

## State of Minnesota

## HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1535

03/09/2015 Authored by Mack

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

03/25/2015 Adoption of Report: Amended and re-referred to the Committee on Civil Law and Data Practices

04/07/2015 Adoption of Report: Placed on the General Register as Amended  
Read Second Time

## A bill for an act

1.1 relating to human services; providing for human services policy modifications  
 1.2 relating to children and family services, chemical and mental health services,  
 1.3 direct care and treatment, operations, health care, and continuing care; making  
 1.4 changes to child care assistance programs, home and community-based services  
 1.5 standards, medical assistance, the alternative care program, Northstar Care  
 1.6 for Children, children's therapeutic services and supports, human services  
 1.7 licensing provisions, and the community first services and supports program;  
 1.8 modifying requirements for background studies; extending a council; modifying  
 1.9 the Minnesota Indian Family Preservation Act; making changes to provisions  
 1.10 governing child out-of-home placement; modifying reporting requirements for  
 1.11 maltreatment of children and vulnerable adults; making technical changes;  
 1.12 requiring reports; modifying requirements for administrative sanctions and  
 1.13 hearings; authorizing rulemaking; providing criminal penalties; amending  
 1.14 Minnesota Statutes 2014, sections 62J.495, subdivision 1; 119B.011, subdivision  
 1.15 16; 119B.025, subdivision 1; 119B.09, subdivision 9; 119B.125, subdivisions  
 1.16 1, 6, by adding subdivisions; 144.0724, subdivision 12; 148E.065, subdivision  
 1.17 4a; 168.012, subdivision 1; 245.462, subdivision 4; 245A.02, subdivision 13,  
 1.18 by adding subdivisions; 245A.035, subdivisions 1, 5; 245A.04, subdivision  
 1.19 15a; 245A.07, subdivisions 2, 2a; 245A.11, subdivision 4; 245A.12; 245A.13;  
 1.20 245A.148; 245A.16, subdivision 1; 245A.175; 245A.1915; 245A.192,  
 1.21 subdivisions 3, 5, 10, 11, by adding subdivisions; 245A.40, subdivisions 3, 4,  
 1.22 5; 245C.02, subdivision 2; 245C.04, subdivisions 4, 5, 6; 245C.05, subdivision  
 1.23 1; 245C.07; 245C.10, by adding a subdivision; 245C.20, subdivision 2, by  
 1.24 adding a subdivision; 245C.22, subdivision 7; 245D.10, subdivision 3, by  
 1.25 adding a subdivision; 245E.01, subdivision 8, by adding a subdivision; 245E.02,  
 1.26 subdivisions 1, 4, by adding a subdivision; 245E.06, subdivisions 2, 3; 253B.212,  
 1.27 subdivision 2, by adding a subdivision; 254B.05, subdivision 5; 256.01,  
 1.28 subdivisions 4, 14b; 256.045, subdivisions 3, 6; 256.975, subdivision 7; 256.98,  
 1.29 subdivision 1; 256B.0625, subdivision 31, by adding a subdivision; 256B.0911,  
 1.30 subdivisions 1a, 2b, 3, 3a; 256B.0913, subdivisions 4, 5, 5a, 6, 10, 11, 12, by  
 1.31 adding a subdivision; 256B.0943, subdivisions 1, 2, 3, 4, 5, 6, 9, 11; 256B.0946,  
 1.32 subdivision 1; 256B.0947, subdivision 7a; 256B.85; 256N.02, subdivision  
 1.33 18; 256N.23, subdivision 6; 257.85, subdivision 3; 259A.01, subdivision 25;  
 1.34 259A.10, subdivision 6; 260.755, subdivisions 8, 14, by adding subdivisions;  
 1.35 260.761, subdivisions 1, 2; 260.771, subdivision 3; 260B.007, subdivision 12;  
 1.36 260C.007, subdivision 27, by adding a subdivision; 260C.168; 260C.178,  
 1.37 subdivision 1; 260C.201, subdivision 5; 260C.212, subdivisions 1, 2; 260C.511;  
 1.38 268.155, subdivision 1; 402A.12; 402A.16, subdivisions 2, 4; 402A.18; 471.346;

2.1 609.821; 626.556, subdivisions 10, 11d; 626.557, subdivisions 9a, 9b, 10;  
2.2 626.5572, subdivisions 5, 6, 21; Laws 2013, chapter 108, article 7, section  
2.3 58; proposing coding for new law in Minnesota Statutes, chapters 245; 245A;  
2.4 256; 256B; 260; 609; repealing Minnesota Statutes 2014, sections 245D.061,  
2.5 subdivision 3; 245E.07, subdivision 3; 256B.0911, subdivision 6a; Minnesota  
2.6 Rules, parts 9505.0175, subpart 32; 9505.0365, subpart 2; 9505.1696, subpart  
2.7 10; 9505.1709; 9535.2000; 9535.2100; 9535.2200; 9535.2300; 9535.2400;  
2.8 9535.2500; 9535.2600; 9535.2700; 9535.2800; 9535.2900; 9535.3000;  
2.9 9555.7400; 9555.7500.

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

2.11 **ARTICLE 1**

2.12 **CHILDREN AND FAMILY SERVICES**

2.13 Section 1. Minnesota Statutes 2014, section 119B.011, subdivision 16, is amended to  
2.14 read:

2.15 Subd. 16. **Legal nonlicensed child care provider.** "Legal nonlicensed child care  
2.16 provider" means: (1) a child care provider who is excluded from licensing requirements  
2.17 under section 245A.03, subdivision 2; or (2) a child care provider authorized to provide  
2.18 care in a child's home under section 119B.09, subdivision 13, provided the provider only  
2.19 cares for related children, children from a single, unrelated family, or both related children  
2.20 and children from a single, unrelated family.

2.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.22 Sec. 2. Minnesota Statutes 2014, section 119B.025, subdivision 1, is amended to read:

2.23 Subdivision 1. **Factors which must be verified.** (a) The county shall verify the  
2.24 following at all initial child care applications using the universal application:

2.25 (1) identity of adults;

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

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

2.29 (4) age;

2.30 (5) immigration status, if related to eligibility;

2.31 (6) Social Security number, if given;

2.32 (7) income;

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

2.35 (9) residence; and

2.36 (10) inconsistent information, if related to eligibility.

3.1 (b) If a family did not use the universal application or child care addendum to apply  
3.2 for child care assistance, the family must complete the universal application or child care  
3.3 addendum at its next eligibility redetermination and the county must verify the factors  
3.4 listed in paragraph (a) as part of that redetermination. Once a family has completed a  
3.5 universal application or child care addendum, the county shall use the redetermination  
3.6 form described in paragraph (c) for that family's subsequent redeterminations. Eligibility  
3.7 must be redetermined at least every six months. A family is considered to have met  
3.8 the eligibility redetermination requirement if a complete redetermination form and all  
3.9 required verifications are received within 30 days after the date the form was due.  
3.10 When the 30th day after the date the form was due falls on a Saturday, Sunday, or legal  
3.11 holiday, the 30-day time period is extended to include the next succeeding day that is not  
3.12 a Saturday, Sunday, or legal holiday. Assistance shall be payable retroactively from the  
3.13 redetermination due date. For a family where at least one parent is under the age of 21,  
3.14 does not have a high school or general equivalency diploma, and is a student in a school  
3.15 district or another similar program that provides or arranges for child care, as well as  
3.16 parenting, social services, career and employment supports, and academic support to  
3.17 achieve high school graduation, the redetermination of eligibility shall be deferred beyond  
3.18 six months, but not to exceed 12 months, to the end of the student's school year. If a  
3.19 family reports a change in an eligibility factor before the family's next regularly scheduled  
3.20 redetermination, the county must recalculate eligibility without requiring verification of  
3.21 any eligibility factor that did not change.

3.22 (c) The commissioner shall develop a redetermination form to redetermine eligibility  
3.23 and a change report form to report changes that minimize paperwork for the county and  
3.24 the participant.

3.25 Sec. 3. Minnesota Statutes 2014, section 119B.09, subdivision 9, is amended to read:

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

4.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.2 Sec. 4. Minnesota Statutes 2014, section 245A.035, subdivision 1, is amended to read:

4.3 Subdivision 1. **Emergency placement.** Notwithstanding section 245A.03,  
4.4 subdivision 2a, or 245C.13, subdivision 2, a county agency may place a child with a  
4.5 relative who is not licensed to provide foster care, provided the requirements of this  
4.6 section are met. As used in this section, the term "relative" has the meaning given it under  
4.7 section 260C.007, subdivision 26b or 27.

4.8 Sec. 5. Minnesota Statutes 2014, section 245A.035, subdivision 5, is amended to read:

4.9 Subd. 5. **Child foster care license application.** (a) The relatives with whom the  
4.10 emergency placement has been made shall complete the child foster care license application  
4.11 and necessary paperwork within ten days of the placement. The county agency shall assist  
4.12 the applicant to complete the application. The granting of a child foster care license to a  
4.13 relative shall be under the procedures in this chapter and according to the standards in  
4.14 Minnesota Rules, chapter 2960. In licensing a relative, the commissioner shall consider  
4.15 the importance of maintaining the child's relationship with relatives as an additional  
4.16 significant factor in determining whether a background study disqualification should be  
4.17 set aside under section 245C.22, or a variance should be granted under section 245C.30.

4.18 (b) When the county or private child-placing agency is processing an application  
4.19 for child foster care licensure of a relative as defined in section 260B.007, subdivision  
4.20 12, or 260C.007, subdivision 26b or 27, the county agency or child-placing agency must  
4.21 explain the licensing process to the prospective licensee, including the background study  
4.22 process and the procedure for reconsideration of an initial disqualification for licensure.  
4.23 The county or private child-placing agency must also provide the prospective relative  
4.24 licensee with information regarding appropriate options for legal representation in the  
4.25 pertinent geographic area. If a relative is initially disqualified under section 245C.14, the  
4.26 commissioner must provide written notice of the reasons for the disqualification and the  
4.27 right to request a reconsideration by the commissioner as required under section 245C.17.

4.28 (c) The commissioner shall maintain licensing data so that activities related to  
4.29 applications and licensing actions for relative foster care providers may be distinguished  
4.30 from other child foster care settings.

4.31 Sec. 6. Minnesota Statutes 2014, section 245C.22, subdivision 7, is amended to read:

4.32 Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, except  
4.33 as provided in paragraph (f), upon setting aside a disqualification under this section, the

5.1 identity of the disqualified individual who received the set-aside and the individual's  
5.2 disqualifying characteristics are public data if the set-aside was:

5.3 (1) for any disqualifying characteristic under section 245C.15, when the set-aside  
5.4 relates to a child care center or a family child care provider licensed under chapter 245A; or

5.5 (2) for a disqualifying characteristic under section 245C.15, subdivision 2.

5.6 (b) Notwithstanding section 13.46, upon granting a variance to a license holder  
5.7 under section 245C.30, the identity of the disqualified individual who is the subject of  
5.8 the variance, the individual's disqualifying characteristics under section 245C.15, and the  
5.9 terms of the variance are public data, when the variance:

5.10 (1) is issued to a child care center or a family child care provider licensed under  
5.11 chapter 245A; or

5.12 (2) relates to an individual with a disqualifying characteristic under section 245C.15,  
5.13 subdivision 2.

5.14 (c) The identity of a disqualified individual and the reason for disqualification  
5.15 remain private data when:

5.16 (1) a disqualification is not set aside and no variance is granted, except as provided  
5.17 under section 13.46, subdivision 4;

5.18 (2) the data are not public under paragraph (a) or (b);

5.19 (3) the disqualification is rescinded because the information relied upon to disqualify  
5.20 the individual is incorrect;

5.21 (4) the disqualification relates to a license to provide relative child foster care.

5.22 As used in this clause, "relative" has the meaning given it under section 260C.007,  
5.23 subdivision 26b or 27; or

5.24 (5) the disqualified individual is a household member of a licensed foster care  
5.25 provider and:

5.26 (i) the disqualified individual previously received foster care services from this  
5.27 licensed foster care provider;

5.28 (ii) the disqualified individual was subsequently adopted by this licensed foster  
5.29 care provider; and

5.30 (iii) the disqualifying act occurred before the adoption.

5.31 (d) Licensed family child care providers and child care centers must provide notices  
5.32 as required under section 245C.301.

5.33 (e) Notwithstanding paragraphs (a) and (b), the identity of household members who  
5.34 are the subject of a disqualification related set-aside or variance is not public data if:

5.35 (1) the household member resides in the residence where the family child care is  
5.36 provided;

6.1 (2) the subject of the set-aside or variance is under the age of 18 years; and

6.2 (3) the set-aside or variance only relates to a disqualification under section 245C.15,  
6.3 subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

6.4 (f) When the commissioner has reason to know that a disqualified individual has  
6.5 received an order for expungement for the disqualifying record that does not limit the  
6.6 commissioner's access to the record, and the record was opened or exchanged with the  
6.7 commissioner for purposes of a background study under this chapter, the data that would  
6.8 otherwise become public under paragraph (a) or (b) remain private data.

6.9 Sec. 7. Minnesota Statutes 2014, section 256.01, subdivision 14b, is amended to read:

6.10 Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of  
6.11 human services may authorize projects to test tribal delivery of child welfare services to  
6.12 American Indian children and their parents and custodians living on the reservation.  
6.13 The commissioner has authority to solicit and determine which tribes may participate  
6.14 in a project. Grants may be issued to Minnesota Indian tribes to support the projects.  
6.15 The commissioner may waive existing state rules as needed to accomplish the projects.  
6.16 ~~Notwithstanding section 626.556, The commissioner may authorize projects to use~~  
6.17 ~~alternative methods of investigating and assessing reports of child maltreatment, provided~~  
6.18 ~~that the projects comply with the provisions of section 626.556 dealing with the rights of~~  
6.19 ~~individuals who are subjects of reports or investigations, including notice and appeal~~  
6.20 ~~rights and data practices requirements. The commissioner may authorize projects to use~~  
6.21 alternative methods of (1) investigating and assessing reports of child maltreatment,  
6.22 and (2) administrative reconsideration, administrative appeal, and judicial appeal of  
6.23 maltreatment determinations, provided the alternative methods used by the projects  
6.24 comply with the provisions of sections 256.045 and 626.556 dealing with the rights of  
6.25 individuals who are the subjects of reports or investigations, including notice and appeal  
6.26 rights and data practices requirements. The commissioner may seek any federal approvals  
6.27 necessary to carry out the projects as well as seek and use any funds available to the  
6.28 commissioner, including use of federal funds, foundation funds, existing grant funds,  
6.29 and other funds. The commissioner is authorized to advance state funds as necessary to  
6.30 operate the projects. Federal reimbursement applicable to the projects is appropriated  
6.31 to the commissioner for the purposes of the projects. The projects must be required to  
6.32 address responsibility for safety, permanency, and well-being of children.

6.33 (b) For the purposes of this section, "American Indian child" means a person under 21  
6.34 years old and who is a tribal member or eligible for membership in one of the tribes chosen  
6.35 for a project under this subdivision and who is residing on the reservation of that tribe.

7.1 (c) In order to qualify for an American Indian child welfare project, a tribe must:

7.2 (1) be one of the existing tribes with reservation land in Minnesota;

7.3 (2) have a tribal court with jurisdiction over child custody proceedings;

7.4 (3) have a substantial number of children for whom determinations of maltreatment  
7.5 have occurred;

7.6 (4) have capacity to respond to reports of abuse and neglect under section 626.556;

7.7 (5) provide a wide range of services to families in need of child welfare services; and

7.8 (6) have a tribal-state title IV-E agreement in effect.

7.9 (d) Grants awarded under this section may be used for the nonfederal costs of  
7.10 providing child welfare services to American Indian children on the tribe's reservation,  
7.11 including costs associated with:

7.12 (1) assessment and prevention of child abuse and neglect;

7.13 (2) family preservation;

7.14 (3) facilitative, supportive, and reunification services;

7.15 (4) out-of-home placement for children removed from the home for child protective  
7.16 purposes; and

7.17 (5) other activities and services approved by the commissioner that further the goals  
7.18 of providing safety, permanency, and well-being of American Indian children.

7.19 (e) When a tribe has initiated a project and has been approved by the commissioner  
7.20 to assume child welfare responsibilities for American Indian children of that tribe under  
7.21 this section, the affected county social service agency is relieved of responsibility for  
7.22 responding to reports of abuse and neglect under section 626.556 for those children  
7.23 during the time within which the tribal project is in effect and funded. The commissioner  
7.24 shall work with tribes and affected counties to develop procedures for data collection,  
7.25 evaluation, and clarification of ongoing role and financial responsibilities of the county  
7.26 and tribe for child welfare services prior to initiation of the project. Children who have not  
7.27 been identified by the tribe as participating in the project shall remain the responsibility  
7.28 of the county. Nothing in this section shall alter responsibilities of the county for law  
7.29 enforcement or court services.

7.30 (f) Participating tribes may conduct children's mental health screenings under section  
7.31 245.4874, subdivision 1, paragraph (a), clause (13), for children who are eligible for the  
7.32 initiative and living on the reservation and who meet one of the following criteria:

7.33 (1) the child must be receiving child protective services;

7.34 (2) the child must be in foster care; or

7.35 (3) the child's parents must have had parental rights suspended or terminated.

8.1 Tribes may access reimbursement from available state funds for conducting the screenings.  
8.2 Nothing in this section shall alter responsibilities of the county for providing services  
8.3 under section 245.487.

8.4 (g) Participating tribes may establish a local child mortality review panel. In  
8.5 establishing a local child mortality review panel, the tribe agrees to conduct local child  
8.6 mortality reviews for child deaths or near-fatalities occurring on the reservation under  
8.7 subdivision 12. Tribes with established child mortality review panels shall have access  
8.8 to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c)  
8.9 to (e). The tribe shall provide written notice to the commissioner and affected counties  
8.10 when a local child mortality review panel has been established and shall provide data upon  
8.11 request of the commissioner for purposes of sharing nonpublic data with members of the  
8.12 state child mortality review panel in connection to an individual case.

8.13 (h) The commissioner shall collect information on outcomes relating to child safety,  
8.14 permanency, and well-being of American Indian children who are served in the projects.  
8.15 Participating tribes must provide information to the state in a format and completeness  
8.16 deemed acceptable by the state to meet state and federal reporting requirements.

8.17 (i) In consultation with the White Earth Band, the commissioner shall develop  
8.18 and submit to the chairs and ranking minority members of the legislative committees  
8.19 with jurisdiction over health and human services a plan to transfer legal responsibility  
8.20 for providing child protective services to White Earth Band member children residing in  
8.21 Hennepin County to the White Earth Band. The plan shall include a financing proposal,  
8.22 definitions of key terms, statutory amendments required, and other provisions required to  
8.23 implement the plan. The commissioner shall submit the plan by January 15, 2012.

8.24 Sec. 8. Minnesota Statutes 2014, section 256N.02, subdivision 18, is amended to read:

8.25 Subd. 18. **Relative.** "Relative," as described in section 260C.007, subdivision 27,  
8.26 means a person related to the child by blood, marriage, or adoption, or an individual  
8.27 who is an important friend with whom the child has resided or had significant contact.  
8.28 For an Indian child, relative, as described in section 260C.007, subdivision 26b, includes  
8.29 members means a person who is a member of the Indian child's extended family as defined  
8.30 by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces,  
8.31 nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978,  
8.32 United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

8.33 Sec. 9. Minnesota Statutes 2014, section 256N.23, subdivision 6, is amended to read:



9.1 Subd. 6. **Exclusions.** The commissioner must not enter into an adoption assistance  
9.2 agreement with the following individuals:

9.3 (1) a child's biological parent or stepparent;

9.4 (2) a child's relative under section 260C.007, subdivision 26b or 27, with whom the  
9.5 child resided immediately prior to child welfare involvement unless:

9.6 (i) the child was in the custody of a Minnesota county or tribal agency pursuant to  
9.7 an order under chapter 260C or equivalent provisions of tribal code and the agency had  
9.8 placement and care responsibility for permanency planning for the child; and

9.9 (ii) the child is under guardianship of the commissioner of human services according  
9.10 to the requirements of section 260C.325, subdivision 1 or 3, or is a ward of a Minnesota  
9.11 tribal court after termination of parental rights, suspension of parental rights, or a finding  
9.12 by the tribal court that the child cannot safely return to the care of the parent;

9.13 (3) an individual adopting a child who is the subject of a direct adoptive placement  
9.14 under section 259.47 or the equivalent in tribal code;

9.15 (4) a child's legal custodian or guardian who is now adopting the child; or

9.16 (5) an individual who is adopting a child who is not a citizen or resident of the  
9.17 United States and was either adopted in another country or brought to the United States  
9.18 for the purposes of adoption.

9.19 Sec. 10. Minnesota Statutes 2014, section 257.85, subdivision 3, is amended to read:

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

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

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

9.30 (c) "Permanent legal and physical custody" means permanent legal and physical  
9.31 custody ordered by a Minnesota Juvenile Court under section 260C.515, subdivision 4.

9.32 (d) "Relative" has the meaning given in section 260C.007, subdivision 26b or 27.

9.33 (e) "Relative custodian" means a person who has permanent legal and physical  
9.34 custody of a child. When siblings, including half-siblings and stepsiblings, are placed  
9.35 together in permanent legal and physical custody, the person receiving permanent legal

10.1 and physical custody of the siblings is considered a relative custodian of all of the siblings  
10.2 for purposes of this section.

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

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

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

10.14 Sec. 11. Minnesota Statutes 2014, section 259A.01, subdivision 25, is amended to read:

10.15 Subd. 25. **Relative.** "Relative" means a person related to the child by blood,  
10.16 marriage, or adoption, or an individual who is an important friend with whom the child  
10.17 has resided or had significant contact. For an Indian child, relative ~~includes members~~  
10.18 means a person who is a member of the Indian child's extended family as defined by law  
10.19 ~~or custom of the Indian child's tribe, or, in the absence of law or custom, shall be a person~~  
10.20 ~~who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle,~~  
10.21 ~~brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or~~  
10.22 ~~stepparent, as provided in the Indian Child Welfare Act of 1978, United States Code, title~~  
10.23 25, section 1903, paragraphs (2), (6), and (9).

