

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1466

02/22/2021

Authored by Pryor

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

1.1 A bill for an act

1.2 relating to human services; modifying child care assistance and child care provider

1.3 provisions; amending Minnesota Statutes 2020, sections 119B.11, subdivision 2a;

1.4 119B.125, subdivision 1; 119B.13, subdivisions 6, 7; repealing Minnesota Statutes

1.5 2020, sections 119B.04; 119B.125, subdivision 5.

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

1.7 Section 1. Minnesota Statutes 2020, section 119B.11, subdivision 2a, is amended to read:

1.8 Subd. 2a. **Recovery of overpayments.** (a) An amount of child care assistance paid to a

1.9 recipient or provider in excess of the payment due is recoverable by the county agency or

1.10 commissioner under paragraphs (b) and (c), even when the overpayment was caused by

1.11 agency error or circumstances outside the responsibility and control of the family or provider.

1.12 (b) An overpayment must be recouped or recovered from the family if the overpayment

1.13 benefited the family by causing the family to pay less for child care expenses than the family

1.14 otherwise would have been required to pay under child care assistance program requirements.

1.15 If the family remains eligible for child care assistance, the overpayment must be recovered

1.16 through recoupment as identified in Minnesota Rules, part 3400.0187, except that the

1.17 overpayments must be calculated and collected on a service period basis. If the family no

1.18 longer remains eligible for child care assistance, the county or commissioner may choose

1.19 to initiate efforts to recover overpayments from the family for ~~overpayment~~ overpayments

1.20 less than \$50 that were not the result of fraud under section 256.98, theft under section

1.21 609.52, or a federal crime relating to theft of state funds or fraudulent receipt of benefits

1.22 for a program administered by the county or commissioner. If the overpayment is greater

1.23 than or equal to \$50, or it resulted from fraud under section 256.98, theft under section

1.24 609.52, or a federal crime relating to theft of state funds or fraudulent receipt of benefits

2.1 for a program administered by the county or commissioner, the county or commissioner
 2.2 shall seek voluntary repayment of the overpayment from the family. If the county or
 2.3 commissioner is unable to recoup the overpayment through voluntary repayment, the county
 2.4 or commissioner shall initiate civil court proceedings to recover the overpayment unless
 2.5 the county's or commissioner's costs to recover the overpayment will exceed the amount of
 2.6 the overpayment. A family with an outstanding debt under this subdivision is not eligible
 2.7 for child care assistance until: (1) the debt is paid in full; or (2) satisfactory arrangements
 2.8 are made with the county or commissioner to retire the debt consistent with the requirements
 2.9 of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with
 2.10 the arrangements; or (3) the commissioner determines that it is in the best interests of the
 2.11 state to compromise debts owed to the state pursuant to section 16D.15.

2.12 (c) The county or commissioner must recover an overpayment from a provider if the
 2.13 overpayment did not benefit the family by causing it to receive more child care assistance
 2.14 or to pay less for child care expenses than the family otherwise would have been eligible
 2.15 to receive or required to pay under child care assistance program requirements, and benefited
 2.16 the provider by causing the provider to receive more child care assistance than otherwise
 2.17 would have been paid on the family's behalf under child care assistance program
 2.18 requirements. If the provider continues to care for children receiving child care assistance,
 2.19 the overpayment must be recovered through ~~reductions in child care assistance payments~~
 2.20 ~~for services as described in an agreement with the county~~ recoupment as identified in
 2.21 Minnesota Rules, part 3400.0187. The provider may not charge families using that provider
 2.22 more to cover the cost of recouping the overpayment. If the provider no longer cares for
 2.23 children receiving child care assistance, the county or commissioner may choose to initiate
 2.24 efforts to recover overpayments of less than \$50 that were not the result of fraud under
 2.25 section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds
 2.26 or fraudulent billing for a program administered by the county or commissioner from the
 2.27 provider. If the overpayment is greater than or equal to \$50, or it resulted from fraud under
 2.28 section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds
 2.29 or fraudulent billing for a program administered by the county or commissioner, the county
 2.30 or commissioner shall seek voluntary repayment of the overpayment from the provider. If
 2.31 the county or commissioner is unable to recoup the overpayment through voluntary
 2.32 repayment, the county or commissioner shall initiate civil court proceedings to recover the
 2.33 overpayment unless the county's or commissioner's costs to recover the overpayment will
 2.34 exceed the amount of the overpayment. A provider with an outstanding debt under this
 2.35 subdivision is not eligible to care for children receiving child care assistance until:

