paragraph (a). Upon conviction
12.7 for a crime related to the provision, management, or administration of a health service under
12.8 medical assistance, a payment held pursuant to this section by the commissioner or a managed
12.9 care organization that contracts with the commissioner under section 256B.035 is forfeited
12.10 to the commissioner or managed care organization, regardless of the amount charged in the
12.11 criminal complaint or the amount of criminal restitution ordered.

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

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

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

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

12.22 (e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is
12.23 to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision
12.24 3, by filing with the commissioner a written request of appeal. The appeal request must be
12.25 received by the commissioner no later than 30 days after the date the notification of monetary
12.26 recovery or sanction was mailed to the vendor. The appeal request must specify:

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

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

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

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

13.1 (5) other information required by the commissioner.

13.2 (f) The commissioner may order a vendor to forfeit a fine for failure to fully document
13.3 services according to standards in this chapter and Minnesota Rules, chapter 9505. The
13.4 commissioner may assess fines if specific required components of documentation are
13.5 missing. The fine for incomplete documentation shall equal 20 percent of the amount paid
13.6 on the claims for reimbursement submitted by the vendor, or up to \$5,000, whichever is
13.7 less. If the commissioner determines that a vendor repeatedly violated this chapter, chapter
13.8 254B or 245G, or Minnesota Rules, chapter 9505, related to the provision of services to
13.9 program recipients and the submission of claims for payment, the commissioner may order
13.10 a vendor to forfeit a fine based on the nature, severity, and chronicity of the violations, in
13.11 an amount of up to \$5,000 or 20 percent of the value of the claims, whichever is greater.

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