10.24 Sec. 12. Minnesota Statutes 2014, section 259A.10, subdivision 6, is amended to read:

10.25 Subd. 6. **Exclusions.** The commissioner shall not enter into an adoption assistance  
10.26 agreement with:

10.27 (1) a child's biological parent or stepparent;

10.28 (2) a child's relative, according to section 260C.007, subdivision 26b or 27, with  
10.29 whom the child resided immediately prior to child welfare involvement unless:

10.30 (i) the child was in the custody of a Minnesota county or tribal agency pursuant to  
10.31 an order under chapter 260C or equivalent provisions of tribal code and the agency had  
10.32 placement and care responsibility for permanency planning for the child; and

10.33 (ii) the child is under guardianship of the commissioner of human services according  
10.34 to the requirements of section 260C.325, subdivision 1, paragraphs (a) and (b), or

11.1 subdivision 3, paragraphs (a) and (b), or is a ward of a Minnesota tribal court after  
11.2 termination of parental rights, suspension of parental rights, or a finding by the tribal court  
11.3 that the child cannot safely return to the care of the parent;

11.4 (3) a child's legal custodian or guardian who is now adopting the child;

11.5 (4) an individual adopting a child who is the subject of a direct adoptive placement  
11.6 under section 259.47 or the equivalent in tribal code; or

11.7 (5) an individual who is adopting a child who is not a citizen or resident of the  
11.8 United States and was either adopted in another country or brought to this country for  
11.9 the purposes of adoption.

11.10 Sec. 13. **[260.753] PURPOSES.**

11.11 The purposes of this act are to (1) protect the long-term interests, as defined by  
11.12 the tribes, of Indian children, their families as defined by law or custom, and the child's  
11.13 tribe; and (2) preserve the Indian family and tribal identity, including an understanding  
11.14 that Indian children are damaged if family and child tribal identity and contact are denied.  
11.15 Indian children are the future of the tribes and are vital to their very existence.

11.16 Sec. 14. Minnesota Statutes 2014, section 260.755, is amended by adding a subdivision  
11.17 to read:

11.18 Subd. 1a. **Active efforts.** "Active efforts" means a rigorous and concerted level  
11.19 of effort that is ongoing throughout the involvement of the local social services agency  
11.20 to continuously involve the Indian child's tribe and that uses the prevailing social and  
11.21 cultural values, conditions, and way of life of the Indian child's tribe to preserve the  
11.22 Indian child's family and prevent placement of an Indian child and, if placement occurs, to  
11.23 return the Indian child to the child's family at the earliest possible time. Active efforts  
11.24 sets a higher standard than reasonable efforts to preserve the family, prevent breakup of  
11.25 the family, and reunify the family, according to section 260.762. Active efforts includes  
11.26 reasonable efforts as required by Title IV-E of the Social Security Act, United States  
11.27 Code, title 42, sections 670 to 679c.

11.28 Sec. 15. Minnesota Statutes 2014, section 260.755, is amended by adding a subdivision  
11.29 to read:

11.30 Subd. 2a. **Best interests of an Indian child.** "Best interests of an Indian child"  
11.31 means compliance with the Indian Child Welfare Act and the Minnesota Indian Family  
11.32 Preservation Act to preserve and maintain an Indian child's family. The best interests of  
11.33 an Indian child support the child's sense of belonging to family, extended family, and

12.1 tribe. The best interests of an Indian child are interwoven with the best interests of the  
 12.2 Indian child's tribe.

12.3 Sec. 16. Minnesota Statutes 2014, section 260.755, subdivision 8, is amended to read:

12.4 Subd. 8. **Indian child.** "Indian child" means an unmarried person who is under  
 12.5 age 18 and is:

12.6 (1) a member of an Indian tribe; or

12.7 (2) eligible for membership in an Indian tribe.

12.8 A determination by a tribe that a child is a member of the Indian tribe or is eligible  
 12.9 for membership in the Indian tribe is conclusive. For purposes of this chapter and chapters  
 12.10 256N, 260C, and 260D, Indian child also includes an unmarried person who satisfies  
 12.11 either clause (1) or (2), is under age 21, and is in foster care pursuant to section 260C.451.

12.12 Sec. 17. Minnesota Statutes 2014, section 260.755, subdivision 14, is amended to read:

12.13 Subd. 14. **Parent.** "Parent" means the biological parent of an Indian child, or any  
 12.14 Indian person who has lawfully adopted an Indian child, including a person who has  
 12.15 adopted a child by tribal law or custom. ~~It~~ Parent includes a father as defined by tribal  
 12.16 law or custom. Parent does not include an unmarried father whose paternity has not been  
 12.17 acknowledged or established. Paternity has been acknowledged when an unmarried father  
 12.18 takes any action to hold himself out as the biological father of an Indian child.

12.19 Sec. 18. Minnesota Statutes 2014, section 260.761, subdivision 1, is amended to read:

12.20 Subdivision 1. ~~**Determination of Indian child's tribe**~~ **Inquiry of tribal lineage.**  
 12.21 ~~The local social services agency or private licensed child-placing agency shall determine~~  
 12.22 ~~whether a child brought to its attention for the purposes described in this section is an Indian~~  
 12.23 ~~child and the identity of the Indian child's tribe~~ inquire of the child, the child's parents and  
 12.24 custodians, and other appropriate persons whether there is any reason to believe that a  
 12.25 child brought to the agency's attention may have lineage to an Indian tribe. This inquiry  
 12.26 shall occur at the time the child comes to the attention of the local social services agency.

12.27 Sec. 19. Minnesota Statutes 2014, section 260.761, subdivision 2, is amended to read:

12.28 Subd. 2. **Agency and court notice of potential out-of-home placement to tribes.**  
 12.29 (a) When a local social services agency or private child-placing agency determines that  
 12.30 an Indian child is in a dependent or other condition that could lead to an out-of-home  
 12.31 placement and requires the continued involvement of the agency with the child for a  
 12.32 period in excess of 30 days, the agency shall send notice of the condition and of the initial

13.1 ~~steps taken to remedy it to the Indian child's tribal social services agency within seven~~  
13.2 ~~days of the determination.~~ has information that a family assessment or investigation being  
13.3 conducted may involve an Indian child, the local social services agency shall notify the  
13.4 Indian child's tribe of the family assessment or investigation according to section 626.556,  
13.5 subdivision 10, paragraph (a), clause (5). Initial notice shall be provided by telephone  
13.6 and by e-mail or facsimile. The local social services agency shall request that the tribe  
13.7 or a designated tribal representative participate in evaluating the family circumstances,  
13.8 identifying family and tribal community resources, and developing case plans.

13.9 (b) When a local social services agency has information that a child receiving  
13.10 services may be an Indian child, the local social services agency shall notify the tribe by  
13.11 telephone and by e-mail or facsimile of the child's full name and date of birth, the full  
13.12 names and dates of birth of the child's biological parents, and, if known, the full names  
13.13 and dates of birth of the child's grandparents and of the child's Indian custodian. This  
13.14 notification must be provided so the tribe can determine if the child is enrolled in the tribe  
13.15 or eligible for membership, and must be provided within seven days. If information  
13.16 regarding the child's grandparents or Indian custodian is not available within the seven-day  
13.17 period, the local social services agency shall continue to request this information and shall  
13.18 notify the tribe when it is received. Notice shall be provided to all tribes to which the child  
13.19 may have any tribal lineage. If the identity or location of the child's parent or Indian  
13.20 custodian and tribe cannot be determined, the local social services agency shall provide  
13.21 the notice required in this paragraph to the United States secretary of the interior.

13.22 (c) In accordance with sections 260C.151 and 260C.152, when a court has reason  
13.23 to believe that a child placed in emergency protective care is an Indian child, the court  
13.24 administrator or a designee shall, as soon as possible and before a hearing takes place,  
13.25 notify the tribal social services agency by telephone and by e-mail or facsimile of the date,  
13.26 time, and location of the emergency protective case hearing. The court shall make efforts to  
13.27 allow appearances by telephone for tribal representatives, parents, and Indian custodians.

13.28 (d) A local social services agency must provide the notices required under this  
13.29 subdivision at the earliest possible time to facilitate involvement of the Indian child's tribe.  
13.30 Nothing in this subdivision is intended to hinder the ability of the local social services  
13.31 agency and the court to respond to an emergency situation. Lack of participation by a tribe  
13.32 shall not prevent the tribe from intervening in services and proceedings at a later date. A  
13.33 tribe may participate at any time. At this and any subsequent stage of its the local social  
13.34 services agency's involvement with an Indian child, the agency shall, upon request, give  
13.35 provide full cooperation to the tribal social services agency full cooperation, including  
13.36 access to all files disclosure of all data concerning the Indian child. If the files contain

14.1 ~~confidential or private data, the agency may require execution of an agreement with the~~  
14.2 ~~tribal social services agency that the tribal social services agency shall maintain the data~~  
14.3 ~~according to statutory provisions applicable to the data. This subdivision applies whenever~~  
14.4 ~~the court transfers legal custody of an Indian child under section 260B.198, subdivision~~  
14.5 ~~1, clause (3), item (i), (ii), or (iii), following an adjudication for a misdemeanor-level~~  
14.6 ~~delinquent act. Nothing in this subdivision relieves the local social services agency of~~  
14.7 ~~satisfying the notice requirements in the Indian Child Welfare Act.~~

14.8       Sec. 20. **[260.762] DUTY TO PREVENT OUT-OF-HOME PLACEMENT AND**  
14.9 **PROMOTE FAMILY REUNIFICATION; ACTIVE EFFORTS.**

14.10       Subdivision 1. **Active efforts.** Active efforts includes acknowledging traditional  
14.11 helping and healing systems of an Indian child's tribe and using these systems as the core  
14.12 to help and heal the Indian child and family.

14.13       Subd. 2. **Requirements for local social services agencies.** A local social services  
14.14 agency shall:

14.15       (1) work with the Indian child's tribe and family to develop an alternative plan to  
14.16 out-of-home placement;

14.17       (2) before making a decision that may affect an Indian child's safety and well-being  
14.18 or when contemplating out-of-home placement of an Indian child, seek guidance from  
14.19 the Indian child's tribe on family structure, how the family can seek help, what family  
14.20 and tribal resources are available, and what barriers the family faces at that time that  
14.21 could threaten its preservation; and

14.22       (3) request participation of the Indian child's tribe at the earliest possible time and  
14.23 request the tribe's active participation throughout the case.

14.24       Subd. 3. **Required findings that active efforts were provided.** A court shall not  
14.25 order an out-of-home or permanency placement for an Indian child unless the court finds  
14.26 that the local social services agency made active efforts to the Indian child's family. In  
14.27 determining whether the local social services agency made active efforts for purposes  
14.28 of out-of-home placement and permanency, the court shall make findings regarding  
14.29 whether the following activities were appropriate and whether the local social services  
14.30 agency made appropriate and meaningful services available to the family based upon that  
14.31 family's specific needs:

14.32       (1) whether the local social services agency made efforts at the earliest point  
14.33 possible to (i) identify whether a child may be an Indian child as defined in the Indian  
14.34 Child Welfare Act, United States Code, title 25, section 1903, and section 260.755,  
14.35 subdivision 8; and (ii) identify and request participation of the Indian child's tribe at the

15.1 earliest point possible and throughout the investigation or assessment, case planning,  
15.2 provision of services, and case completion;

15.3 (2) whether the local social services agency requested that a tribally designated  
15.4 representative with substantial knowledge of prevailing social and cultural standards  
15.5 and child-rearing practices within the tribal community evaluate the circumstances of  
15.6 the Indian child's family and assist in developing a case plan that uses tribal and Indian  
15.7 community resources;

15.8 (3) whether the local social services agency provided concrete services and access  
15.9 to both tribal and nontribal services to members of the Indian child's family, including  
15.10 but not limited to financial assistance, food, housing, health care, transportation, in-home  
15.11 services, community support services, and specialized services; and whether these services  
15.12 are being provided in an ongoing manner throughout the agency's involvement with the  
15.13 family, to directly assist the family in accessing and utilizing services to maintain the  
15.14 Indian family, or reunify the Indian family as soon as safety can be assured if out-of-home  
15.15 placement has occurred;

15.16 (4) whether the local social services agency notified and consulted with the Indian  
15.17 child's extended family members, as identified by the child, the child's parents, or the  
15.18 tribe; whether extended family members were consulted to provide support to the child  
15.19 and parents, to inform the local social services agency and court as to cultural connections  
15.20 and family structure, to assist in identifying appropriate cultural services and supports for  
15.21 the child and parents, and to identify and serve as a placement and permanency resource  
15.22 for the child; and if there was difficulty contacting or engaging with extended family  
15.23 members, whether assistance was sought from the tribe, the Department of Human  
15.24 Services, or other agencies with expertise in working with Indian families;

15.25 (5) whether the local social services agency provided services and resources to  
15.26 relatives who are considered the primary placement option for an Indian child, as agreed  
15.27 by the local social services agency and the tribe, to overcome barriers to providing care  
15.28 to an Indian child. Services and resources shall include but are not limited to child care  
15.29 assistance, financial assistance, housing resources, emergency resources, and foster care  
15.30 licensing assistance and resources; and

15.31 (6) whether the local social services agency arranged for visitation to occur, whenever  
15.32 possible, in the home of the Indian child's parent, Indian custodian, or other family member  
15.33 or in another noninstitutional setting, in order to keep the child in close contact with  
15.34 parents, siblings, and other relatives regardless of the child's age and to allow the child and  
15.35 those with whom the child visits to have natural, unsupervised interaction when consistent  
15.36 with protecting the child's safety; and whether the local social services agency consulted

16.1 with a tribal representative to determine and arrange for visitation in the most natural  
16.2 setting that ensures the child's safety, when the child's safety requires supervised visitation.

16.3 Sec. 21. Minnesota Statutes 2014, section 260.771, subdivision 3, is amended to read:

16.4 Subd. 3. **Transfer of proceedings.** (a) In a proceeding for: (1) the termination of  
16.5 parental rights; or (2) the involuntary foster care placement of an Indian child not within  
16.6 the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary,  
16.7 shall transfer the proceeding to the jurisdiction of the tribe absent objection by either  
16.8 parent, upon the petition of either parent or, the Indian custodian, or the Indian child's  
16.9 tribe. The transfer is subject to declination by the tribal court of the tribe.

16.10 (b) In a proceeding for the preadoptive or adoptive placement of an Indian child not  
16.11 within the jurisdiction of subdivision 1, the court, in the absence of good cause to the  
16.12 contrary, shall transfer the proceeding to the jurisdiction of the tribe. The transfer is  
16.13 subject to declination by the tribal court of the tribe. For the purposes of this subdivision,  
16.14 "preadoptive placement" and "adoptive placement" have the meanings give in section  
16.15 260.755, subdivision 3.

16.16 (c) At any point in a proceeding for finalizing a permanency plan, the court, in the  
16.17 absence of good cause to the contrary and in the absence of an objection by either parent,  
16.18 shall transfer the proceeding to tribal court for the purpose of achieving a customary  
16.19 adoption or other culturally appropriate permanency option. This transfer shall be made  
16.20 upon the petition of a parent whose parental rights have not been terminated, the Indian  
16.21 custodian, or the Indian child's tribe. The transfer is subject to declination by the tribal  
16.22 court of the tribe.

16.23 Sec. 22. Minnesota Statutes 2014, section 260B.007, subdivision 12, is amended to read:

16.24 Subd. 12. **Relative.** "Relative" means a parent, stepparent, grandparent, brother,  
16.25 sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an  
16.26 Indian child, relative ~~includes members~~ means a person who is a member of the Indian  
16.27 child's extended family as defined by the law or custom of the Indian child's tribe or, in  
16.28 the absence of laws or custom, nieces, nephews, or first or second cousins, as provided  
16.29 in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903,  
16.30 paragraphs (2), (6), and (9).

16.31 Sec. 23. Minnesota Statutes 2014, section 260C.007, is amended by adding a  
16.32 subdivision to read:



17.1            Subd. 26b. **Relative of an Indian child.** "Relative of an Indian child" means a  
17.2 person who is a member of the Indian child's family as defined in the Indian Child Welfare  
17.3 Act of 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

17.4            Sec. 24. Minnesota Statutes 2014, section 260C.007, subdivision 27, is amended to read:

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

17.11            Sec. 25. Minnesota Statutes 2014, section 260C.168, is amended to read:

17.12            **260C.168 COMPLIANCE WITH INDIAN CHILD WELFARE ACT AND**  
17.13 **MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

17.14            The provisions of this chapter must be construed consistently with the Indian  
17.15 Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, and the  
17.16 Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

17.17            Sec. 26. Minnesota Statutes 2014, section 260C.178, subdivision 1, is amended to read:

17.18            Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into  
17.19 custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall  
17.20 hold a hearing within 72 hours of the time the child was taken into custody, excluding  
17.21 Saturdays, Sundays, and holidays, to determine whether the child should continue in  
17.22 custody.

17.23            (b) Unless there is reason to believe that the child would endanger self or others or  
17.24 not return for a court hearing, or that the child's health or welfare would be immediately  
17.25 endangered, the child shall be released to the custody of a parent, guardian, custodian,  
17.26 or other suitable person, subject to reasonable conditions of release including, but not  
17.27 limited to, a requirement that the child undergo a chemical use assessment as provided in  
17.28 section 260C.157, subdivision 1.

17.29            (c) If the court determines there is reason to believe that the child would endanger  
17.30 self or others or not return for a court hearing, or that the child's health or welfare would  
17.31 be immediately endangered if returned to the care of the parent or guardian who has  
17.32 custody and from whom the child was removed, the court shall order the child into  
17.33 foster care under the legal responsibility of the responsible social services agency or

18.1 responsible probation or corrections agency for the purposes of protective care as that term  
18.2 is used in the juvenile court rules or into the home of a noncustodial parent and order the  
18.3 noncustodial parent to comply with any conditions the court determines to be appropriate  
18.4 to the safety and care of the child, including cooperating with paternity establishment  
18.5 proceedings in the case of a man who has not been adjudicated the child's father. The  
18.6 court shall not give the responsible social services legal custody and order a trial home  
18.7 visit at any time prior to adjudication and disposition under section 260C.201, subdivision  
18.8 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or  
18.9 guardian who has custody and from whom the child was removed and order the parent or  
18.10 guardian to comply with any conditions the court determines to be appropriate to meet  
18.11 the safety, health, and welfare of the child.

18.12 (d) In determining whether the child's health or welfare would be immediately  
18.13 endangered, the court shall consider whether the child would reside with a perpetrator  
18.14 of domestic child abuse.

18.15 (e) The court, before determining whether a child should be placed in or continue  
18.16 in foster care under the protective care of the responsible agency, shall also make a  
18.17 determination, consistent with section 260.012 as to whether reasonable efforts were made  
18.18 to prevent placement or whether reasonable efforts to prevent placement are not required.  
18.19 In the case of an Indian child, the court shall determine whether active efforts, according  
18.20 to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title  
18.21 25, section 1912(d), were made to prevent placement. The court shall enter a finding that  
18.22 the responsible social services agency has made reasonable efforts to prevent placement  
18.23 when the agency establishes either:

18.24 (1) that it has actually provided services or made efforts in an attempt to prevent  
18.25 the child's removal but that such services or efforts have not proven sufficient to permit  
18.26 the child to safely remain in the home; or

18.27 (2) that there are no services or other efforts that could be made at the time of the  
18.28 hearing that could safely permit the child to remain home or to return home. When  
18.29 reasonable efforts to prevent placement are required and there are services or other efforts  
18.30 that could be ordered which would permit the child to safely return home, the court shall  
18.31 order the child returned to the care of the parent or guardian and the services or efforts put  
18.32 in place to ensure the child's safety. When the court makes a prima facie determination  
18.33 that one of the circumstances under paragraph (g) exists, the court shall determine that  
18.34 reasonable efforts to prevent placement and to return the child to the care of the parent or  
18.35 guardian are not required.

19.1 If the court finds the social services agency's preventive or reunification efforts  
19.2 have not been reasonable but further preventive or reunification efforts could not permit  
19.3 the child to safely remain at home, the court may nevertheless authorize or continue  
19.4 the removal of the child.

19.5 (f) The court may not order or continue the foster care placement of the child unless  
19.6 the court makes explicit, individualized findings that continued custody of the child by  
19.7 the parent or guardian would be contrary to the welfare of the child and that placement is  
19.8 in the best interest of the child.

19.9 (g) At the emergency removal hearing, or at any time during the course of the  
19.10 proceeding, and upon notice and request of the county attorney, the court shall determine  
19.11 whether a petition has been filed stating a prima facie case that:

19.12 (1) the parent has subjected a child to egregious harm as defined in section  
19.13 260C.007, subdivision 14;

19.14 (2) the parental rights of the parent to another child have been involuntarily  
19.15 terminated;

19.16 (3) the child is an abandoned infant under section 260C.301, subdivision 2,  
19.17 paragraph (a), clause (2);

19.18 (4) the parents' custodial rights to another child have been involuntarily transferred  
19.19 to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph  
19.20 (e), clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

19.21 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision  
19.22 2, against the child or another child of the parent;

19.23 (6) the parent has committed an offense that requires registration as a predatory  
19.24 offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

19.25 (7) the provision of services or further services for the purpose of reunification is  
19.26 futile and therefore unreasonable.

19.27 (h) When a petition to terminate parental rights is required under section 260C.301,  
19.28 subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to  
19.29 proceed with a termination of parental rights petition, and has instead filed a petition to  
19.30 transfer permanent legal and physical custody to a relative under section 260C.507, the  
19.31 court shall schedule a permanency hearing within 30 days of the filing of the petition.