3.1 (1) the debt is paid in full; ~~or~~

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

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

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

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

3.15 Sec. 2. Minnesota Statutes 2020, section 119B.125, subdivision 1, is amended to read:

3.16 Subdivision 1. **Authorization.** ~~Except as provided in subdivision 5,~~ A county or the
 3.17 commissioner must authorize the provider chosen by an applicant or a participant before
 3.18 the county can authorize payment for care provided by that provider. The commissioner
 3.19 must establish the requirements necessary for authorization of providers. A provider must
 3.20 be reauthorized every two years. A legal, nonlicensed family child care provider also must
 3.21 be reauthorized when another person over the age of 13 joins the household, a current
 3.22 household member turns 13, or there is reason to believe that a household member has a
 3.23 factor that prevents authorization. The provider is required to report all family changes that
 3.24 would require reauthorization. When a provider has been authorized for payment for
 3.25 providing care for families in more than one county, the county responsible for
 3.26 reauthorization of that provider is the county of the family with a current authorization for
 3.27 that provider and who has used the provider for the longest length of time.

3.28 **EFFECTIVE DATE.** This section is effective August 1, 2021.

3.29 Sec. 3. Minnesota Statutes 2020, section 119B.13, subdivision 6, is amended to read:

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

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

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

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

4.15 (d) A county or the commissioner may refuse to issue a child care authorization to a
4.16 certified, licensed, or legal nonlicensed provider, revoke an existing child care authorization
4.17 to a certified, licensed, or legal nonlicensed provider, stop payment issued to a certified,
4.18 licensed, or legal nonlicensed provider, or refuse to pay a bill submitted by a certified,
4.19 licensed, or legal nonlicensed provider if:

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

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

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

4.27 (4) the provider is operating after:

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

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

4.30 (iii) ~~a final order of conditional license issued by the commissioner for as long as the~~
4.31 ~~conditional license is in effect~~ an order of decertification issued to the provider;

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

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

5.4 (7) the provider fails to report decreases in a child's attendance as required under section
5.5 119B.125, subdivision 9.

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

5.9 (f) A county's payment policies must be included in the county's child care plan under
5.10 section 119B.08, subdivision 3. If payments are made by the state, in addition to being in
5.11 compliance with this subdivision, the payments must be made in compliance with section
5.12 16A.124.

5.13 (g) If the commissioner or responsible county agency suspends or refuses payment to a
5.14 provider under paragraph (d), clause (1) or (2), or chapter 245E and the provider has:

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

5.17 (2) an administrative disqualification under section 256.046, subdivision 3; or

5.18 (3) a termination under section 245E.02, subdivision 4, paragraph (c), clause (4), or
5.19 245E.06;

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

5.23 **EFFECTIVE DATE.** This section is effective August 1, 2021.

5.24 Sec. 4. Minnesota Statutes 2020, section 119B.13, subdivision 7, is amended to read:

5.25 Subd. 7. **Absent days.** (a) Licensed child care providers and license-exempt centers
5.26 must not be reimbursed for more than 25 full-day absent days per child, excluding holidays,
5.27 in a calendar year, or for more than ten consecutive full-day absent days. "Absent day"
5.28 means any day that the child is authorized and scheduled to be in care with a licensed
5.29 provider or license-exempt center, and the child is absent from the care for the entire day.
5.30 Legal nonlicensed family child care providers must not be reimbursed for absent days. If a
5.31 child attends for part of the time authorized to be in care in a day, but is absent for part of
5.32 the time authorized to be in care in that same day, the absent time must be reimbursed but

6.1 the time must not count toward the absent days limit. Child care providers must only be
6.2 reimbursed for absent days if the provider has a written policy for child absences and charges
6.3 all other families in care for similar absences.

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

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

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

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

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

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

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

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

7.9 **EFFECTIVE DATE.** This section is effective August 1, 2021.

7.10 Sec. 5. **REPEALER.**

7.11 Minnesota Statutes 2020, sections 119B.04; and 119B.125, subdivision 5, are repealed.

7.12 **EFFECTIVE DATE.** This section is effective August 1, 2021.

119B.04 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.

119B.125 PROVIDER REQUIREMENTS.

Subd. 5. **Provisional payment.** After a county receives a completed application from a provider, the county may issue provisional authorization and payment to the provider during the time needed to determine whether to give final authorization to the provider.