19.32 (i) If the county attorney has filed a petition under section 260C.307, the court shall  
19.33 schedule a trial under section 260C.163 within 90 days of the filing of the petition except  
19.34 when the county attorney determines that the criminal case shall proceed to trial first under  
19.35 section 260C.503, subdivision 2, paragraph (c).

20.1 (j) If the court determines the child should be ordered into foster care and the child's  
20.2 parent refuses to give information to the responsible social services agency regarding  
20.3 the child's father or relatives of the child, the court may order the parent to disclose the  
20.4 names, addresses, telephone numbers, and other identifying information to the responsible  
20.5 social services agency for the purpose of complying with sections 260C.151, 260C.212,  
20.6 260C.215, and 260C.221.

20.7 (k) If a child ordered into foster care has siblings, whether full, half, or step, who  
20.8 are also ordered into foster care, the court shall inquire of the responsible social services  
20.9 agency of the efforts to place the children together as required by section 260C.212,  
20.10 subdivision 2, paragraph (d), if placement together is in each child's best interests, unless  
20.11 a child is in placement for treatment or a child is placed with a previously noncustodial  
20.12 parent who is not a parent to all siblings. If the children are not placed together at the time  
20.13 of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable  
20.14 efforts to place the siblings together, as required under section 260.012. If any sibling is  
20.15 not placed with another sibling or siblings, the agency must develop a plan to facilitate  
20.16 visitation or ongoing contact among the siblings as required under section 260C.212,  
20.17 subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

20.18 (l) When the court has ordered the child into foster care or into the home of a  
20.19 noncustodial parent, the court may order a chemical dependency evaluation, mental health  
20.20 evaluation, medical examination, and parenting assessment for the parent as necessary  
20.21 to support the development of a plan for reunification required under subdivision 7 and  
20.22 section 260C.212, subdivision 1, or the child protective services plan under section  
20.23 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

20.24 Sec. 27. Minnesota Statutes 2014, section 260C.201, subdivision 5, is amended to read:

20.25 Subd. 5. **Visitation.** If the court orders the child into foster care, the court shall  
20.26 review and either modify or approve the agency's plan for supervised or unsupervised  
20.27 visitation that contributes to the objectives of the court-ordered case plan and the  
20.28 maintenance of the familial relationship, and that meets the requirements of section  
20.29 260C.212, subdivision 1, paragraph (c), clause (5). No parent may be denied visitation  
20.30 unless the court finds at the disposition hearing that the visitation would endanger the  
20.31 child's physical or emotional well-being, is not in the child's best interests, or is not  
20.32 required under section 260C.178, subdivision 3, paragraph (c) or (d). The court shall  
20.33 review and either modify or approve the agency plan for visitation for any relatives as  
20.34 defined in section 260C.007, subdivision 26b or 27, and with siblings of the child, if  
20.35 visitation is consistent with the best interests of the child.

21.1 Sec. 28. Minnesota Statutes 2014, section 260C.212, subdivision 1, is amended to read:

21.2 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan  
21.3 shall be prepared within 30 days after any child is placed in foster care by court order or a  
21.4 voluntary placement agreement between the responsible social services agency and the  
21.5 child's parent pursuant to section 260C.227 or chapter 260D.

21.6 (b) An out-of-home placement plan means a written document which is prepared  
21.7 by the responsible social services agency jointly with the parent or parents or guardian  
21.8 of the child and in consultation with the child's guardian ad litem, the child's tribe, if the  
21.9 child is an Indian child, the child's foster parent or representative of the foster care facility,  
21.10 and, where appropriate, the child. For a child in voluntary foster care for treatment under  
21.11 chapter 260D, preparation of the out-of-home placement plan shall additionally include  
21.12 the child's mental health treatment provider. As appropriate, the plan shall be:

21.13 (1) submitted to the court for approval under section 260C.178, subdivision 7;

21.14 (2) ordered by the court, either as presented or modified after hearing, under section  
21.15 260C.178, subdivision 7, or 260C.201, subdivision 6; and

21.16 (3) signed by the parent or parents or guardian of the child, the child's guardian ad  
21.17 litem, a representative of the child's tribe, the responsible social services agency, and, if  
21.18 possible, the child.

21.19 (c) The out-of-home placement plan shall be explained to all persons involved in its  
21.20 implementation, including the child who has signed the plan, and shall set forth:

21.21 (1) a description of the foster care home or facility selected, including how the  
21.22 out-of-home placement plan is designed to achieve a safe placement for the child in the  
21.23 least restrictive, most family-like, setting available which is in close proximity to the home  
21.24 of the parent or parents or guardian of the child when the case plan goal is reunification,  
21.25 and how the placement is consistent with the best interests and special needs of the child  
21.26 according to the factors under subdivision 2, paragraph (b);

21.27 (2) the specific reasons for the placement of the child in foster care, and when  
21.28 reunification is the plan, a description of the problems or conditions in the home of the  
21.29 parent or parents which necessitated removal of the child from home and the changes the  
21.30 parent or parents must make in order for the child to safely return home;

21.31 (3) a description of the services offered and provided to prevent removal of the child  
21.32 from the home and to reunify the family including:

21.33 (i) the specific actions to be taken by the parent or parents of the child to eliminate  
21.34 or correct the problems or conditions identified in clause (2), and the time period during  
21.35 which the actions are to be taken; and

22.1 (ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made  
22.2 to achieve a safe and stable home for the child including social and other supportive  
22.3 services to be provided or offered to the parent or parents or guardian of the child, the  
22.4 child, and the residential facility during the period the child is in the residential facility;

22.5 (4) a description of any services or resources that were requested by the child or the  
22.6 child's parent, guardian, foster parent, or custodian since the date of the child's placement  
22.7 in the residential facility, and whether those services or resources were provided and if  
22.8 not, the basis for the denial of the services or resources;

22.9 (5) the visitation plan for the parent or parents or guardian, other relatives as defined  
22.10 in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not  
22.11 placed together in foster care, and whether visitation is consistent with the best interest  
22.12 of the child, during the period the child is in foster care;

22.13 (6) when a child cannot return to or be in the care of either parent, documentation of  
22.14 steps to finalize the permanency plan for the child, including:

22.15 (i) reasonable efforts to place the child for adoption. At a minimum, the  
22.16 documentation must include consideration of whether adoption is in the best interests of  
22.17 the child, child-specific recruitment efforts such as relative search and the use of state,  
22.18 regional, and national adoption exchanges to facilitate orderly and timely placements in  
22.19 and outside of the state. A copy of this documentation shall be provided to the court in the  
22.20 review required under section 260C.317, subdivision 3, paragraph (b); and

22.21 (ii) documentation necessary to support the requirements of the kinship placement  
22.22 agreement under section 256N.22 when adoption is determined not to be in the child's  
22.23 best interests;

22.24 (7) efforts to ensure the child's educational stability while in foster care, including:

22.25 (i) efforts to ensure that the child remains in the same school in which the child was  
22.26 enrolled prior to placement or upon the child's move from one placement to another,  
22.27 including efforts to work with the local education authorities to ensure the child's  
22.28 educational stability; or

22.29 (ii) if it is not in the child's best interest to remain in the same school that the child  
22.30 was enrolled in prior to placement or move from one placement to another, efforts to  
22.31 ensure immediate and appropriate enrollment for the child in a new school;

22.32 (8) the educational records of the child including the most recent information  
22.33 available regarding:

22.34 (i) the names and addresses of the child's educational providers;

22.35 (ii) the child's grade level performance;

22.36 (iii) the child's school record;

- 23.1 (iv) a statement about how the child's placement in foster care takes into account  
23.2 proximity to the school in which the child is enrolled at the time of placement; and  
23.3 (v) any other relevant educational information;
- 23.4 (9) the efforts by the local agency to ensure the oversight and continuity of health  
23.5 care services for the foster child, including:  
23.6 (i) the plan to schedule the child's initial health screens;  
23.7 (ii) how the child's known medical problems and identified needs from the screens,  
23.8 including any known communicable diseases, as defined in section 144.4172, subdivision  
23.9 2, will be monitored and treated while the child is in foster care;  
23.10 (iii) how the child's medical information will be updated and shared, including  
23.11 the child's immunizations;  
23.12 (iv) who is responsible to coordinate and respond to the child's health care needs,  
23.13 including the role of the parent, the agency, and the foster parent;  
23.14 (v) who is responsible for oversight of the child's prescription medications;  
23.15 (vi) how physicians or other appropriate medical and nonmedical professionals  
23.16 will be consulted and involved in assessing the health and well-being of the child and  
23.17 determine the appropriate medical treatment for the child; and  
23.18 (vii) the responsibility to ensure that the child has access to medical care through  
23.19 either medical insurance or medical assistance;
- 23.20 (10) the health records of the child including information available regarding:  
23.21 (i) the names and addresses of the child's health care and dental care providers;  
23.22 (ii) a record of the child's immunizations;  
23.23 (iii) the child's known medical problems, including any known communicable  
23.24 diseases as defined in section 144.4172, subdivision 2;  
23.25 (iv) the child's medications; and  
23.26 (v) any other relevant health care information such as the child's eligibility for  
23.27 medical insurance or medical assistance;
- 23.28 (11) an independent living plan for a child age 16 or older. The plan should include,  
23.29 but not be limited to, the following objectives:  
23.30 (i) educational, vocational, or employment planning;  
23.31 (ii) health care planning and medical coverage;  
23.32 (iii) transportation including, where appropriate, assisting the child in obtaining a  
23.33 driver's license;  
23.34 (iv) money management, including the responsibility of the agency to ensure that  
23.35 the youth annually receives, at no cost to the youth, a consumer report as defined under  
23.36 section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;

24.1 (v) planning for housing;  
 24.2 (vi) social and recreational skills; and  
 24.3 (vii) establishing and maintaining connections with the child's family and  
 24.4 community; and

24.5 (12) for a child in voluntary foster care for treatment under chapter 260D, diagnostic  
 24.6 and assessment information, specific services relating to meeting the mental health care  
 24.7 needs of the child, and treatment outcomes.

24.8 (d) The parent or parents or guardian and the child each shall have the right to legal  
 24.9 counsel in the preparation of the case plan and shall be informed of the right at the time  
 24.10 of placement of the child. The child shall also have the right to a guardian ad litem.  
 24.11 If unable to employ counsel from their own resources, the court shall appoint counsel  
 24.12 upon the request of the parent or parents or the child or the child's legal guardian. The  
 24.13 parent or parents may also receive assistance from any person or social services agency  
 24.14 in preparation of the case plan.

24.15 After the plan has been agreed upon by the parties involved or approved or ordered  
 24.16 by the court, the foster parents shall be fully informed of the provisions of the case plan  
 24.17 and shall be provided a copy of the plan.

24.18 Upon discharge from foster care, the parent, adoptive parent, or permanent legal and  
 24.19 physical custodian, as appropriate, and the child, if appropriate, must be provided with  
 24.20 a current copy of the child's health and education record.

24.21 Sec. 29. Minnesota Statutes 2014, section 260C.212, subdivision 2, is amended to read:

24.22 Subd. 2. **Placement decisions based on best interests of the child.** (a) The  
 24.23 policy of the state of Minnesota is to ensure that the child's best interests are met by  
 24.24 requiring an individualized determination of the needs of the child and of how the selected  
 24.25 placement will serve the needs of the child being placed. The authorized child-placing  
 24.26 agency shall place a child, released by court order or by voluntary release by the parent  
 24.27 or parents, in a family foster home selected by considering placement with relatives and  
 24.28 important friends in the following order:

24.29 (1) with an individual who is related to the child by blood, marriage, or adoption; or  
 24.30 (2) with an individual who is an important friend with whom the child has resided or  
 24.31 had significant contact.

24.32 For an Indian child, the agency shall follow the order of placement preferences in the  
 24.33 Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

24.34 (b) Among the factors the agency shall consider in determining the needs of the  
 24.35 child are the following:



- 25.1 (1) the child's current functioning and behaviors;
- 25.2 (2) the medical needs of the child;
- 25.3 (3) the educational needs of the child;
- 25.4 (4) the developmental needs of the child;
- 25.5 (5) the child's history and past experience;
- 25.6 (6) the child's religious and cultural needs;
- 25.7 (7) the child's connection with a community, school, and faith community;
- 25.8 (8) the child's interests and talents;
- 25.9 (9) the child's relationship to current caretakers, parents, siblings, and relatives; ~~and~~
- 25.10 (10) the reasonable preference of the child, if the court, or the child-placing agency
- 25.11 in the case of a voluntary placement, deems the child to be of sufficient age to express
- 25.12 preferences; and

25.13 (11) for an Indian child, the best interests of an Indian child as defined in section

25.14 260.755, subdivision 2a.

25.15 (c) Placement of a child cannot be delayed or denied based on race, color, or national

25.16 origin of the foster parent or the child.

25.17 (d) Siblings should be placed together for foster care and adoption at the earliest

25.18 possible time unless it is documented that a joint placement would be contrary to the

25.19 safety or well-being of any of the siblings or unless it is not possible after reasonable

25.20 efforts by the responsible social services agency. In cases where siblings cannot be placed

25.21 together, the agency is required to provide frequent visitation or other ongoing interaction

25.22 between siblings unless the agency documents that the interaction would be contrary to

25.23 the safety or well-being of any of the siblings.

25.24 (e) Except for emergency placement as provided for in section 245A.035, the

25.25 following requirements must be satisfied before the approval of a foster or adoptive

25.26 placement in a related or unrelated home: (1) a completed background study under section

25.27 245C.08; and (2) a completed review of the written home study required under section

25.28 260C.215, subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective

25.29 foster or adoptive parent to ensure the placement will meet the needs of the individual child.

25.30 Sec. 30. Minnesota Statutes 2014, section 260C.511, is amended to read:

25.31 **260C.511 BEST INTERESTS OF THE CHILD.**

25.32 (a) The "best interests of the child" means all relevant factors to be considered and

25.33 evaluated. In the case of an Indian child, best interests of the child includes best interests

25.34 of an Indian child as defined in section 260.755, subdivision 2a.

26.1 (b) In making a permanency disposition order or termination of parental rights,  
26.2 the court must be governed by the best interests of the child, including a review of the  
26.3 relationship between the child and relatives and the child and other important persons with  
26.4 whom the child has resided or had significant contact.

26.5 Sec. 31. Minnesota Statutes 2014, section 268.155, subdivision 1, is amended to read:

26.6 Subdivision 1. **Definitions.** As used in this section:

26.7 (1) "Child support obligations" means obligations that are being enforced by a child  
26.8 support agency in accordance with a plan described in United States Code, title 42, section  
26.9 sections 454 and 455, of the Social Security Act that has been approved by the secretary of  
26.10 health and human services under part D of title IV of the Social Security Act. This does  
26.11 not include any type of spousal maintenance or foster care payments; and

26.12 (2) "Child support agency" means the public agency responsible for child support  
26.13 enforcement, including federally approved comprehensive Tribal IV-D programs.

26.14 **EFFECTIVE DATE.** This section is effective October 15, 2015.

26.15 Sec. 32. Minnesota Statutes 2014, section 626.556, subdivision 10, is amended to read:

26.16 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**  
26.17 **receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine  
26.18 whether to conduct a family assessment or an investigation as appropriate to prevent or  
26.19 provide a remedy for child maltreatment. The local welfare agency:

26.20 (1) shall conduct an investigation on reports involving substantial child  
26.21 endangerment;

26.22 (2) shall begin an immediate investigation if, at any time when it is using a family  
26.23 assessment response, it determines that there is reason to believe that substantial child  
26.24 endangerment or a serious threat to the child's safety exists;

26.25 (3) may conduct a family assessment for reports that do not allege substantial child  
26.26 endangerment. In determining that a family assessment is appropriate, the local welfare  
26.27 agency may consider issues of child safety, parental cooperation, and the need for an  
26.28 immediate response; ~~and~~

26.29 (4) may conduct a family assessment on a report that was initially screened and  
26.30 assigned for an investigation. In determining that a complete investigation is not required,  
26.31 the local welfare agency must document the reason for terminating the investigation and  
26.32 notify the local law enforcement agency if the local law enforcement agency is conducting  
26.33 a joint investigation; and

27.1           (5) shall provide immediate notice, according to section 260.761, subdivision 2, to  
27.2 an Indian child's tribe when the agency has reason to believe the family assessment or  
27.3 investigation may involve an Indian child. For purposes of this clause, "immediate notice"  
27.4 means notice provided within 24 hours.

27.5           If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,  
27.6 or individual functioning within the family unit as a person responsible for the child's  
27.7 care, or sexual abuse by a person with a significant relationship to the child when that  
27.8 person resides in the child's household or by a sibling, the local welfare agency shall  
27.9 immediately conduct a family assessment or investigation as identified in clauses (1) to  
27.10 (4). In conducting a family assessment or investigation, the local welfare agency shall  
27.11 gather information on the existence of substance abuse and domestic violence and offer  
27.12 services for purposes of preventing future child maltreatment, safeguarding and enhancing  
27.13 the welfare of the abused or neglected minor, and supporting and preserving family  
27.14 life whenever possible. If the report alleges a violation of a criminal statute involving  
27.15 sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the  
27.16 local law enforcement agency and local welfare agency shall coordinate the planning and  
27.17 execution of their respective investigation and assessment efforts to avoid a duplication of  
27.18 fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of  
27.19 the results of its investigation. In cases of alleged child maltreatment resulting in death,  
27.20 the local agency may rely on the fact-finding efforts of a law enforcement investigation  
27.21 to make a determination of whether or not maltreatment occurred. When necessary the  
27.22 local welfare agency shall seek authority to remove the child from the custody of a parent,  
27.23 guardian, or adult with whom the child is living. In performing any of these duties, the  
27.24 local welfare agency shall maintain appropriate records.

27.25           If the family assessment or investigation indicates there is a potential for abuse of  
27.26 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,  
27.27 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota  
27.28 Rules, part 9530.6615.

27.29           (b) When a local agency receives a report or otherwise has information indicating  
27.30 that a child who is a client, as defined in section 245.91, has been the subject of physical  
27.31 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section  
27.32 245.91, it shall, in addition to its other duties under this section, immediately inform the  
27.33 ombudsman established under sections 245.91 to 245.97. The commissioner of education  
27.34 shall inform the ombudsman established under sections 245.91 to 245.97 of reports  
27.35 regarding a child defined as a client in section 245.91 that maltreatment occurred at a  
27.36 school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

28.1 (c) Authority of the local welfare agency responsible for assessing or investigating  
28.2 the child abuse or neglect report, the agency responsible for assessing or investigating  
28.3 the report, and of the local law enforcement agency for investigating the alleged abuse or  
28.4 neglect includes, but is not limited to, authority to interview, without parental consent,  
28.5 the alleged victim and any other minors who currently reside with or who have resided  
28.6 with the alleged offender. The interview may take place at school or at any facility or  
28.7 other place where the alleged victim or other minors might be found or the child may be  
28.8 transported to, and the interview conducted at, a place appropriate for the interview of a  
28.9 child designated by the local welfare agency or law enforcement agency. The interview  
28.10 may take place outside the presence of the alleged offender or parent, legal custodian,  
28.11 guardian, or school official. For family assessments, it is the preferred practice to request  
28.12 a parent or guardian's permission to interview the child prior to conducting the child  
28.13 interview, unless doing so would compromise the safety assessment. Except as provided in  
28.14 this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible  
28.15 local welfare or law enforcement agency no later than the conclusion of the investigation  
28.16 or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota  
28.17 Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte  
28.18 motion by the local welfare agency, order that, where reasonable cause exists, the agency  
28.19 withhold notification of this interview from the parent, legal custodian, or guardian. If the  
28.20 interview took place or is to take place on school property, the order shall specify that  
28.21 school officials may not disclose to the parent, legal custodian, or guardian the contents  
28.22 of the notification of intent to interview the child on school property, as provided under  
28.23 this paragraph, and any other related information regarding the interview that may be a  
28.24 part of the child's school record. A copy of the order shall be sent by the local welfare or  
28.25 law enforcement agency to the appropriate school official.

28.26 (d) When the local welfare, local law enforcement agency, or the agency responsible  
28.27 for assessing or investigating a report of maltreatment determines that an interview should  
28.28 take place on school property, written notification of intent to interview the child on school  
28.29 property must be received by school officials prior to the interview. The notification  
28.30 shall include the name of the child to be interviewed, the purpose of the interview, and  
28.31 a reference to the statutory authority to conduct an interview on school property. For  
28.32 interviews conducted by the local welfare agency, the notification shall be signed by the  
28.33 chair of the local social services agency or the chair's designee. The notification shall be  
28.34 private data on individuals subject to the provisions of this paragraph. School officials  
28.35 may not disclose to the parent, legal custodian, or guardian the contents of the notification  
28.36 or any other related information regarding the interview until notified in writing by the

29.1 local welfare or law enforcement agency that the investigation or assessment has been  
29.2 concluded, unless a school employee or agent is alleged to have maltreated the child.  
29.3 Until that time, the local welfare or law enforcement agency or the agency responsible  
29.4 for assessing or investigating a report of maltreatment shall be solely responsible for any  
29.5 disclosures regarding the nature of the assessment or investigation.

29.6 Except where the alleged offender is believed to be a school official or employee,  
29.7 the time and place, and manner of the interview on school premises shall be within the  
29.8 discretion of school officials, but the local welfare or law enforcement agency shall have  
29.9 the exclusive authority to determine who may attend the interview. The conditions as to  
29.10 time, place, and manner of the interview set by the school officials shall be reasonable and  
29.11 the interview shall be conducted not more than 24 hours after the receipt of the notification  
29.12 unless another time is considered necessary by agreement between the school officials and  
29.13 the local welfare or law enforcement agency. Where the school fails to comply with the  
29.14 provisions of this paragraph, the juvenile court may order the school to comply. Every  
29.15 effort must be made to reduce the disruption of the educational program of the child, other  
29.16 students, or school staff when an interview is conducted on school premises.

29.17 (e) Where the alleged offender or a person responsible for the care of the alleged  
29.18 victim or other minor prevents access to the victim or other minor by the local welfare  
29.19 agency, the juvenile court may order the parents, legal custodian, or guardian to produce  
29.20 the alleged victim or other minor for questioning by the local welfare agency or the local  
29.21 law enforcement agency outside the presence of the alleged offender or any person  
29.22 responsible for the child's care at reasonable places and times as specified by court order.

29.23 (f) Before making an order under paragraph (e), the court shall issue an order to  
29.24 show cause, either upon its own motion or upon a verified petition, specifying the basis for  
29.25 the requested interviews and fixing the time and place of the hearing. The order to show  
29.26 cause shall be served personally and shall be heard in the same manner as provided in  
29.27 other cases in the juvenile court. The court shall consider the need for appointment of a  
29.28 guardian ad litem to protect the best interests of the child. If appointed, the guardian ad  
29.29 litem shall be present at the hearing on the order to show cause.

29.30 (g) The commissioner of human services, the ombudsman for mental health and  
29.31 developmental disabilities, the local welfare agencies responsible for investigating reports,  
29.32 the commissioner of education, and the local law enforcement agencies have the right to  
29.33 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,  
29.34 including medical records, as part of the investigation. Notwithstanding the provisions of  
29.35 chapter 13, they also have the right to inform the facility under investigation that they are  
29.36 conducting an investigation, to disclose to the facility the names of the individuals under

30.1 investigation for abusing or neglecting a child, and to provide the facility with a copy of  
30.2 the report and the investigative findings.

30.3 (h) The local welfare agency responsible for conducting a family assessment or  
30.4 investigation shall collect available and relevant information to determine child safety,  
30.5 risk of subsequent child maltreatment, and family strengths and needs and share not public  
30.6 information with an Indian's tribal social services agency without violating any law of the  
30.7 state that may otherwise impose duties of confidentiality on the local welfare agency in  
30.8 order to implement the tribal state agreement. The local welfare agency or the agency  
30.9 responsible for investigating the report shall collect available and relevant information  
30.10 to ascertain whether maltreatment occurred and whether protective services are needed.  
30.11 Information collected includes, when relevant, information with regard to the person  
30.12 reporting the alleged maltreatment, including the nature of the reporter's relationship to the  
30.13 child and to the alleged offender, and the basis of the reporter's knowledge for the report;  
30.14 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other  
30.15 collateral sources having relevant information related to the alleged maltreatment. The  
30.16 local welfare agency or the agency responsible for investigating the report may make a  
30.17 determination of no maltreatment early in an investigation, and close the case and retain  
30.18 immunity, if the collected information shows no basis for a full investigation.

30.19 Information relevant to the assessment or investigation must be asked for, and  
30.20 may include:

30.21 (1) the child's sex and age, prior reports of maltreatment, information relating  
30.22 to developmental functioning, credibility of the child's statement, and whether the  
30.23 information provided under this clause is consistent with other information collected  
30.24 during the course of the assessment or investigation;

30.25 (2) the alleged offender's age, a record check for prior reports of maltreatment, and  
30.26 criminal charges and convictions. The local welfare agency or the agency responsible for  
30.27 assessing or investigating the report must provide the alleged offender with an opportunity  
30.28 to make a statement. The alleged offender may submit supporting documentation relevant  
30.29 to the assessment or investigation;

30.30 (3) collateral source information regarding the alleged maltreatment and care of the  
30.31 child. Collateral information includes, when relevant: (i) a medical examination of the  
30.32 child; (ii) prior medical records relating to the alleged maltreatment or the care of the  
30.33 child maintained by any facility, clinic, or health care professional and an interview with  
30.34 the treating professionals; and (iii) interviews with the child's caretakers, including the  
30.35 child's parent, guardian, foster parent, child care provider, teachers, counselors, family

31.1 members, relatives, and other persons who may have knowledge regarding the alleged  
31.2 maltreatment and the care of the child; and

31.3 (4) information on the existence of domestic abuse and violence in the home of  
31.4 the child, and substance abuse.

31.5 Nothing in this paragraph precludes the local welfare agency, the local law  
31.6 enforcement agency, or the agency responsible for assessing or investigating the report  
31.7 from collecting other relevant information necessary to conduct the assessment or  
31.8 investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare  
31.9 agency has access to medical data and records for purposes of clause (3). Notwithstanding  
31.10 the data's classification in the possession of any other agency, data acquired by the  
31.11 local welfare agency or the agency responsible for assessing or investigating the report  
31.12 during the course of the assessment or investigation are private data on individuals and  
31.13 must be maintained in accordance with subdivision 11. Data of the commissioner of  
31.14 education collected or maintained during and for the purpose of an investigation of  
31.15 alleged maltreatment in a school are governed by this section, notwithstanding the data's  
31.16 classification as educational, licensing, or personnel data under chapter 13.

31.17 In conducting an assessment or investigation involving a school facility as defined  
31.18 in subdivision 2, paragraph (i), the commissioner of education shall collect investigative  
31.19 reports and data that are relevant to a report of maltreatment and are from local law  
31.20 enforcement and the school facility.

31.21 (i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face  
31.22 contact with the child reported to be maltreated and with the child's primary caregiver  
31.23 sufficient to complete a safety assessment and ensure the immediate safety of the child.  
31.24 The face-to-face contact with the child and primary caregiver shall occur immediately  
31.25 if substantial child endangerment is alleged and within five calendar days for all other  
31.26 reports. If the alleged offender was not already interviewed as the primary caregiver, the  
31.27 local welfare agency shall also conduct a face-to-face interview with the alleged offender  
31.28 in the early stages of the assessment or investigation. At the initial contact, the local child  
31.29 welfare agency or the agency responsible for assessing or investigating the report must  
31.30 inform the alleged offender of the complaints or allegations made against the individual in  
31.31 a manner consistent with laws protecting the rights of the person who made the report.  
31.32 The interview with the alleged offender may be postponed if it would jeopardize an active  
31.33 law enforcement investigation.

31.34 (j) When conducting an investigation, the local welfare agency shall use a question  
31.35 and answer interviewing format with questioning as nondirective as possible to elicit

32.1 spontaneous responses. For investigations only, the following interviewing methods and  
 32.2 procedures must be used whenever possible when collecting information:

32.3 (1) audio recordings of all interviews with witnesses and collateral sources; and

32.4 (2) in cases of alleged sexual abuse, audio-video recordings of each interview with  
 32.5 the alleged victim and child witnesses.

32.6 (k) In conducting an assessment or investigation involving a school facility as  
 32.7 defined in subdivision 2, paragraph (i), the commissioner of education shall collect  
 32.8 available and relevant information and use the procedures in paragraphs (i), (k), and  
 32.9 subdivision 3d, except that the requirement for face-to-face observation of the child  
 32.10 and face-to-face interview of the alleged offender is to occur in the initial stages of the  
 32.11 assessment or investigation provided that the commissioner may also base the assessment  
 32.12 or investigation on investigative reports and data received from the school facility and  
 32.13 local law enforcement, to the extent those investigations satisfy the requirements of  
 32.14 paragraphs (i) and (k), and subdivision 3d.

32.15 Sec. 33. Minnesota Statutes 2014, section 626.556, subdivision 11d, is amended to read:

32.16 Subd. 11d. **Disclosure in child fatality or near-fatality cases.** (a) The definitions  
 32.17 in this paragraph apply to this section.

32.18 (1) "Child fatality" means the death of a child from ~~suspected child abuse; or~~  
 32.19 ~~neglect; or maltreatment.~~

32.20 (2) "Near fatality" means a case in which a physician determines that a child is in  
 32.21 serious or critical condition as the result of sickness or injury caused by ~~suspected child~~  
 32.22 ~~abuse; or neglect; or maltreatment.~~

32.23 (3) "Findings and information" means a written summary described in paragraph  
 32.24 (c) of actions taken or services rendered by a local social services agency following  
 32.25 receipt of a report.

32.26 (b) Notwithstanding any other provision of law and subject to this subdivision, a  
 32.27 public agency shall disclose to the public, upon request, the findings and information  
 32.28 related to a child fatality or near fatality if:

32.29 (1) a person is criminally charged with having caused the child fatality or near  
 32.30 fatality; ~~or~~

32.31 (2) a county attorney certifies that a person would have been charged with having  
 32.32 caused the child fatality or near fatality but for that person's death; ~~or~~

32.33 (3) a child protection investigation resulted in a determination of child abuse or  
 32.34 neglect.



33.1 (c) Findings and information disclosed under this subdivision consist of a written  
33.2 summary that includes any of the following information the agency is able to provide:

33.3 ~~(1) the dates, outcomes, and results of any actions taken or services rendered~~ cause  
33.4 and circumstances regarding the child fatality or near fatality;

33.5 (2) the age and gender of the child;

33.6 (3) information on any previous reports of child abuse or neglect that are pertinent to  
33.7 the abuse or neglect that led to the child fatality or near fatality;

33.8 (4) information on any previous investigations that are pertinent to the abuse or  
33.9 neglect that led to the child fatality or near fatality;

33.10 (5) the results of any investigations described in clause (4);

33.11 (6) actions of and services provided by the local social services agency on behalf  
33.12 of a child that are pertinent to the child abuse or neglect that led to the child fatality  
33.13 or near fatality; and

33.14 ~~(2) (7) the results of any review of the state child mortality review panel, a local child~~  
33.15 ~~mortality review panel, a local community child protection team, or any public agency; and~~

33.16 ~~(3) confirmation of the receipt of all reports, accepted or not accepted, by the~~  
33.17 ~~local welfare agency for assessment of suspected child abuse, neglect, or maltreatment,~~  
33.18 ~~including confirmation that investigations were conducted, the results of the investigations,~~  
33.19 ~~a description of the conduct of the most recent investigation and the services rendered,~~  
33.20 ~~and a statement of the basis for the agency's determination.~~

33.21 (d) Nothing in this subdivision authorizes access to the private data in the custody of  
33.22 a local social services agency, or the disclosure to the public of the records or content of  
33.23 any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information  
33.24 that would reveal the identities of persons who provided information related to ~~suspected~~  
33.25 ~~abuse, or neglect, or maltreatment~~ of the child.

33.26 (e) A person whose request is denied may apply to the appropriate court for an  
33.27 order compelling disclosure of all or part of the findings and information of the public  
33.28 agency. The application must set forth, with reasonable particularity, factors supporting  
33.29 the application. The court has jurisdiction to issue these orders. Actions under this section  
33.30 must be set down for immediate hearing, and subsequent proceedings in those actions  
33.31 must be given priority by the appellate courts.

33.32 (f) A public agency or its employees acting in good faith in disclosing or declining  
33.33 to disclose information under this section are immune from criminal or civil liability that  
33.34 might otherwise be incurred or imposed for that action.

33.35 Sec. 34. REVIVAL AND REENACTMENT.

34.1 Minnesota Statutes, section 518A.53, subdivision 7, is revived and reenacted  
34.2 retroactively from August 1, 2014. Income withholding implemented after July 31, 2014,  
34.3 and before the enactment of this section is ratified by the enactment of this section.

34.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

## 34.5 **ARTICLE 2**

### 34.6 **CHEMICAL AND MENTAL HEALTH SERVICES**

34.7 Section 1. Minnesota Statutes 2014, section 168.012, subdivision 1, is amended to read:

34.8 Subdivision 1. **Vehicles exempt from tax, fees, or plate display.** (a) The following  
34.9 vehicles are exempt from the provisions of this chapter requiring payment of tax and  
34.10 registration fees, except as provided in subdivision 1c:

34.11 (1) vehicles owned and used solely in the transaction of official business by the  
34.12 federal government, the state, or any political subdivision;

34.13 (2) vehicles owned and used exclusively by educational institutions and used solely  
34.14 in the transportation of pupils to and from those institutions;

34.15 (3) vehicles used solely in driver education programs at nonpublic high schools;

34.16 (4) vehicles owned by nonprofit charities and used exclusively to transport disabled  
34.17 persons for charitable, religious, or educational purposes;

34.18 (5) vehicles owned by nonprofit charities and used exclusively for disaster response  
34.19 and related activities;

34.20 (6) vehicles owned by ambulance services licensed under section 144E.10 that  
34.21 are equipped and specifically intended for emergency response or providing ambulance  
34.22 services; and

34.23 (7) vehicles owned by a commercial driving school licensed under section 171.34,  
34.24 or an employee of a commercial driving school licensed under section 171.34, and the  
34.25 vehicle is used exclusively for driver education and training.

34.26 (b) Provided the general appearance of the vehicle is unmistakable, the following  
34.27 vehicles are not required to register or display number plates:

34.28 (1) vehicles owned by the federal government;

34.29 (2) fire apparatuses, including fire-suppression support vehicles, owned or leased by  
34.30 the state or a political subdivision;

34.31 (3) police patrols owned or leased by the state or a political subdivision; and

34.32 (4) ambulances owned or leased by the state or a political subdivision.

34.33 (c) Unmarked vehicles used in general police work, liquor investigations, or arson  
34.34 investigations, and passenger automobiles, pickup trucks, and buses owned or operated by

35.1 the Department of Corrections or by conservation officers of the Division of Enforcement  
35.2 and Field Service of the Department of Natural Resources, must be registered and must  
35.3 display appropriate license number plates, furnished by the registrar at cost. Original and  
35.4 renewal applications for these license plates authorized for use in general police work and  
35.5 for use by the Department of Corrections or by conservation officers must be accompanied  
35.6 by a certification signed by the appropriate chief of police if issued to a police vehicle,  
35.7 the appropriate sheriff if issued to a sheriff's vehicle, the commissioner of corrections if  
35.8 issued to a Department of Corrections vehicle, or the appropriate officer in charge if  
35.9 issued to a vehicle of any other law enforcement agency. The certification must be on a  
35.10 form prescribed by the commissioner and state that the vehicle will be used exclusively  
35.11 for a purpose authorized by this section.

35.12 (d) Unmarked vehicles used by the Departments of Revenue and Labor and Industry,  
35.13 fraud unit, in conducting seizures or criminal investigations must be registered and must  
35.14 display passenger vehicle classification license number plates, furnished at cost by the  
35.15 registrar. Original and renewal applications for these passenger vehicle license plates  
35.16 must be accompanied by a certification signed by the commissioner of revenue or the  
35.17 commissioner of labor and industry. The certification must be on a form prescribed by  
35.18 the commissioner and state that the vehicles will be used exclusively for the purposes  
35.19 authorized by this section.

35.20 (e) Unmarked vehicles used by the Division of Disease Prevention and Control of the  
35.21 Department of Health must be registered and must display passenger vehicle classification  
35.22 license number plates. These plates must be furnished at cost by the registrar. Original  
35.23 and renewal applications for these passenger vehicle license plates must be accompanied  
35.24 by a certification signed by the commissioner of health. The certification must be on a  
35.25 form prescribed by the commissioner and state that the vehicles will be used exclusively  
35.26 for the official duties of the Division of Disease Prevention and Control.

35.27 (f) Unmarked vehicles used by staff of the Gambling Control Board in gambling  
35.28 investigations and reviews must be registered and must display passenger vehicle  
35.29 classification license number plates. These plates must be furnished at cost by the  
35.30 registrar. Original and renewal applications for these passenger vehicle license plates must  
35.31 be accompanied by a certification signed by the board chair. The certification must be on a  
35.32 form prescribed by the commissioner and state that the vehicles will be used exclusively  
35.33 for the official duties of the Gambling Control Board.

35.34 (g) Unmarked vehicles used in general investigation, surveillance, supervision, and  
35.35 monitoring by the Department of Human Services' Office of Special Investigations' staff;  
35.36 the Minnesota sex offender program's executive director and the executive director's

36.1 staff; and the Office of Inspector General's staff, including, but not limited to, county  
36.2 fraud prevention investigators, must be registered and must display passenger vehicle  
36.3 classification license number plates, furnished by the registrar at cost. Original and  
36.4 renewal applications for passenger vehicle license plates must be accompanied by a  
36.5 certification signed by the commissioner of human services. The certification must be on a  
36.6 form prescribed by the commissioner and state that the vehicles must be used exclusively  
36.7 for the official duties of the Office of Special Investigations' staff; the Minnesota sex  
36.8 offender program's executive director and the executive director's staff; and the Office  
36.9 of the Inspector General's staff, including, but not limited to, contract and county fraud  
36.10 prevention investigators.

36.11 (h) Each state hospital and institution for persons who are mentally ill and  
36.12 developmentally disabled may have one vehicle without the required identification on  
36.13 the sides of the vehicle. The vehicle must be registered and must display passenger  
36.14 vehicle classification license number plates. These plates must be furnished at cost by the  
36.15 registrar. Original and renewal applications for these passenger vehicle license plates must  
36.16 be accompanied by a certification signed by the hospital administrator. The certification  
36.17 must be on a form prescribed by the commissioner and state that the vehicles will be used  
36.18 exclusively for the official duties of the state hospital or institution.

36.19 (i) Each county social service agency may have vehicles used for child and  
36.20 vulnerable adult protective services without the required identification on the sides of the  
36.21 vehicle. The vehicles must be registered and must display passenger vehicle classification  
36.22 license number plates. These plates must be furnished at cost by the registrar. Original  
36.23 and renewal applications for these passenger vehicle license plates must be accompanied  
36.24 by a certification signed by the agency administrator. The certification must be on a form  
36.25 prescribed by the commissioner and state that the vehicles will be used exclusively for the  
36.26 official duties of the social service agency.

36.27 (j) Unmarked vehicles used in general investigation, surveillance, supervision, and  
36.28 monitoring by tobacco inspector staff of the Department of Human Services' Alcohol and  
36.29 Drug Abuse Division for the purposes of tobacco inspections, investigations, and reviews  
36.30 must be registered and must display passenger vehicle classification license number  
36.31 plates, furnished at cost by the registrar. Original and renewal applications for passenger  
36.32 vehicle license plates must be accompanied by a certification signed by the commissioner  
36.33 of human services. The certification must be on a form prescribed by the commissioner  
36.34 and state that the vehicles will be used exclusively by tobacco inspector staff for the  
36.35 duties specified in this paragraph.

37.1           (†)(k) All other motor vehicles must be registered and display tax-exempt number  
37.2 plates, furnished by the registrar at cost, except as provided in subdivision 1c. All  
37.3 vehicles required to display tax-exempt number plates must have the name of the state  
37.4 department or political subdivision, nonpublic high school operating a driver education  
37.5 program, licensed commercial driving school, or other qualifying organization or entity,  
37.6 plainly displayed on both sides of the vehicle. This identification must be in a color  
37.7 giving contrast with that of the part of the vehicle on which it is placed and must endure  
37.8 throughout the term of the registration. The identification must not be on a removable  
37.9 plate or placard and must be kept clean and visible at all times; except that a removable  
37.10 plate or placard may be utilized on vehicles leased or loaned to a political subdivision or  
37.11 to a nonpublic high school driver education program.

37.12           Sec. 2. Minnesota Statutes 2014, section 245.462, subdivision 4, is amended to read:

37.13           Subd. 4. **Case management service provider.** (a) "Case management service  
37.14 provider" means a case manager or case manager associate employed by the county or  
37.15 other entity authorized by the county board to provide case management services specified  
37.16 in section 245.4711.

37.17           (b) A case manager must:

37.18           (1) be skilled in the process of identifying and assessing a wide range of client needs;

37.19           (2) be knowledgeable about local community resources and how to use those  
37.20 resources for the benefit of the client;

37.21           (3) have a bachelor's degree in one of the behavioral sciences or related fields  
37.22 including, but not limited to, social work, psychology, or nursing from an accredited  
37.23 college or university or meet the requirements of paragraph (c); and

37.24           (4) meet the supervision and continuing education requirements described in  
37.25 paragraphs (d), (e), and (f), as applicable.

37.26           (c) Case managers without a bachelor's degree must meet one of the requirements in  
37.27 clauses (1) to (3):

37.28           (1) have three or four years of experience as a case manager associate as defined  
37.29 in this section;

37.30           (2) be a registered nurse without a bachelor's degree and have a combination  
37.31 of specialized training in psychiatry and work experience consisting of community  
37.32 interaction and involvement or community discharge planning in a mental health setting  
37.33 totaling three years; or

38.1 (3) be a person who qualified as a case manager under the 1998 Department of  
38.2 Human Service waiver provision and meet the continuing education and mentoring  
38.3 requirements in this section.

38.4 (d) A case manager with at least 2,000 hours of supervised experience in the delivery  
38.5 of services to adults with mental illness must receive regular ongoing supervision and  
38.6 clinical supervision totaling 38 hours per year of which at least one hour per month must  
38.7 be clinical supervision regarding individual service delivery with a case management  
38.8 supervisor. The remaining 26 hours of supervision may be provided by a case manager with  
38.9 two years of experience. Group supervision may not constitute more than one-half of the  
38.10 required supervision hours. Clinical supervision must be documented in the client record.

38.11 (e) A case manager without 2,000 hours of supervised experience in the delivery of  
38.12 services to adults with mental illness must:

38.13 (1) receive clinical supervision regarding individual service delivery from a mental  
38.14 health professional at least one hour per week until the requirement of 2,000 hours of  
38.15 experience is met; and

38.16 (2) complete 40 hours of training approved by the commissioner in case management  
38.17 skills and the characteristics and needs of adults with serious and persistent mental illness.

38.18 (f) A case manager who is not licensed, registered, or certified by a health-related  
38.19 licensing board must receive 30 hours of continuing education and training in mental  
38.20 illness and mental health services every two years.

38.21 (g) A case manager associate (CMA) must:

38.22 (1) work under the direction of a case manager or case management supervisor;

38.23 (2) be at least 21 years of age;

38.24 (3) have at least a high school diploma or its equivalent; and

38.25 (4) meet one of the following criteria:

38.26 (i) have an associate of arts degree in one of the behavioral sciences or human  
38.27 services;

38.28 (ii) be a certified peer specialist under section 256B.0615;

38.29 ~~(ii)~~ (iii) be a registered nurse without a bachelor's degree;

38.30 ~~(iii)~~ (iv) within the previous ten years, have three years of life experience with  
38.31 serious and persistent mental illness as defined in section 245.462, subdivision 20; or as  
38.32 a child had severe emotional disturbance as defined in section 245.4871, subdivision 6;  
38.33 or have three years life experience as a primary caregiver to an adult with serious and  
38.34 persistent mental illness within the previous ten years;

38.35 ~~(iv)~~ (v) have 6,000 hours work experience as a nondegreed state hospital technician;

38.36 or

39.1 ~~(v)~~ (vi) be a mental health practitioner as defined in section 245.462, subdivision  
39.2 17, clause (2).

39.3 Individuals meeting one of the criteria in items (i) to ~~(iv)~~ (v), may qualify as a case  
39.4 manager after four years of supervised work experience as a case manager associate.

39.5 Individuals meeting the criteria in item ~~(v)~~ (vi), may qualify as a case manager after three  
39.6 years of supervised experience as a case manager associate.

39.7 (h) A case management associate must meet the following supervision, mentoring,  
39.8 and continuing education requirements:

39.9 (1) have 40 hours of preservice training described under paragraph (e), clause (2);

39.10 (2) receive at least 40 hours of continuing education in mental illness and mental  
39.11 health services annually; and

39.12 (3) receive at least five hours of mentoring per week from a case management mentor.

39.13 A "case management mentor" means a qualified, practicing case manager or case  
39.14 management supervisor who teaches or advises and provides intensive training and  
39.15 clinical supervision to one or more case manager associates. Mentoring may occur while  
39.16 providing direct services to consumers in the office or in the field and may be provided  
39.17 to individuals or groups of case manager associates. At least two mentoring hours per  
39.18 week must be individual and face-to-face.

39.19 (i) A case management supervisor must meet the criteria for mental health  
39.20 professionals, as specified in section 245.462, subdivision 18.

39.21 (j) An immigrant who does not have the qualifications specified in this subdivision  
39.22 may provide case management services to adult immigrants with serious and persistent  
39.23 mental illness who are members of the same ethnic group as the case manager if the person:

39.24 (1) is currently enrolled in and is actively pursuing credits toward the completion of  
39.25 a bachelor's degree in one of the behavioral sciences or a related field including, but not  
39.26 limited to, social work, psychology, or nursing from an accredited college or university;

39.27 (2) completes 40 hours of training as specified in this subdivision; and

39.28 (3) receives clinical supervision at least once a week until the requirements of this  
39.29 subdivision are met.

39.30 Sec. 3. Minnesota Statutes 2014, section 254B.05, subdivision 5, is amended to read:

39.31 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for  
39.32 chemical dependency services and service enhancements funded under this chapter.

39.33 (b) Eligible chemical dependency treatment services include:

39.34 (1) outpatient treatment services that are licensed according to Minnesota Rules,  
39.35 parts 9530.6405 to 9530.6480, or applicable tribal license;

40.1 (2) medication-assisted therapy services that are licensed according to Minnesota  
40.2 Rules, parts 9530.6405 to 9530.6480 and 9530.6500, or applicable tribal license;

40.3 (3) medication-assisted therapy plus enhanced treatment services that meet the  
40.4 requirements of clause (2) and provide nine hours of clinical services each week;

40.5 (4) high, medium, and low intensity residential treatment services that are licensed  
40.6 according to Minnesota Rules, parts 9530.6405 to 9530.6480 and 9530.6505, or applicable  
40.7 tribal license which provide, respectively, 30, 15, and five hours of clinical services each  
40.8 week;

40.9 (5) hospital-based treatment services that are licensed according to Minnesota Rules,  
40.10 parts 9530.6405 to 9530.6480, or applicable tribal license and licensed as a hospital under  
40.11 sections 144.50 to 144.56;

40.12 (6) adolescent treatment programs that are licensed as outpatient treatment programs  
40.13 according to Minnesota Rules, parts 9530.6405 to 9530.6485, or as residential treatment  
40.14 programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to  
40.15 2960.0490, or applicable tribal license; and

40.16 (7) room and board facilities that meet the requirements of section 254B.05,  
40.17 subdivision 1a.

40.18 (c) The commissioner shall establish higher rates for programs that meet the  
40.19 requirements of paragraph (b) and the following additional requirements:

40.20 (1) programs that serve parents with their children if the program:

40.21 ~~(i) provides on-site child care during hours of treatment activity that meets the~~  
40.22 ~~requirements in Minnesota Rules, part 9530.6490, or section 245A.03, subdivision 2; or~~

40.23 (i) provides on-site child care during the hours of treatment activity that:

40.24 (A) is licensed under chapter 245A as a child care center under Minnesota Rules,  
40.25 chapter 9503; or

40.26 (B) meets the licensure exclusion criteria of section 245A.03, subdivision 2,  
40.27 paragraph (a), clause (6), and meets the requirements under Minnesota Rules, part  
40.28 9530.6490, subpart 4; or

40.29 (ii) arranges for off-site child care during hours of treatment activity at a facility that  
40.30 is licensed under chapter 245A as:

40.31 (A) a child care center under Minnesota Rules, chapter 9503; or

40.32 (B) a family child care home under Minnesota Rules, chapter 9502;

40.33 (2) culturally specific programs as defined in section 254B.01, subdivision 8 4a, if  
40.34 the program meets the requirements in Minnesota Rules, part 9530.6605, subpart 13;

40.35 (3) programs that offer medical services delivered by appropriately credentialed  
40.36 health care staff in an amount equal to two hours per client per week if the medical



41.1 needs of the client and the nature and provision of any medical services provided are  
41.2 documented in the client file; and

41.3 (4) programs that offer services to individuals with co-occurring mental health and  
41.4 chemical dependency problems if:

41.5 (i) the program meets the co-occurring requirements in Minnesota Rules, part  
41.6 9530.6495;

41.7 (ii) 25 percent of the counseling staff are licensed mental health professionals, as  
41.8 defined in section 245.462, subdivision 18, clauses (1) to (6), or are students or licensing  
41.9 candidates under the supervision of a licensed alcohol and drug counselor supervisor and  
41.10 licensed mental health professional, except that no more than 50 percent of the mental  
41.11 health staff may be students or licensing candidates with time documented to be directly  
41.12 related to provisions of co-occurring services;

41.13 (iii) clients scoring positive on a standardized mental health screen receive a mental  
41.14 health diagnostic assessment within ten days of admission;

41.15 (iv) the program has standards for multidisciplinary case review that include a  
41.16 monthly review for each client that, at a minimum, includes a licensed mental health  
41.17 professional and licensed alcohol and drug counselor, and their involvement in the review  
41.18 is documented;

41.19 (v) family education is offered that addresses mental health and substance abuse  
41.20 disorders and the interaction between the two; and

41.21 (vi) co-occurring counseling staff will receive eight hours of co-occurring disorder  
41.22 training annually.

41.23 (d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program  
41.24 that provides arrangements for off-site child care must maintain current documentation at  
41.25 the chemical dependency facility of the child care provider's current licensure to provide  
41.26 child care services. Programs that provide child care according to paragraph (c), clause  
41.27 (1), must be deemed in compliance with the licensing requirements in Minnesota Rules,  
41.28 part 9530.6490.

41.29 (e) Adolescent residential programs that meet the requirements of Minnesota  
41.30 Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the  
41.31 requirements in paragraph (c), clause (4), items (i) to (iv).

41.32 (f) Subject to federal approval, chemical dependency services that are otherwise  
41.33 covered as direct face-to-face services may be provided via two-way interactive video.  
41.34 The use of two-way interactive video must be medically appropriate to the condition and  
41.35 needs of the person being served. Reimbursement shall be at the same rates and under the  
41.36 same conditions that would otherwise apply to direct face-to-face services. The interactive

42.1 video equipment and connection must comply with Medicare standards in effect at the  
42.2 time the service is provided.

42.3 **EFFECTIVE DATE.** Paragraph (f) is effective the day following final enactment.

42.4 Sec. 4. Minnesota Statutes 2014, section 256B.0943, subdivision 1, is amended to read:

42.5 Subdivision 1. **Definitions.** For purposes of this section, the following terms have  
42.6 the meanings given them.

42.7 (a) "Children's therapeutic services and supports" means the flexible package of  
42.8 mental health services for children who require varying therapeutic and rehabilitative  
42.9 levels of intervention to treat a diagnosed emotional disturbance, as defined in section  
42.10 245.4871, subdivision 15, or a diagnosed mental illness, as defined in section 245.462,  
42.11 subdivision 20. The services are time-limited interventions that are delivered using  
42.12 various treatment modalities and combinations of services designed to reach treatment  
42.13 outcomes identified in the individual treatment plan.

42.14 (b) "Clinical supervision" means the overall responsibility of the mental health  
42.15 professional for the control and direction of individualized treatment planning, service  
42.16 delivery, and treatment review for each client. A mental health professional who is an  
42.17 enrolled Minnesota health care program provider accepts full professional responsibility  
42.18 for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work,  
42.19 and oversees or directs the supervisee's work.

42.20 (c) ~~"County board" means the county board of commissioners or board established~~  
42.21 ~~under sections 402.01 to 402.10 or 471.59.~~ "Clinical trainee" means a mental health  
42.22 practitioner who meets the qualifications specified in Minnesota Rules, part 9505.0371,  
42.23 subpart 5, item C.

42.24 (d) "Crisis assistance" has the meaning given in section 245.4871, subdivision  
42.25 9a. Crisis assistance entails the development of a written plan to assist a child's family  
42.26 to contend with a potential crisis and is distinct from the immediate provision of crisis  
42.27 intervention services.

42.28 (e) "Culturally competent provider" means a provider who understands and can  
42.29 utilize to a client's benefit the client's culture when providing services to the client. A  
42.30 provider may be culturally competent because the provider is of the same cultural or  
42.31 ethnic group as the client or the provider has developed the knowledge and skills through  
42.32 training and experience to provide services to culturally diverse clients.

42.33 (f) "Day treatment program" for children means a site-based structured mental health  
42.34 program consisting of psychotherapy for three or more individuals and individual or

43.1 group skills training provided by a multidisciplinary team, under the clinical supervision  
43.2 of a mental health professional.

43.3 (g) "Diagnostic assessment" has the meaning given in Minnesota Rules, part  
43.4 9505.0372, subpart 1.

43.5 (h) "Direct service time" means the time that a mental health professional, clinical  
43.6 trainee, mental health practitioner, or mental health behavioral aide spends face-to-face  
43.7 with a client and the client's family or providing covered telemedicine services. Direct  
43.8 service time includes time in which the provider obtains a client's history, develops a client's  
43.9 treatment plan, records individual treatment outcomes, or provides service components of  
43.10 children's therapeutic services and supports. Direct service time does not include time  
43.11 doing work before and after providing direct services, including scheduling, or maintaining  
43.12 clinical records, ~~consulting with others about the client's mental health status, preparing~~  
43.13 ~~reports, receiving clinical supervision, and revising the client's individual treatment plan.~~

43.14 (i) "Direction of mental health behavioral aide" means the activities of a mental  
43.15 health professional or mental health practitioner in guiding the mental health behavioral  
43.16 aide in providing services to a client. The direction of a mental health behavioral aide  
43.17 must be based on the client's individualized treatment plan and meet the requirements in  
43.18 subdivision 6, paragraph (b), clause (5).

43.19 (j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision  
43.20 15. ~~For persons at least age 18 but under age 21, mental illness has the meaning given in~~  
43.21 ~~section 245.462, subdivision 20, paragraph (a).~~

43.22 (k) "Individual behavioral plan" means a plan of intervention, treatment, and services  
43.23 for a child written by a mental health professional or mental health practitioner, under the  
43.24 clinical supervision of a mental health professional, to guide the work of the mental health  
43.25 behavioral aide. The individual behavioral plan may be incorporated into the child's  
43.26 individual treatment plan so long as the behavioral plan is separately communicable to  
43.27 the mental health behavioral aide.

43.28 (l) "Individual treatment plan" has the meaning given in ~~section 245.4871,~~  
43.29 ~~subdivision 21~~ Minnesota Rules, part 9505.0371, subpart 7.

43.30 (m) "Mental health behavioral aide services" means medically necessary one-on-one  
43.31 activities performed by a trained paraprofessional qualified as provided in subdivision 7,  
43.32 paragraph (b), clause (3), to assist a child retain or generalize psychosocial skills as ~~taught~~  
43.33 previously trained by a mental health professional or mental health practitioner and as  
43.34 described in the child's individual treatment plan and individual behavior plan. Activities  
43.35 involve working directly with the child or child's family as provided in subdivision 9,  
43.36 paragraph (b), clause (4).

44.1 (n) "Mental health practitioner" means an individual as defined in ~~section 245.4871,~~  
44.2 ~~subdivision 26~~ Minnesota Rules, part 9505.0370, subpart 17.

44.3 (o) "Mental health professional" means an individual as defined in ~~section 245.4871,~~  
44.4 ~~subdivision 27, clauses (1) to (6), or tribal vendor as defined in section 256B.02,~~  
44.5 ~~subdivision 7, paragraph (b)~~ Minnesota Rules, part 9505.0370, subpart 18.

44.6 (p) "Mental health service plan development" includes:

44.7 (1) the development, review, and revision of a child's individual treatment plan,  
44.8 as provided in Minnesota Rules, part 9505.0371, subpart 7, including involvement of  
44.9 the client or client's parents, primary caregiver, or other person authorized to consent to  
44.10 mental health services for the client, and including arrangement of treatment and support  
44.11 activities specified in the individual treatment plan; and

44.12 (2) administering standardized outcome measurement instruments, determined  
44.13 and updated by the commissioner, as periodically needed to evaluate the effectiveness  
44.14 of treatment for children receiving clinical services and reporting outcome measures,  
44.15 as required by the commissioner.

44.16 (q) "Mental illness," for persons at least age 18 but under age 21, has the meaning  
44.17 given in section 245.462, subdivision 20, paragraph (a).

44.18 (r) "Psychotherapy" means the treatment of mental or emotional disorders or  
44.19 maladjustment by psychological means. Psychotherapy may be provided in many  
44.20 modalities in accordance with Minnesota Rules, part 9505.0372, subpart 6, including  
44.21 patient and/or family psychotherapy; family psychotherapy; psychotherapy for  
44.22 crisis; group psychotherapy; or multiple-family psychotherapy. Beginning with the  
44.23 American Medical Association's Current Procedural Terminology, standard edition,  
44.24 2014, the procedure "individual psychotherapy" is replaced with "patient and/or family  
44.25 psychotherapy," a substantive change that permits the therapist to work with the client's  
44.26 family without the client present to obtain information about the client or to explain the  
44.27 client's treatment plan to the family. Psychotherapy is appropriate for crisis response  
44.28 when a child has become dysregulated or experienced new trauma since the diagnostic  
44.29 assessment was completed and needs psychotherapy to address issues not currently  
44.30 included in the child's individual treatment plan.

44.31 (s) "Rehabilitative services" or "psychiatric rehabilitation services" means a series  
44.32 or multidisciplinary combination of psychiatric and psychosocial interventions to: (1)  
44.33 restore a child or adolescent to an age-appropriate developmental trajectory that had been  
44.34 disrupted by a psychiatric illness; or (2) enable the child to self-monitor, compensate  
44.35 for, cope with, counteract, or replace psychosocial skills deficits or maladaptive skills  
44.36 acquired over the course of a psychiatric illness. Psychiatric rehabilitation services

45.1 for children combine psychotherapy to address internal psychological, emotional,  
 45.2 and intellectual processing deficits, and skills training to restore personal and social  
 45.3 functioning. Psychiatric rehabilitation services establish a progressive series of goals  
 45.4 with each achievement building upon a prior achievement. Continuing progress toward  
 45.5 goals is expected, and rehabilitative potential ceases when successive improvement is not  
 45.6 observable over a period of time.

45.7 ~~(q)~~ (t) "Skills training" means individual, family, or group training, delivered by or  
 45.8 under the ~~direction~~ supervision of a mental health professional, designed to facilitate the  
 45.9 acquisition of psychosocial skills that are medically necessary to rehabilitate the child to  
 45.10 an age-appropriate developmental trajectory heretofore disrupted by a psychiatric illness  
 45.11 or to enable the child to self-monitor, compensate for, cope with, counteract, or replace  
 45.12 skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills  
 45.13 training is subject to the following requirements: service delivery requirements under  
 45.14 subdivision 9, paragraph (b), clause (2).

45.15 ~~(1) a mental health professional or a mental health practitioner must provide skills~~  
 45.16 ~~training;~~

45.17 ~~(2) the child must always be present during skills training; however, a brief absence~~  
 45.18 ~~of the child for no more than ten percent of the session unit may be allowed to redirect or~~  
 45.19 ~~instruct family members;~~

45.20 ~~(3) skills training delivered to children or their families must be targeted to the~~  
 45.21 ~~specific deficits or maladaptations of the child's mental health disorder and must be~~  
 45.22 ~~prescribed in the child's individual treatment plan;~~

45.23 ~~(4) skills training delivered to the child's family must teach skills needed by parents~~  
 45.24 ~~to enhance the child's skill development and to help the child use in daily life the skills~~  
 45.25 ~~previously taught by a mental health professional or mental health practitioner and to~~  
 45.26 ~~develop or maintain a home environment that supports the child's progressive use skills;~~

45.27 ~~(5) group skills training may be provided to multiple recipients who, because of the~~  
 45.28 ~~nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from~~  
 45.29 ~~interaction in a group setting, which must be staffed as follows:~~

45.30 ~~(i) one mental health professional or one mental health practitioner under supervision~~  
 45.31 ~~of a licensed mental health professional must work with a group of four to eight clients; or~~

45.32 ~~(ii) two mental health professionals or two mental health practitioners under~~  
 45.33 ~~supervision of a licensed mental health professional, or one professional plus one~~  
 45.34 ~~practitioner must work with a group of nine to 12 clients.~~

45.35 **EFFECTIVE DATE.** This section is effective the day following final enactment.

46.1 Sec. 5. Minnesota Statutes 2014, section 256B.0943, subdivision 2, is amended to read:

46.2 Subd. 2. **Covered service components of children's therapeutic services and**

46.3 **supports.** (a) Subject to federal approval, medical assistance covers medically necessary

46.4 children's therapeutic services and supports as defined in this section that an eligible

46.5 provider entity certified under subdivision 4 provides to a client eligible under subdivision

46.6 3.

46.7 (b) The service components of children's therapeutic services and supports are:

46.8 (1) patient and/or family member psychotherapy, family psychotherapy,

46.9 psychotherapy for crisis, and group psychotherapy;

46.10 (2) individual, family, or group skills training provided by a mental health

46.11 professional or mental health practitioner;

46.12 (3) crisis assistance;

46.13 (4) mental health behavioral aide services;

46.14 (5) direction of a mental health behavioral aide;

46.15 (6) mental health service plan development; and

46.16 (7) children's day treatment.

46.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

46.18 Sec. 6. Minnesota Statutes 2014, section 256B.0943, subdivision 3, is amended to read:

46.19 Subd. 3. **Determination of client eligibility.** A client's eligibility to receive

46.20 children's therapeutic services and supports under this section shall be determined based

46.21 on a diagnostic assessment by a mental health professional or a mental health practitioner

46.22 who meets the requirements as of a clinical trainee as defined in Minnesota Rules, part

46.23 9505.0371, subpart 5, item C, that is performed within one year before the initial start of

46.24 service. The diagnostic assessment must meet the requirements for a standard or extended

46.25 diagnostic assessment as defined in Minnesota Rules, part 9505.0372, subpart 1, items

46.26 B and C, and:

46.27 (1) include current diagnoses ~~on all five axes of the client's current mental health~~

46.28 status, including any differential diagnosis, in accordance with all criteria for a complete

46.29 diagnosis and diagnostic profile as specified in the current edition of the Diagnostic and

46.30 Statistical Manual of the American Psychiatric Association, or, for children under age

46.31 five, as specified in the current edition of the Diagnostic Classification of Mental Health

46.32 Disorders of Infancy and Early Childhood;

46.33 (2) determine whether a child under age 18 has a diagnosis of emotional disturbance

46.34 or, if the person is between the ages of 18 and 21, whether the person has a mental illness;

47.1 (3) document children's therapeutic services and supports as medically necessary to  
 47.2 address an identified disability, functional impairment, and the individual client's needs  
 47.3 and goals;

47.4 (4) be used in the development of the individualized treatment plan; and

47.5 (5) be completed annually until age 18. ~~A client with autism spectrum disorder or~~  
 47.6 ~~pervasive developmental disorder may receive a diagnostic assessment once every three~~  
 47.7 ~~years, at the request of the parent or guardian, if a mental health professional agrees~~  
 47.8 ~~there has been little change in the condition and that an annual assessment is not needed.~~  
 47.9 For individuals between age 18 and 21, unless a client's mental health condition has  
 47.10 changed markedly since the client's most recent diagnostic assessment, annual updating is  
 47.11 necessary. For the purpose of this section, "updating" means an adult diagnostic update as  
 47.12 defined in Minnesota Rules, part 9505.0371, subpart 2, item E.

47.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

47.14 Sec. 7. Minnesota Statutes 2014, section 256B.0943, subdivision 4, is amended to read:

47.15 Subd. 4. **Provider entity certification.** (a) ~~Effective July 1, 2003,~~ The  
 47.16 commissioner shall establish an initial provider entity application and certification process  
 47.17 and recertification process to determine whether a provider entity has an administrative  
 47.18 and clinical infrastructure that meets the requirements in subdivisions 5 and 6. A provider  
 47.19 entity must be certified for the three core rehabilitation services of psychotherapy, skills  
 47.20 training, and crisis assistance. The commissioner shall recertify a provider entity at least  
 47.21 every three years. The commissioner shall establish a process for decertification of a  
 47.22 provider entity and shall require corrective action, medical assistance repayment, or  
 47.23 decertification of a provider entity that no longer meets the requirements in this section or  
 47.24 that fails to meet the clinical quality standards or administrative standards provided by the  
 47.25 commissioner in the application and certification process.

47.26 (b) For purposes of this section, a provider entity must be:

47.27 (1) an Indian health services facility or a facility owned and operated by a tribe or  
 47.28 tribal organization operating as a 638 facility under Public Law 93-638 certified by the state;

47.29 (2) a county-operated entity certified by the state; or

47.30 (3) a noncounty entity certified by the state.

47.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.

47.32 Sec. 8. Minnesota Statutes 2014, section 256B.0943, subdivision 5, is amended to read:

48.1 Subd. 5. **Provider entity administrative infrastructure requirements.** (a) To be  
48.2 an eligible provider entity under this section, a provider entity must have an administrative  
48.3 infrastructure that establishes authority and accountability for decision making and  
48.4 oversight of functions, including finance, personnel, system management, clinical practice,  
48.5 and ~~performance~~ individual treatment outcomes measurement. An eligible provider entity  
48.6 shall demonstrate the availability, by means of employment or contract, of at least one  
48.7 backup mental health professional in the event of the primary mental health professional's  
48.8 absence. The provider must have written policies and procedures that it reviews and  
48.9 updates every three years and distributes to staff initially and upon each subsequent update.

48.10 (b) The administrative infrastructure written policies and procedures must include:

48.11 (1) personnel procedures, including a process for: (i) recruiting, hiring, training, and  
48.12 retention of culturally and linguistically competent providers; (ii) conducting a criminal  
48.13 background check on all direct service providers and volunteers; (iii) investigating,  
48.14 reporting, and acting on violations of ethical conduct standards; (iv) investigating,  
48.15 reporting, and acting on violations of data privacy policies that are compliant with  
48.16 federal and state laws; (v) utilizing volunteers, including screening applicants, training  
48.17 and supervising volunteers, and providing liability coverage for volunteers; and (vi)  
48.18 documenting that each mental health professional, mental health practitioner, or mental  
48.19 health behavioral aide meets the applicable provider qualification criteria, training criteria  
48.20 under subdivision 8, and clinical supervision or direction of a mental health behavioral  
48.21 aide requirements under subdivision 6;

48.22 (2) fiscal procedures, including internal fiscal control practices and a process for  
48.23 collecting revenue that is compliant with federal and state laws;

48.24 (3) ~~a performance measurement system, including monitoring to determine cultural~~  
48.25 ~~appropriateness of services identified in the individual treatment plan, as determined~~  
48.26 ~~by the client's culture, beliefs, values, and language, and family-driven services~~ a  
48.27 client-specific treatment outcomes measurement system, including baseline measures, to  
48.28 measure a client's progress toward achieving mental health rehabilitation goals. Effective  
48.29 July 1, 2017, to be eligible for medical assistance payment, a provider entity must report  
48.30 individual client outcomes to the commissioner, using instruments and protocols approved  
48.31 by the commissioner; and

48.32 (4) a process to establish and maintain individual client records. The client's records  
48.33 must include:

48.34 (i) the client's personal information;

48.35 (ii) forms applicable to data privacy;



- 49.1 (iii) the client's diagnostic assessment, updates, results of tests, individual treatment  
 49.2 plan, and individual behavior plan, if necessary;
- 49.3 (iv) documentation of service delivery as specified under subdivision 6;
- 49.4 (v) telephone contacts;
- 49.5 (vi) discharge plan; and
- 49.6 (vii) if applicable, insurance information.

49.7 (c) A provider entity that uses a restrictive procedure with a client must meet the  
 49.8 requirements of section 245.8261.

49.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

49.10 Sec. 9. Minnesota Statutes 2014, section 256B.0943, subdivision 6, is amended to read:

49.11 Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be  
 49.12 an eligible provider entity under this section, a provider entity must have a clinical  
 49.13 infrastructure that utilizes diagnostic assessment, individualized treatment plans,  
 49.14 service delivery, and individual treatment plan review that are culturally competent,  
 49.15 child-centered, and family-driven to achieve maximum benefit for the client. The provider  
 49.16 entity must review, and update as necessary, the clinical policies and procedures every  
 49.17 three years ~~and~~, must distribute the policies and procedures to staff initially and upon each  
 49.18 subsequent update, and must train staff accordingly.

49.19 (b) The clinical infrastructure written policies and procedures must include policies  
 49.20 and procedures for:

49.21 (1) providing or obtaining a client's diagnostic assessment, including a diagnostic  
 49.22 assessment performed by an outside or independent clinician, that identifies acute and  
 49.23 chronic clinical disorders, co-occurring medical conditions, and sources of psychological  
 49.24 and environmental problems, including baselines, and a functional assessment. The  
 49.25 functional assessment component must clearly summarize the client's individual strengths  
 49.26 and needs. When required components of the diagnostic assessment, such as baseline  
 49.27 measures, are not provided in an outside or independent assessment or when baseline  
 49.28 measures cannot be attained in a one-session standard diagnostic assessment, the provider  
 49.29 entity must determine the missing information within 30 days and amend the child's  
 49.30 diagnostic assessment or incorporate the baselines into the child's individual treatment plan;

49.31 (2) developing an individual treatment plan that:

49.32 (i) is based on the information in the client's diagnostic assessment and baselines;

49.33 (ii) identified goals and objectives of treatment, treatment strategy, schedule for  
 49.34 accomplishing treatment goals and objectives, and the individuals responsible for  
 49.35 providing treatment services and supports;

50.1 (iii) is developed after completion of the client's diagnostic assessment by a mental  
50.2 health professional or clinical trainee and before the provision of children's therapeutic  
50.3 services and supports;

50.4 (iv) is developed through a child-centered, family-driven, culturally appropriate  
50.5 planning process, including allowing parents and guardians to observe or participate in  
50.6 individual and family treatment services, assessment, and treatment planning;

50.7 (v) is reviewed at least once every 90 days and revised, ~~if necessary~~ to document  
50.8 treatment progress on each treatment objective and next goals or, if progress is not  
50.9 documented, to document changes in treatment; and

50.10 (vi) is signed by the clinical supervisor and by the client or by the client's parent  
50.11 or other person authorized by statute to consent to mental health services for the client.  
50.12 A client's parent may approve the client's individual treatment plan by secure electronic  
50.13 signature or by documented oral approval that is later verified by written signature;

50.14 (3) developing an individual behavior plan that documents treatment strategies to be  
50.15 provided by the mental health behavioral aide. The individual behavior plan must include:

50.16 (i) detailed instructions on the treatment strategies to be provided;

50.17 (ii) time allocated to each treatment strategy;

50.18 (iii) methods of documenting the child's behavior;

50.19 (iv) methods of monitoring the child's progress in reaching objectives; and

50.20 (v) goals to increase or decrease targeted behavior as identified in the individual  
50.21 treatment plan;

50.22 (4) providing clinical supervision ~~of the plans for~~ mental health practitioner  
50.23 practitioners and mental health behavioral aide aides. A mental health professional must  
50.24 document the clinical supervision the professional provides by cosigning individual  
50.25 treatment plans and making entries in the client's record on supervisory activities. The  
50.26 clinical supervisor also shall document supervisee-specific supervision in the supervisee's  
50.27 personnel file. Clinical supervision does not include the authority to make or terminate  
50.28 court-ordered placements of the child. A clinical supervisor must be available for  
50.29 urgent consultation as required by the individual client's needs or the situation. Clinical  
50.30 supervision may occur individually or in a small group to discuss treatment and review  
50.31 progress toward goals. The focus of clinical supervision must be the client's treatment  
50.32 needs and progress and the mental health practitioner's or behavioral aide's ability to  
50.33 provide services;

50.34 (4a) meeting day treatment ~~and therapeutic preschool programs~~ program conditions  
50.35 in items (i) to (iii):

51.1 (i) the clinical supervisor must be present and available on the premises more than  
51.2 50 percent of the time in a ~~five-working-day period~~ provider's standard working week  
51.3 during which the supervisee is providing a mental health service;

51.4 (ii) the diagnosis and the client's individual treatment plan or a change in the  
51.5 diagnosis or individual treatment plan must be made by or reviewed, approved, and signed  
51.6 by the clinical supervisor; and

51.7 (iii) every 30 days, the clinical supervisor must review and sign the record indicating  
51.8 the supervisor has reviewed the client's care for all activities in the preceding 30-day period;

51.9 (4b) meeting the clinical supervision standards in items (i) to (iv) for all other  
51.10 services provided under CTSS:

51.11 (i) medical assistance shall reimburse for services provided by a mental health  
51.12 practitioner who ~~maintains a consulting relationship with~~ is delivering services that fall  
51.13 within the scope of the practitioner's practice and who is supervised by a mental health  
51.14 professional who accepts full professional responsibility;

51.15 (ii) medical assistance shall reimburse for services provided by a mental health  
51.16 behavioral aide who ~~maintains a consulting relationship with~~ is delivering services that fall  
51.17 within the scope of the aide's practice and who is supervised by a mental health professional  
51.18 who accepts full professional responsibility and has an approved plan for clinical  
51.19 supervision of the behavioral aide. Plans ~~will~~ must be developed in accordance with  
51.20 supervision standards defined in Minnesota Rules, part 9505.0371, subpart 4, items A to D;

51.21 (iii) the mental health professional is required to be present ~~on-site~~ at the site  
51.22 of service delivery for observation as clinically appropriate when the mental health  
51.23 practitioner or mental health behavioral aide is providing CTSS services; and

51.24 (iv) when conducted, the on-site presence of the mental health professional must be  
51.25 documented in the child's record and signed by the mental health professional who accepts  
51.26 full professional responsibility;

51.27 (5) providing direction to a mental health behavioral aide. For entities that employ  
51.28 mental health behavioral aides, the clinical supervisor must be employed by the provider  
51.29 entity or other ~~certified children's therapeutic supports and services provider entity~~ certified  
51.30 to provide mental health behavioral aide services to ensure necessary and appropriate  
51.31 oversight for the client's treatment and continuity of care. The mental health professional or  
51.32 mental health practitioner giving direction must begin with the goals on the individualized  
51.33 treatment plan, and instruct the mental health behavioral aide on how to ~~construct~~  
51.34 implement therapeutic activities and interventions that will lead to goal attainment. The  
51.35 professional or practitioner giving direction must also instruct the mental health behavioral  
51.36 aide about the client's diagnosis, functional status, and other characteristics that are likely

52.1 to affect service delivery. Direction must also include determining that the mental health  
52.2 behavioral aide has the skills to interact with the client and the client's family in ways that  
52.3 convey personal and cultural respect and that the aide actively solicits information relevant  
52.4 to treatment from the family. The aide must be able to clearly explain or demonstrate the  
52.5 activities the aide is doing with the client and the activities' relationship to treatment goals.  
52.6 Direction is more didactic than is supervision and requires the professional or practitioner  
52.7 providing it to continuously evaluate the mental health behavioral aide's ability to carry  
52.8 out the activities of the individualized treatment plan and the individualized behavior plan.  
52.9 When providing direction, the professional or practitioner must:

52.10 (i) review progress notes prepared by the mental health behavioral aide for accuracy  
52.11 and consistency with diagnostic assessment, treatment plan, and behavior goals and the  
52.12 professional or practitioner must approve and sign the progress notes;

52.13 (ii) identify changes in treatment strategies, revise the individual behavior plan,  
52.14 and communicate treatment instructions and methodologies as appropriate to ensure  
52.15 that treatment is implemented correctly;

52.16 (iii) demonstrate family-friendly behaviors that support healthy collaboration among  
52.17 the child, the child's family, and providers as treatment is planned and implemented;

52.18 (iv) ensure that the mental health behavioral aide is able to effectively communicate  
52.19 with the child, the child's family, and the provider; and

52.20 (v) record the results of any evaluation and corrective actions taken to modify the  
52.21 work of the mental health behavioral aide;

52.22 (6) providing service delivery that implements the individual treatment plan and  
52.23 meets the requirements under subdivision 9; and

52.24 (7) individual treatment plan review. The review must determine the extent to  
52.25 which the services have met each of the goals and objectives in the ~~previous~~ treatment  
52.26 plan. The review must assess the client's progress and ensure that services and treatment  
52.27 goals continue to be necessary and appropriate to the client and the client's family or  
52.28 foster family. Revision of the individual treatment plan does not require a new diagnostic  
52.29 assessment unless the client's mental health status has changed markedly. The updated  
52.30 treatment plan must be signed by the clinical supervisor and by the client, if appropriate,  
52.31 and by the client's parent or other person authorized by statute to give consent to the  
52.32 mental health services for the child.

52.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.

52.34 Sec. 10. Minnesota Statutes 2014, section 256B.0943, subdivision 9, is amended to read:

53.1 Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a  
53.2 certified provider entity must ensure that:

53.3 (1) each individual provider's caseload size permits the provider to deliver services  
53.4 to both clients with severe, complex needs and clients with less intensive needs. The  
53.5 provider's caseload size should reasonably enable the provider to play an active role in  
53.6 service planning, monitoring, and delivering services to meet the client's and client's  
53.7 family's needs, as specified in each client's individual treatment plan;

53.8 (2) site-based programs, including day treatment ~~and preschool~~ programs, provide  
53.9 staffing and facilities to ensure the client's health, safety, and protection of rights, and that  
53.10 the programs are able to implement each client's individual treatment plan; and

53.11 (3) a day treatment program is provided to a group of clients by a multidisciplinary  
53.12 team under the clinical supervision of a mental health professional. The day treatment  
53.13 program must be provided in and by: (i) an outpatient hospital accredited by the Joint  
53.14 Commission on Accreditation of Health Organizations and licensed under sections 144.50  
53.15 to 144.55; (ii) a community mental health center under section 245.62; or (iii) an entity  
53.16 that is certified under subdivision 4 to operate a program that meets the requirements of  
53.17 section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The  
53.18 day treatment program must stabilize the client's mental health status while developing  
53.19 and improving the client's independent living and socialization skills. The goal of the day  
53.20 treatment program must be to reduce or relieve the effects of mental illness and provide  
53.21 training to enable the client to live in the community. The program must be available  
53.22 year-round at least three to five days per week, two or three hours per day, unless the  
53.23 normal five-day school week is shortened by a holiday, weather-related cancellation, or  
53.24 other district-wide reduction in a school week. A child transitioning into or out of day  
53.25 treatment must receive a minimum treatment of one day a week for a two-hour time block.  
53.26 The two-hour time block must include at least one hour of ~~individual~~ patient and/or family  
53.27 or group psychotherapy. The remainder of the structured treatment program may include  
53.28 ~~individual~~ patient and/or family or group psychotherapy, and individual or group skills  
53.29 training, if included in the client's individual treatment plan. Day treatment programs are  
53.30 not part of inpatient or residential treatment services. When a day treatment group that  
53.31 meets the minimum group size requirement temporarily falls below the minimum group  
53.32 size because of a member's temporary absence, medical assistance covers a group session  
53.33 conducted for the group members in attendance. A day treatment program may provide  
53.34 fewer than the minimally required hours for a particular child during a billing period in  
53.35 which the child is transitioning into, or out of, the program; ~~and~~.

54.1 ~~(4) a therapeutic preschool program is a structured treatment program offered~~  
54.2 ~~to a child who is at least 33 months old, but who has not yet reached the first day of~~  
54.3 ~~kindergarten, by a preschool multidisciplinary team in a day program licensed under~~  
54.4 ~~Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available two~~  
54.5 ~~hours per day, five days per week, and 12 months of each calendar year. The structured~~  
54.6 ~~treatment program may include individual or group psychotherapy and individual or~~  
54.7 ~~group skills training, if included in the client's individual treatment plan. A therapeutic~~  
54.8 ~~preschool program may provide fewer than the minimally required hours for a particular~~  
54.9 ~~child during a billing period in which the child is transitioning into, or out of, the program.~~

54.10 (b) To be eligible for medical assistance payment, a provider entity must deliver the  
54.11 service components of children's therapeutic services and supports in compliance with the  
54.12 following requirements:

54.13 (1) individual patient and/or family, family, and group psychotherapy must be  
54.14 delivered as specified in Minnesota Rules, part 9505.0372, subpart 6. Psychotherapy to  
54.15 address the child's underlying mental health disorder must be documented as part of the  
54.16 child's ongoing treatment. A provider must deliver, or arrange for, medically necessary  
54.17 psychotherapy, unless the child's parent or caregiver chooses not to receive it. When a  
54.18 provider delivering other services to a child under this section deems it not medically  
54.19 necessary to provide psychotherapy to the child for a period of 90 days or longer, the  
54.20 provider entity must document the medical reasons why psychotherapy is not necessary.  
54.21 When a provider determines that a child needs psychotherapy but psychotherapy cannot  
54.22 be delivered due to a shortage of licensed mental health professionals in the child's  
54.23 community, the provider must document the lack of access in the child's medical record;

54.24 (2) individual, family, or group skills training must be provided by a mental health  
54.25 professional or a mental health practitioner who ~~has a consulting relationship with~~ is  
54.26 delivering services that fall within the scope of the provider's practice and is supervised by  
54.27 a mental health professional who accepts full professional responsibility for the training;  
54.28 Skills training is subject to the following requirements:

54.29 (i) a mental health professional, clinical trainee, or mental health practitioner shall  
54.30 provide skills training;

54.31 (ii) skills training delivered to a child or the child's family must be targeted to the  
54.32 specific deficits or maladaptations of the child's mental health disorder and must be  
54.33 prescribed in the child's individual treatment plan;

54.34 (iii) the mental health professional delivering or supervising the delivery of skills  
54.35 training must document any underlying psychiatric condition and must document how

55.1 skills training is being used in conjunction with psychotherapy to address the underlying  
55.2 condition;

55.3 (iv) skills training delivered to the child's family must teach skills needed by parents  
55.4 to enhance the child's skill development, to help the child utilize daily life skills taught by  
55.5 a mental health professional, clinical trainee, or mental health practitioner, and to develop  
55.6 or maintain a home environment that supports the child's progressive use of skills;

55.7 (v) group skills training may be provided to multiple recipients who, because of the  
55.8 nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from  
55.9 interaction in a group setting, which must be staffed as follows:

55.10 (A) one mental health professional or one clinical trainee or mental health  
55.11 practitioner under supervision of a licensed mental health professional must work with a  
55.12 group of three to eight clients; or

55.13 (B) two mental health professionals, two clinical trainees or mental health  
55.14 practitioners under supervision of a licensed mental health professional, or one mental  
55.15 health professional or clinical trainee and one mental health practitioner must work with a  
55.16 group of nine to 12 clients;

55.17 (vi) a mental health professional, clinical trainee, or mental health practitioner must  
55.18 have taught the psychosocial skill before a mental health behavioral aide may practice that  
55.19 skill with the client; and

55.20 (vii) for group skills training, when a skills group that meets the minimum group  
55.21 size requirement temporarily falls below the minimum group size because of a group  
55.22 member's temporary absence, the provider may conduct the session for the group members  
55.23 in attendance;

55.24 (3) crisis assistance to a child and family must be time-limited and designed include  
55.25 development of a written plan that anticipates the particular factors specific to the child  
55.26 that may precipitate a psychiatric crisis for the child in the near future. The written plan  
55.27 must document actions that the family should be prepared to take to resolve or stabilize a  
55.28 crisis through, such as advance arrangements for direct intervention and support services  
55.29 to the child and the child's family. Crisis assistance must utilize include preparing  
55.30 resources designed to address abrupt or substantial changes in the functioning of the child  
55.31 or the child's family as evidenced by a when sudden change in behavior with negative  
55.32 consequences for well-being, or a loss of usual coping mechanisms is observed, or the  
55.33 presentation of child begins to present a danger to self or others;

55.34 (4) mental health behavioral aide services must be medically necessary treatment  
55.35 services, identified in the child's individual treatment plan and individual behavior plan,  
55.36 which are performed minimally by a paraprofessional qualified according to subdivision

56.1 7, paragraph (b), clause (3), and which are designed to improve the functioning of the  
 56.2 child in the progressive use of developmentally appropriate psychosocial skills. Activities  
 56.3 involve working directly with the child, child-peer groupings, or child-family groupings  
 56.4 to practice, repeat, reintroduce, and master the skills defined in subdivision 1, paragraph  
 56.5 (p), as previously taught by a mental health professional, clinical trainee, or mental health  
 56.6 practitioner including:

- 56.7 (i) providing cues or prompts in skill-building peer-to-peer or parent-child
- 56.8 interactions so that the child progressively recognizes and responds to the cues
- 56.9 independently;
- 56.10 (ii) performing as a practice partner or role-play partner;
- 56.11 (iii) reinforcing the child's accomplishments;
- 56.12 (iv) generalizing skill-building activities in the child's multiple natural settings;
- 56.13 (v) assigning further practice activities; and
- 56.14 (vi) intervening as necessary to redirect the child's target behavior and to de-escalate
- 56.15 behavior that puts the child or other person at risk of injury.

56.16 ~~A mental health behavioral aide must document the delivery of services in written progress~~  
 56.17 ~~notes. To be eligible for medical assistance payment, mental health behavioral aide services~~  
 56.18 ~~must be delivered to a child who has been diagnosed with an emotional disturbance or a~~  
 56.19 ~~mental illness, as provided in subdivision 1, paragraph (a). The mental health behavioral~~  
 56.20 ~~aide must implement treatment strategies in the individual treatment plan and the individual~~  
 56.21 ~~behavior plan as developed by the mental health professional, clinical trainee, or mental~~  
 56.22 ~~health practitioner providing direction for the mental health behavioral aide. The mental~~  
 56.23 ~~health behavioral aide must document the delivery of services in written progress notes.~~  
 56.24 ~~Progress notes must reflect implementation of the treatment strategies, as performed by~~  
 56.25 ~~the mental health behavioral aide and the child's responses to the treatment strategies; and~~

- 56.26 (5) direction of a mental health behavioral aide must include the following:
- 56.27 (i) ~~a clinical supervision plan approved by the responsible mental health professional;~~
- 56.28 (ii) (i) ongoing face-to-face observation of the mental health behavioral aide
- 56.29 delivering services to a child by a mental health professional or mental health practitioner
- 56.30 for at least a total of one hour during every 40 hours of service provided to a child; and
- 56.31 (iii) (ii) immediate accessibility of the mental health professional, clinical trainee, or
- 56.32 mental health practitioner to the mental health behavioral aide during service provision;

56.33 (6) mental health service plan development must be performed in consultation  
 56.34 with the child's family and, when appropriate, with other key participants in the child's  
 56.35 life by the child's treating mental health professional or clinical trainee or by a mental  
 56.36 health practitioner and approved by the treating mental health professional. Treatment



57.1 plan drafting consists of development, review, and revision by face-to-face or electronic  
 57.2 communication. The provider must document events, including the time spent with  
 57.3 the family and other key participant's in the child's life to review, revise, and sign the  
 57.4 individual treatment plan; and

57.5 (7) to be eligible for payment, a diagnostic assessment must be complete with regard  
 57.6 to all required components, including multiple assessment appointments required for an  
 57.7 extended diagnostic assessment and the written report. Dates of the multiple assessment  
 57.8 appointments must be noted in the client's clinical record.

57.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

57.10 Sec. 11. Minnesota Statutes 2014, section 256B.0943, subdivision 11, is amended to  
 57.11 read:

57.12 Subd. 11. **Documentation and billing.** (a) A provider entity must document the  
 57.13 services it provides under this section. The provider entity must ensure that ~~the entity's~~  
 57.14 ~~documentation standards meet the requirements of federal and state laws~~ documentation  
 57.15 complies with Minnesota Rules, parts 9505.2175 and 9505.2197. Services billed under  
 57.16 this section that are not documented according to this subdivision shall be subject to  
 57.17 monetary recovery by the commissioner. ~~The provider entity may not bill for~~ Billing  
 57.18 for covered service components under subdivision 2, paragraph (b), must not include  
 57.19 anything other than direct service time.

57.20 (b) An individual mental health provider must promptly document the following  
 57.21 in a client's record after providing services to the client:

57.22 (1) each occurrence of the client's mental health service, including the date, type,  
 57.23 ~~length, and start and stop times,~~ scope of the service as described in the child's individual  
 57.24 treatment plan, and outcome of the service compared to baselines and objectives;

57.25 (2) the name, dated signature, and credentials of the person who ~~gave~~ delivered  
 57.26 the service;

57.27 (3) contact made with other persons interested in the client, including representatives  
 57.28 of the courts, corrections systems, or schools. The provider must document the name  
 57.29 and date of each contact;

57.30 (4) any contact made with the client's other mental health providers, case manager,  
 57.31 family members, primary caregiver, legal representative, or the reason the provider did  
 57.32 not contact the client's family members, primary caregiver, or legal representative, if  
 57.33 applicable; ~~and~~

57.34 (5) required clinical supervision directly related to the identified client's services and  
 57.35 needs, as appropriate, with co-signatures of the supervisor and supervisee; and

58.1 (6) the date when services are discontinued and reasons for discontinuation of  
58.2 services.

58.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

58.4 Sec. 12. Minnesota Statutes 2014, section 256B.0946, subdivision 1, is amended to read:

58.5 Subdivision 1. **Required covered service components.** (a) Effective May 23, 2013,  
58.6 and subject to federal approval, medical assistance covers medically necessary intensive  
58.7 treatment services described under paragraph (b) that are provided by a provider entity  
58.8 eligible under subdivision 3 to a client eligible under subdivision 2 who is placed in a foster  
58.9 home licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or placed in a foster  
58.10 home licensed under the regulations established by a federally recognized Minnesota tribe.

58.11 (b) Intensive treatment services to children with mental illness residing in foster  
58.12 family settings that comprise specific required service components provided in clauses (1)  
58.13 to (5) are reimbursed by medical assistance when they meet the following standards:

58.14 (1) psychotherapy provided by a mental health professional as defined in Minnesota  
58.15 Rules, part 9505.0371, subpart 5, item A, or a clinical trainee, as defined in Minnesota  
58.16 Rules, part 9505.0371, subpart 5, item C;

58.17 (2) crisis assistance provided according to standards for children's therapeutic  
58.18 services and supports in section 256B.0943;

58.19 (3) individual, family, and group psychoeducation services, defined in subdivision  
58.20 1a, paragraph (q), provided by a mental health professional or a clinical trainee;

58.21 (4) clinical care consultation, as defined in subdivision 1a, and provided by a mental  
58.22 health professional or a clinical trainee; and

58.23 (5) service delivery payment requirements as provided under subdivision 4.

58.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

58.25 Sec. 13. Minnesota Statutes 2014, section 256B.0947, subdivision 7a, is amended to  
58.26 read:

58.27 Subd. 7a. **Noncovered services.** (a) The rate for intensive rehabilitative mental  
58.28 health services ~~must exclude~~ does not include medical assistance payment for services ~~not~~  
58.29 ~~covered under this section in clauses (1) to (7).~~ Services not covered under this section  
58.30 paragraph may be billed separately:

58.31 (1) inpatient psychiatric hospital treatment;

58.32 (2) partial hospitalization;

58.33 (3) children's mental health day treatment services;

59.1 (4) physician services outside of care provided by a psychiatrist serving as a member  
 59.2 of the treatment team;

59.3 (5) room and board costs, as defined in section 256I.03, subdivision 6;

59.4 (6) home and community-based waiver services; and

59.5 (7) other mental health services identified in the child's individualized education  
 59.6 program.

59.7 (b) The following services are not covered under this section and are not eligible  
 59.8 for medical assistance payment under the per-client, per-day payment while youth are  
 59.9 receiving intensive rehabilitative mental health services:

59.10 (1) inpatient psychiatric hospital treatment;

59.11 (2) (1) mental health residential treatment; and

59.12 (3) partial hospitalization;

59.13 (4) physician services outside of care provided by a psychiatrist serving as a member  
 59.14 of the treatment team;

59.15 (5) room and board costs, as defined in section 256I.03, subdivision 6;

59.16 (6) children's mental health day treatment services; and

59.17 (7) (2) mental health behavioral aide services, as defined in section 256B.0943,  
 59.18 subdivision 1, paragraph (m).

59.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

59.20 Sec. 14. **REPORT ON THE USE OF CERTIFIED PEER SPECIALISTS.**

59.21 The commissioner of human services shall study and report on the use of certified  
 59.22 peer specialists in the mental health system. The study and report shall include an  
 59.23 assessment of the use of certified peer specialists within existing resources, an evaluation  
 59.24 of the benefits of using certified peer specialists in hospital settings and intensive  
 59.25 residential treatment services (IRTS), an analysis of the existing duties of certified peer  
 59.26 specialists, options for expanding their duties and the benefits of expanding their duties,  
 59.27 methods for obtaining reimbursement for services they provide, an analysis of the cost  
 59.28 of expanding reimbursement, and any necessary proposed legislation. In assessing the  
 59.29 use of certified peer specialists in hospital settings and IRTS, the commissioner shall  
 59.30 make recommendations on how to obtain reimbursement for wraparound services by  
 59.31 these specialists and warm handoffs to community services that facilitate the successful  
 59.32 transition of persons with mental illness to the next level of care. The commissioner shall  
 59.33 include stakeholder input in the study and development of the report. The report and any  
 59.34 necessary proposed legislation shall be submitted to the chairs and ranking minority

60.1 members of the committees in the house of representatives and senate with jurisdiction  
60.2 over health and human services finance by February 1, 2016.

60.3 Sec. 15. **REPEALER.**

60.4 Minnesota Rules, parts 9535.2000; 9535.2100; 9535.2200; 9535.2300; 9535.2400;  
60.5 9535.2500; 9535.2600; 9535.2700; 9535.2800; 9535.2900; and 9535.3000, are repealed.

### 60.6 ARTICLE 3

#### 60.7 DIRECT CARE AND TREATMENT

60.8 Section 1. Minnesota Statutes 2014, section 253B.212, is amended by adding a  
60.9 subdivision to read:

60.10 Subd. 1b. **Cost of care; commitment by tribal court order; any federally**  
60.11 **recognized Indian tribe within the state of Minnesota.** The commissioner of human  
60.12 services may contract with and receive payment from the Indian Health Service of the  
60.13 United States Department of Health and Human Services for the care and treatment of  
60.14 those members of any federally recognized Indian tribe within the state, who have been  
60.15 committed by tribal court order to the Indian Health Service for care and treatment of  
60.16 mental illness, developmental disability, or chemical dependency. The tribe may also  
60.17 contract directly with the commissioner for treatment of those members of any federally  
60.18 recognized Indian tribe within the state who have been committed by tribal court order  
60.19 to the respective tribal Department of Health for care and treatment of mental illness,  
60.20 developmental disability, or chemical dependency. The contract shall provide that the  
60.21 Indian Health Service and any federally recognized Indian tribe within the state shall not  
60.22 transfer any person for admission to a regional center unless the commitment procedure  
60.23 utilized by the tribal court provided due process protections similar to those afforded  
60.24 by sections 253B.05 to 253B.10.

60.25 Sec. 2. Minnesota Statutes 2014, section 253B.212, subdivision 2, is amended to read:

60.26 Subd. 2. **Effect given to tribal commitment order.** When, under an agreement  
60.27 entered into pursuant to subdivisions 1 ~~or~~, 1a, or 1b, the Indian Health Service or the  
60.28 placing tribe applies to a regional center for admission of a person committed to the  
60.29 jurisdiction of the health service by the tribal court as a person who is mentally ill,  
60.30 developmentally disabled, or chemically dependent, the commissioner may treat the  
60.31 patient with the consent of the Indian Health Service or the placing tribe.

60.32 A person admitted to a regional center pursuant to this section has all the rights  
60.33 accorded by section 253B.03. In addition, treatment reports, prepared in accordance with

61.1 the requirements of section 253B.12, subdivision 1, shall be filed with the Indian Health  
61.2 Service or the placing tribe within 60 days of commencement of the patient's stay at the  
61.3 facility. A subsequent treatment report shall be filed with the Indian Health Service or  
61.4 the placing tribe within six months of the patient's admission to the facility or prior to  
61.5 discharge, whichever comes first. Provisional discharge or transfer of the patient may be  
61.6 authorized by the head of the treatment facility only with the consent of the Indian Health  
61.7 Service or the placing tribe. Discharge from the facility to the Indian Health Service or the  
61.8 placing tribe may be authorized by the head of the treatment facility after notice to and  
61.9 consultation with the Indian Health Service or the placing tribe.

#### 61.10 **ARTICLE 4**

#### 61.11 **OPERATIONS**

61.12 Section 1. Minnesota Statutes 2014, section 119B.125, subdivision 1, is amended to  
61.13 read:

61.14 Subdivision 1. **Authorization.** Except as provided in subdivision 5, a county or the  
61.15 commissioner must authorize the provider chosen by an applicant or a participant before  
61.16 the county can authorize payment for care provided by that provider. The commissioner  
61.17 must establish the requirements necessary for authorization of providers. A provider  
61.18 must be reauthorized every two years. A legal, nonlicensed family child care provider  
61.19 also must be reauthorized when another person over the age of 13 joins the household, a  
61.20 current household member turns 13, or there is reason to believe that a household member  
61.21 has a factor that prevents authorization. The provider is required to report all family  
61.22 changes that would require reauthorization. When a provider has been authorized for  
61.23 payment for providing care for families in more than one county, the county responsible  
61.24 for reauthorization of that provider is the county of the family with a current authorization  
61.25 for that provider and who has used the provider for the longest length of time.

61.26 Sec. 2. Minnesota Statutes 2014, section 119B.125, subdivision 6, is amended to read:

61.27 Subd. 6. **Record-keeping requirement.** All providers receiving child care  
61.28 assistance payments must keep daily attendance records at the site where services are  
61.29 delivered for children receiving child care assistance and must make those records available  
61.30 immediately to the county or the commissioner upon request. The attendance records must  
61.31 be completed daily and include the date, the first and last name of each child in attendance,  
61.32 and the times when each child is dropped off and picked up. To the extent possible, the  
61.33 times that the child was dropped off to and picked up from the child care provider must be  
61.34 entered by the person dropping off or picking up the child. The daily attendance records

62.1 must be retained at the site where services are delivered for six years after the date of  
 62.2 service. A county or the commissioner may deny authorization as a child care provider to  
 62.3 any applicant or, rescind authorization of any provider, or establish an overpayment claim  
 62.4 in the system against a current or former provider, when the county or the commissioner  
 62.5 knows or has reason to believe that the provider has not complied with the record-keeping  
 62.6 requirement in this subdivision. A provider's failure to produce attendance records as  
 62.7 requested on more than one occasion constitutes grounds for disqualification as a provider.

62.8 Sec. 3. Minnesota Statutes 2014, section 119B.125, is amended by adding a subdivision  
 62.9 to read:

62.10 **Subd. 7. Overpayment claim for failure to comply with access to records**  
 62.11 **requirement.** (a) In establishing an overpayment claim under subdivision 6 for failure  
 62.12 to provide access to attendance records, the county or commissioner is limited to the six  
 62.13 years prior to the date the county or the commissioner requested the attendance records.

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

62.19 (c) The commissioner or county may seek to recover overpayments paid to a current  
 62.20 or former provider. When a provider has been convicted of fraud under section 256.98,  
 62.21 theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent  
 62.22 billing for a program administered by the commissioner or a county, recovery may be  
 62.23 sought regardless of the amount of overpayment.

62.24 Sec. 4. Minnesota Statutes 2014, section 119B.125, is amended by adding a subdivision  
 62.25 to read:

62.26 **Subd. 8. Reporting required for child's part-time attendance.** A provider must  
 62.27 report to the county and report on the billing form as required when a child's attendance in  
 62.28 child care falls to less than half of the child's authorized hours or days for a four-week  
 62.29 period. If requested by the county or the commissioner, the provider must provide  
 62.30 additional information to the county or commissioner on the attendance of specific children.

62.31 Sec. 5. **[245.095] LIMITS ON RECEIVING PUBLIC FUNDS.**

62.32 **Subdivision 1. Prohibition.** If a provider, vendor, or individual enrolled, licensed, or  
 62.33 receiving funds under a grant contract in any program administered by the commissioner

63.1 is excluded from any program administered by the commissioner, including under the  
63.2 commissioner's powers and authorities in section 256.01, the commissioner shall prohibit  
63.3 the excluded provider, vendor, or individual from enrolling or becoming licensed in any  
63.4 other program administered by the commissioner. The duration of this prohibition must  
63.5 last for the longest applicable sanction or disqualifying period in effect for the provider,  
63.6 vendor, or individual permitted by state or federal law.

63.7 Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions  
63.8 have the meanings given them.

63.9 (b) "Excluded" means disenrolled, subject to license revocation or suspension,  
63.10 disqualified, or subject to vendor debarment under Minnesota Rules, part 1230.1150.

63.11 (c) "Individual" means a natural person providing products or services as a provider  
63.12 or vendor.

63.13 (d) "Provider" means an owner, controlling individual, license holder, director, or  
63.14 managerial official.

63.15 Sec. 6. Minnesota Statutes 2014, section 245A.02, subdivision 13, is amended to read:

63.16 Subd. 13. **Individual who is related.** "Individual who is related" means a spouse,  
63.17 a parent, a ~~natural~~ birth or adopted child or stepchild, a stepparent, a stepbrother, a  
63.18 stepsister, a niece, a nephew, an adoptive parent, a grandparent, a sibling, an aunt, an  
63.19 uncle, or a legal guardian.

63.20 Sec. 7. Minnesota Statutes 2014, section 245A.02, is amended by adding a subdivision  
63.21 to read:

63.22 Subd. 20. **Weekly.** "Weekly" means at least once every calendar week, for the  
63.23 purposes of chemical dependency treatment programs licensed under Minnesota Rules,  
63.24 parts 9530.6405 to 9530.6505.

63.25 Sec. 8. Minnesota Statutes 2014, section 245A.02, is amended by adding a subdivision  
63.26 to read:

63.27 Subd. 21. **Monthly.** "Monthly" means at least once every calendar month, for the  
63.28 purposes of chemical dependency treatment programs licensed under Minnesota Rules,  
63.29 parts 9430.6405 to 9530.6505.

63.30 Sec. 9. Minnesota Statutes 2014, section 245A.02, is amended by adding a subdivision  
63.31 to read:

64.1           Subd. 22. **Quarterly.** "Quarterly" means at least every 90 calendar days, for the  
64.2 purposes of chemical dependency treatment programs licensed under Minnesota Rules,  
64.3 parts 9530.6405 to 9530.6505.

64.4           Sec. 10. Minnesota Statutes 2014, section 245A.04, subdivision 15a, is amended to read:

64.5           Subd. 15a. **Plan for transfer of clients and records upon closure.** (a) Except for  
64.6 license holders who reside on the premises and child care providers, an applicant for  
64.7 initial or continuing licensure or certification must submit a written plan indicating how  
64.8 the agency program will provide for ensure the transfer of clients and records for both  
64.9 open and closed cases if the agency program closes. The plan must provide for managing  
64.10 private and confidential information concerning agency program clients. The plan must  
64.11 also provide for notifying affected clients of the closure at least 25 days prior to closure,  
64.12 including information on how to access their ~~medical~~ records. A controlling individual of  
64.13 the agency program must annually review and sign the plan.

64.14           (b) Plans for the transfer of open cases and case records must specify arrangements  
64.15 the agency program will make to transfer clients to another agency provider or county  
64.16 agency for continuation of services and to transfer the case record with the client.

64.17           (c) Plans for the transfer of closed case records must be accompanied by a signed  
64.18 agreement or other documentation indicating that a county or a similarly licensed agency  
64.19 provider has agreed to accept and maintain the agency's program's closed case records and  
64.20 to provide follow-up services as necessary to affected clients.

64.21           Sec. 11. Minnesota Statutes 2014, section 245A.07, subdivision 2, is amended to read:

64.22           Subd. 2. **Temporary immediate suspension.** (a) The commissioner shall act  
64.23 immediately to temporarily suspend a license if:

64.24           (1) the license holder's actions or failure to comply with applicable law or rule, or  
64.25 the actions of other individuals or conditions in the program<sub>2</sub> pose an imminent risk of  
64.26 harm to the health, safety, or rights of persons served by the program<sub>2</sub>; or

64.27           (2) if while the program continues to operate pending an appeal of an order of  
64.28 revocation<sub>2</sub> the commissioner identifies one or more subsequent violations of law or rule  
64.29 which may adversely affect the health or safety of persons served by the program,~~the~~  
64.30 ~~commissioner shall act immediately to temporarily suspend the license.~~

64.31           (b) No state funds shall be made available or be expended by any agency or  
64.32 department of state, county, or municipal government for use by a license holder regulated  
64.33 under this chapter while a license is under immediate suspension. A notice stating the  
64.34 reasons for the immediate suspension and informing the license holder of the right to an



65.1 expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612,  
65.2 must be delivered by personal service to the address shown on the application or the last  
65.3 known address of the license holder. The license holder may appeal an order immediately  
65.4 suspending a license. The appeal of an order immediately suspending a license must  
65.5 be made in writing by certified mail or personal service. If mailed, the appeal must be  
65.6 postmarked and sent to the commissioner within five calendar days after the license holder  
65.7 receives notice that the license has been immediately suspended. If a request is made by  
65.8 personal service, it must be received by the commissioner within five calendar days after  
65.9 the license holder received the order. A license holder and any controlling individual  
65.10 shall discontinue operation of the program upon receipt of the commissioner's order to  
65.11 immediately suspend the license.

65.12 Sec. 12. Minnesota Statutes 2014, section 245A.07, subdivision 2a, is amended to read:

65.13 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days  
65.14 of receipt of the license holder's timely appeal, the commissioner shall request assignment  
65.15 of an administrative law judge. The request must include a proposed date, time, and place  
65.16 of a hearing. A hearing must be conducted by an administrative law judge within 30  
65.17 calendar days of the request for assignment, unless an extension is requested by either  
65.18 party and granted by the administrative law judge for good cause. The commissioner shall  
65.19 issue a notice of hearing by certified mail or personal service at least ten working days  
65.20 before the hearing. The scope of the hearing shall be limited solely to the issue of whether  
65.21 the temporary immediate suspension should remain in effect pending the commissioner's  
65.22 final order under section 245A.08, regarding a licensing sanction issued under subdivision  
65.23 3 following the immediate suspension. For suspensions under subdivision 2, paragraph  
65.24 (a), clause (1), the burden of proof in expedited hearings under this subdivision shall be  
65.25 limited to the commissioner's demonstration that reasonable cause exists to believe that  
65.26 the license holder's actions or failure to comply with applicable law or rule poses, or if the  
65.27 actions of other individuals or conditions in the program poses an imminent risk of harm to  
65.28 the health, safety, or rights of persons served by the program. "Reasonable cause" means  
65.29 there exist specific articulable facts or circumstances which provide the commissioner  
65.30 with a reasonable suspicion that there is an imminent risk of harm to the health, safety, or  
65.31 rights of persons served by the program. When the commissioner has determined there is  
65.32 reasonable cause to order the temporary immediate suspension of a license based on a  
65.33 violation of safe sleep requirements, as defined in section 245A.1435, the commissioner is  
65.34 not required to demonstrate that an infant died or was injured as a result of the safe sleep  
65.35 violations. For suspensions under subdivision 2, paragraph (a), clause (2), the burden of

66.1 proof in expedited hearings under this subdivision shall be limited to the commissioner's  
66.2 demonstration by a preponderance of evidence that, since the license was revoked, the  
66.3 license holder committed additional violations of law or rule which may adversely affect  
66.4 the health or safety of persons served by the program.

66.5 (b) The administrative law judge shall issue findings of fact, conclusions, and a  
66.6 recommendation within ten working days from the date of hearing. The parties shall  
66.7 have ten calendar days to submit exceptions to the administrative law judge's report.  
66.8 The record shall close at the end of the ten-day period for submission of exceptions.  
66.9 The commissioner's final order shall be issued within ten working days from the close  
66.10 of the record. When an appeal of a temporary immediate suspension is withdrawn or  
66.11 dismissed, the commissioner shall issue a final order affirming the temporary immediate  
66.12 suspension within ten calendar days of the commissioner's receipt of the withdrawal or  
66.13 dismissal. Within 90 calendar days after a final order affirming an immediate suspension,  
66.14 the commissioner shall make a determination regarding whether a final licensing sanction  
66.15 shall be issued under subdivision 3. The license holder shall continue to be prohibited  
66.16 from operation of the program during this 90-day period.

66.17 (c) When the final order under paragraph (b) affirms an immediate suspension, and a  
66.18 final licensing sanction is issued under subdivision 3 and the license holder appeals that  
66.19 sanction, the license holder continues to be prohibited from operation of the program  
66.20 pending a final commissioner's order under section 245A.08, subdivision 5, regarding the  
66.21 final licensing sanction.

66.22 Sec. 13. Minnesota Statutes 2014, section 245A.11, subdivision 4, is amended to read:

66.23 Subd. 4. **Location of residential programs.** In determining whether to grant  
66.24 a license, the commissioner shall specifically consider the population, size, land use  
66.25 plan, availability of community services, and the number and size of existing licensed  
66.26 residential programs in the town, municipality, or county in which the applicant seeks  
66.27 to operate a residential program. The commissioner shall not grant an initial license  
66.28 to any residential program if the residential program will be within 1,320 feet of an  
66.29 existing residential program unless one of the following conditions apply: (1) the existing  
66.30 residential program is located in a hospital licensed by the commissioner of health; (2) the  
66.31 town, municipality, or county zoning authority grants the residential program a conditional  
66.32 use or special use permit; (3) the program serves six or fewer persons and is not located  
66.33 in a city of the first class; or (4) the program is foster care, or a community residential  
66.34 setting as defined under section 245D.02, subdivision 4a.

67.1 Sec. 14. Minnesota Statutes 2014, section 245A.12, is amended to read:

67.2 **245A.12 VOLUNTARY RECEIVERSHIP FOR RESIDENTIAL OR**  
67.3 **NONRESIDENTIAL PROGRAMS.**

67.4 Subdivision 1. **Definitions.** For purposes of this section and section 245A.13, the  
67.5 following terms have the meanings given them.

67.6 (a) "Controlling individual" has the meaning in section 245A.02, subdivision 5a.  
67.7 When used in this section and section 245A.13, it means only those individuals controlling  
67.8 the residential or nonresidential program prior to the commencement of the receivership  
67.9 period.

67.10 (b) "Physical plant" means the building or buildings in which a residential or  
67.11 nonresidential program is located; all equipment affixed to the building and not easily  
67.12 subject to transfer as specified in the building and fixed equipment tables of the  
67.13 depreciation guidelines; and auxiliary buildings in the nature of sheds, garages, and storage  
67.14 buildings located on the same site if used for purposes related to resident or client care.

67.15 (c) "Related party" means a person who is a close relative of a provider or a provider  
67.16 group; an affiliate of a provider or a provider group; a close relative of an affiliate of a  
67.17 provider or provider group; or an affiliate of a close relative of an affiliate of a provider  
67.18 or provider group. For the purposes of this paragraph, the following terms have the  
67.19 meanings given them.

67.20 (1) "Affiliate" means a person that directly, or indirectly through one or more  
67.21 intermediaries, controls, or is controlled by, or is under common control with another  
67.22 person.

67.23 (2) "Person" means an individual, a corporation, a partnership, an association, a  
67.24 trust, an unincorporated organization, or a government or political subdivision.

67.25 (3) "Close relative of an affiliate of a provider or provider group" means an  
67.26 individual whose relationship by blood, marriage, or adoption to an individual who is an  
67.27 affiliate to a provider or a provider group is no more remote than first cousin.

67.28 (4) "Control" includes the terms "controlling," "controlled by," and "under common  
67.29 control with" and means the possession, direct or indirect, of the power to direct or cause  
67.30 the direction of the management, operations, or policies of a person, whether through the  
67.31 ownership of voting securities, by contract, or otherwise.

67.32 (5) "Provider or provider group" means the license holder or controlling individual  
67.33 prior to the effective date of the receivership.

67.34 Subd. 2. **Receivership agreement.** A majority of controlling individuals of a  
67.35 residential or nonresidential program licensed or certified by the commissioner may at  
67.36 any time ask the commissioner to assume operation of the residential program through

68.1 appointment of a receiver. On receiving the request for a receiver, the commissioner may  
68.2 enter into an agreement with a majority of controlling individuals and become the receiver  
68.3 and operate the residential or nonresidential program under conditions acceptable to both  
68.4 the commissioner and the majority of controlling individuals. The agreement must specify  
68.5 the terms and conditions of the receivership and preserve the rights of the persons being  
68.6 served by the ~~residential~~ program. A receivership set up under this section terminates at  
68.7 the time specified by the parties to the agreement.

68.8 Subd. 3. **Management agreement.** When the commissioner agrees to become the  
68.9 receiver of a residential or nonresidential program, the commissioner may enter into a  
68.10 management agreement with another entity or group to act as the managing agent during  
68.11 the receivership period. The managing agent will be responsible for the day-to-day  
68.12 operations of the ~~residential~~ program subject at all times to the review and approval of the  
68.13 commissioner. A reasonable fee may be paid to the managing agent for the performance  
68.14 of these services.

68.15 Subd. 4. **Rate adjustment.** The provisions of section 245A.13, subdivisions 7 and  
68.16 8, shall also apply to voluntary receiverships.

68.17 Subd. 5. **Controlling individuals; restrictions on licensure.** No controlling  
68.18 individual of a residential or nonresidential program placed into receivership under this  
68.19 section shall apply for or receive a license or certification from the commissioner to  
68.20 operate a residential or nonresidential program for five years from the commencement of  
68.21 the receivership period. This subdivision does not apply to residential programs that are  
68.22 owned or operated by controlling individuals, that were in existence prior to the date of  
68.23 the receivership agreement, and that have not been placed into receivership.

68.24 Subd. 6. **Liability.** The controlling individuals of a residential or nonresidential  
68.25 program placed into receivership remain liable for any claims made against the ~~residential~~  
68.26 program that arose from incidents or events that occurred prior to the commencement  
68.27 of the receivership period. Neither the commissioner nor the managing agent of the  
68.28 commissioner assumes this liability.

68.29 Subd. 7. **Liability for financial obligations.** Neither the commissioner nor the  
68.30 managing agent of the commissioner shall be liable for payment of any financial obligations  
68.31 of the residential or nonresidential program or of its controlling individuals incurred prior  
68.32 to the commencement of the receivership period unless such liability is expressly assumed  
68.33 in the receivership agreement. Those financial obligations remain the liability of the  
68.34 ~~residential~~ program and its controlling individuals. Financial obligations of the ~~residential~~  
68.35 program incurred after the commencement of the receivership period are the responsibility  
68.36 of the commissioner or the managing agent of the commissioner to the extent such

69.1 obligations are expressly assumed by each in the receivership or management agreements.  
69.2 The controlling individuals of the residential or nonresidential program remain liable for  
69.3 any financial obligations incurred after the commencement of the receivership period to  
69.4 the extent these obligations are not reimbursed in the rate paid to the residential program  
69.5 and are reasonable and necessary to the operation of the residential program. These  
69.6 financial obligations, or any other financial obligations incurred by the residential program  
69.7 prior to the commencement of the receivership period which are necessary to the continued  
69.8 operation of the residential program, may be deducted from any rental payments owed to  
69.9 the controlling individuals of the residential program as part of the receivership agreement.

69.10 Subd. 8. **Physical plant of the residential or nonresidential program.** Occupation  
69.11 of the physical plant after commencement of the receivership period shall be controlled  
69.12 by paragraphs (a) and (b).

69.13 (a) If the physical plant of a residential or nonresidential program placed in  
69.14 receivership is owned by a controlling individual or related party, the physical plant may  
69.15 be used by the commissioner or the managing agent for purposes of the receivership as  
69.16 long as the receivership period continues. A fair monthly rental for the physical plant shall  
69.17 be paid by the commissioner or managing agent to the owner of the physical plant. This  
69.18 fair monthly rental shall be determined by considering all relevant factors necessary to  
69.19 meet required arm's-length obligations of controlling individuals such as the mortgage  
69.20 payments owed on the physical plant, the real estate taxes, and special assessments. This  
69.21 rental shall not include any allowance for profit or be based on any formula that includes  
69.22 an allowance for profit.

69.23 (b) If the owner of the physical plant of a residential or nonresidential program  
69.24 placed in receivership is not a related party, the controlling individual shall continue as the  
69.25 lessee of the property. However, during the receivership period, rental payments shall be  
69.26 made to the owner of the physical plant by the commissioner or the managing agent on  
69.27 behalf of the controlling individual. Neither the commissioner nor the managing agent  
69.28 assumes the obligations of the lease unless expressly stated in the receivership agreement.  
69.29 Should the lease expire during the receivership, the commissioner or the managing agent  
69.30 may negotiate a new lease for the term of the receivership period.

69.31 Subd. 9. **Receivership accounting.** The commissioner may use the medical  
69.32 assistance account and funds for receivership cash flow and accounting purposes.

69.33 Subd. 10. **Receivership costs.** The commissioner may use the accounts and funds  
69.34 that would have been available for the room and board, services, and program costs of  
69.35 persons in the residential program for costs, cash flow, and accounting purposes related  
69.36 to the receivership.

70.1 Sec. 15. Minnesota Statutes 2014, section 245A.13, is amended to read:

70.2 **245A.13 INVOLUNTARY RECEIVERSHIP FOR RESIDENTIAL OR**  
70.3 **NONRESIDENTIAL PROGRAMS.**

70.4 Subdivision 1. **Application.** In addition to any other remedy provided by law, the  
70.5 commissioner may petition the district court in Ramsey County for an order directing the  
70.6 controlling individuals of the a residential or nonresidential program licensed or certified  
70.7 by the commissioner to show cause why the commissioner should not be appointed  
70.8 receiver to operate the ~~residential~~ program. The petition to the district court must contain  
70.9 proof by affidavit: (1) that the commissioner has either begun ~~license suspension or~~  
70.10 ~~revocation proceedings, proceedings to suspend or revoke a license or certification, has~~  
70.11 ~~suspended or revoked a license or certification~~, or has decided to deny an application for  
70.12 licensure or certification of the ~~residential~~ program; or (2) it appears to the commissioner  
70.13 that the health, safety, or rights of the residents or persons receiving care from the program  
70.14 may be in jeopardy because of the manner in which the ~~residential~~ program may close,  
70.15 the ~~residential~~ program's financial condition, or violations committed by the ~~residential~~  
70.16 program of federal or state laws or rules. If the license holder, applicant, or controlling  
70.17 individual operates more than one ~~residential~~ program, the commissioner's petition must  
70.18 specify and be limited to the ~~residential~~ program for which it seeks receivership. The  
70.19 affidavit submitted by the commissioner must set forth alternatives to receivership that  
70.20 have been considered, including rate adjustments. The order to show cause is returnable  
70.21 not less than five days after service is completed and must provide for personal service of  
70.22 a copy to the ~~residential~~ program administrator and to the persons designated as agents by  
70.23 the controlling individuals to accept service on their behalf.

70.24 Subd. 2. **Appointment of receiver.** If the court finds that involuntary receivership is  
70.25 necessary as a means of protecting the health, safety, or rights of persons being served by  
70.26 the ~~residential~~ program, the court shall appoint the commissioner as receiver to operate the  
70.27 ~~residential~~ program. The commissioner as receiver may contract with another entity or  
70.28 group to act as the managing agent during the receivership period. The managing agent  
70.29 will be responsible for the day-to-day operations of the ~~residential~~ program subject at all  
70.30 times to the review and approval of the commissioner.

70.31 Subd. 3. **Powers and duties of the receiver.** Within 36 months after the receivership  
70.32 order, the receiver shall provide for the orderly transfer of the persons served by the  
70.33 ~~residential~~ program to other ~~residential~~ programs or make other provisions to protect their  
70.34 health, safety, and rights. The receiver or the managing agent shall correct or eliminate  
70.35 deficiencies in the ~~residential~~ program that the commissioner determines endanger the  
70.36 health, safety, or welfare of the persons being served by the ~~residential~~ program unless the

71.1 correction or elimination of deficiencies at a residential program involves major alteration  
71.2 in the structure of the physical plant. If the correction or elimination of the deficiencies  
71.3 at a residential program requires major alterations in the structure of the physical plant,  
71.4 the receiver shall take actions designed to result in the immediate transfer of persons  
71.5 served by the residential program. During the period of the receivership, the receiver  
71.6 and the managing agent shall operate the residential or nonresidential program in a  
71.7 manner designed to preserve the health, safety, rights, adequate care, and supervision of  
71.8 the persons served by the residential program. The receiver or the managing agent may  
71.9 make contracts and incur lawful expenses. The receiver or the managing agent shall  
71.10 collect incoming payments from all sources and apply them to the cost incurred in the  
71.11 performance of the functions of the receivership including the fee set under subdivision 4.  
71.12 No security interest in any real or personal property comprising the residential program or  
71.13 contained within it, or in any fixture of the physical plant, shall be impaired or diminished  
71.14 in priority by the receiver or the managing agent.

71.15 Subd. 3a. **Liability.** The provisions contained in section 245A.12, subdivision 6,  
71.16 shall also apply to receiverships ordered according to this section.

71.17 Subd. 3b. **Liability for financial obligations.** The provisions contained in section  
71.18 245A.12, subdivision 7, also apply to receiverships ordered according to this section.

71.19 Subd. 3c. **Physical plant of the residential program.** Occupation of the physical  
71.20 plant under an involuntary receivership shall be governed by paragraphs (a) and (b).

71.21 (a) The physical plant owned by a controlling individual of the residential program  
71.22 or related party must be made available for the use of the residential program throughout  
71.23 the receivership period. The court shall determine a fair monthly rental for the physical  
71.24 plant, taking into account all relevant factors necessary to meet required arm's-length  
71.25 obligations of controlling individuals such as mortgage payments, real estate taxes,  
71.26 and special assessments. The rental fee must be paid by the receiver to the appropriate  
71.27 controlling individuals or related parties for each month that the receivership remains in  
71.28 effect. No payment made to a controlling individual or related party by the receiver or the  
71.29 managing agent or any state agency during a period of the receivership shall include any  
71.30 allowance for profit or be based on any formula that includes an allowance for profit.

71.31 (b) If the owner of the physical plant of a residential program is not a related party,  
71.32 the court shall order the controlling individual to continue as the lessee of the property  
71.33 during the receivership period. Rental payments during the receivership period shall be  
71.34 made to the owner of the physical plant by the commissioner or the managing agent on  
71.35 behalf of the controlling individual.

72.1 Subd. 4. **Fee.** A receiver appointed under an involuntary receivership or the  
72.2 managing agent is entitled to a reasonable fee as determined by the court.

72.3 Subd. 5. **Termination.** An involuntary receivership terminates 36 months after the  
72.4 date on which it was ordered or at any other time designated by the court or when any  
72.5 of the following events occurs:

72.6 (1) the commissioner determines that the ~~residential~~ program's license or certification  
72.7 application should be granted or should not be suspended or revoked;

72.8 (2) a new license or certification is granted to the ~~residential~~ program;

72.9 (3) the commissioner determines that all persons residing in the a residential  
72.10 program have been provided with alternative residential programs or that all persons  
72.11 receiving services in a nonresidential program have been referred to other programs; or

72.12 (4) ~~the residential program closes~~ court determines that the receivership is no longer  
72.13 necessary because the conditions which gave rise to the receivership no longer exist.

72.14 Subd. 6. **Emergency procedure.** If it appears from the petition filed under  
72.15 subdivision 1, from an affidavit or affidavits filed with the petition, or from testimony of  
72.16 witnesses under oath if the court determines it necessary, that there is probable cause to  
72.17 believe that an emergency exists in a residential or nonresidential program, the court shall  
72.18 issue a temporary order for appointment of a receiver within five days after receipt of the  
72.19 petition. Notice of the petition must be served on the ~~residential~~ program administrator  
72.20 and on the persons designated as agents by the controlling individuals to accept service on  
72.21 their behalf. A hearing on the petition must be held within five days after notice is served  
72.22 unless the administrator or ~~designated~~ authorized agent consents to a later date. After the  
72.23 hearing, the court may continue, modify, or terminate the temporary order.

72.24 Subd. 7. **Rate recommendation.** The commissioner of human services may review  
72.25 rates of a residential or nonresidential program participating in the medical assistance  
72.26 program which is in receivership and that has needs or deficiencies documented by the  
72.27 Department of Health or the Department of Human Services. If the commissioner of  
72.28 human services determines that a review of the rate established under sections 256B.5012  
72.29 and 256B.5013 is needed, the commissioner shall:

72.30 (1) review the order or determination that cites the deficiencies or needs; and

72.31 (2) determine the need for additional staff, additional annual hours by type of  
72.32 employee, and additional consultants, services, supplies, equipment, repairs, or capital  
72.33 assets necessary to satisfy the needs or deficiencies.

72.34 Subd. 8. **Adjustment to the rate.** Upon review of rates under subdivision 7, the  
72.35 commissioner may adjust the ~~residential~~ program's payment rate. The commissioner shall  
72.36 review the circumstances, together with the ~~residential~~ program's most recent income and



73.1 expense report, to determine whether or not the deficiencies or needs can be corrected  
73.2 or met by reallocating ~~residential~~ program staff, costs, revenues, or any other resources  
73.3 including investments. If the commissioner determines that any deficiency cannot be  
73.4 corrected or the need cannot be met with the payment rate currently being paid, the  
73.5 commissioner shall determine the payment rate adjustment by dividing the additional  
73.6 annual costs established during the commissioner's review by the ~~residential~~ program's  
73.7 actual resident client days from the most recent income and expense report or the estimated  
73.8 resident client days in the projected receivership period. The payment rate adjustment  
73.9 remains in effect during the period of the receivership or until another date set by the  
73.10 commissioner. Upon the subsequent sale, closure, or transfer of the ~~residential~~ program,  
73.11 the commissioner may recover amounts that were paid as payment rate adjustments under  
73.12 this subdivision. This recovery shall be determined through a review of actual costs and  
73.13 resident client days in the receivership period. The costs the commissioner finds to be  
73.14 allowable shall be divided by the actual resident client days for the receivership period.  
73.15 This rate shall be compared to the rate paid throughout the receivership period, with  
73.16 the difference multiplied by resident client days, being the amount to be repaid to the  
73.17 commissioner. Allowable costs shall be determined by the commissioner as those ordinary,  
73.18 necessary, and related to resident client care by prudent and cost-conscious management.  
73.19 The buyer or transferee shall repay this amount to the commissioner within 60 days after  
73.20 the commissioner notifies the buyer or transferee of the obligation to repay. This provision  
73.21 does not limit the liability of the seller to the commissioner pursuant to section 256B.0641.

73.22 Subd. 9. **Receivership accounting.** The commissioner may use the medical  
73.23 assistance account and funds for receivership cash flow and accounting purposes.

73.24 Subd. 10. **Receivership costs.** The commissioner may use the accounts and funds  
73.25 that would have been available for the room and board, services, and program costs of  
73.26 persons in the ~~residential~~ program for costs, cash flow, and accounting purposes related  
73.27 to the receivership.

73.28 Subd. 11. **Controlling individuals; restrictions on licensure.** No controlling  
73.29 individual of a ~~residential~~ program placed into receivership under this section may apply  
73.30 for or receive a license or certification to operate a residential or nonresidential program  
73.31 for five years from the commencement of the receivership period. This subdivision does  
73.32 not apply to ~~residential~~ programs that are owned or operated by controlling individuals  
73.33 that were in existence before the date of the receivership agreement, and that have not  
73.34 been placed into receivership.

74.1       Sec. 16. [245A.1443] CHEMICAL DEPENDENCY PROGRAMS THAT SERVE  
74.2 PARENTS WITH THEIR CHILDREN.

74.3       Subdivision 1. **Application.** This section applies to chemical dependency treatment  
74.4 facilities that are licensed under this chapter and Minnesota Rules, chapter 9530, and that  
74.5 provide services in accordance with Minnesota Rules, part 9530.6490.

74.6       Subd. 2. **Requirements for providing education.** (a) On or before the date of a  
74.7 child's initial physical presence at the facility, the license holder must provide education  
74.8 to the child's parent related to safe bathing and reducing the risk of sudden unexpected  
74.9 infant death and abusive head trauma from shaking infants and young children. At a  
74.10 minimum, the education must address:

74.11       (1) instruction that a child or infant should never be left unattended around water, a  
74.12 tub should be filled with only two to four inches of water for infants, and an infant should  
74.13 never be put into a tub when the water is running; and

74.14       (2) the risk factors related to sudden unexpected infant death and abusive head trauma  
74.15 from shaking infants and young children, and means of reducing the risks, including the  
74.16 safety precautions identified in section 245A.1435 and the dangers of co-sleeping.

74.17       (b) The license holder must document the parent's receipt of the education and keep  
74.18 the documentation in the parent's file. The documentation must indicate whether the  
74.19 parent agrees to comply with the safeguards. If the parent refuses to comply, program staff  
74.20 must provide additional education to the parent at appropriate intervals, at least weekly  
74.21 for the duration of the parent's participation in the program or until the parent agrees  
74.22 to comply with the safeguards.

74.23       Subd. 3. **Parental supervision of children.** (a) On or before the date of a child's  
74.24 initial physical presence at the facility, the license holder must complete and document an  
74.25 assessment of the parent's capacity to meet the health and safety needs of the child while  
74.26 on the facility premises, including identifying circumstances when the parent may be  
74.27 unable to adequately care for their child due to:

74.28       (1) the parent's physical or mental health;

74.29       (2) the parent being under the influence of drugs, alcohol, medications, or other  
74.30 chemicals;

74.31       (3) the parent being unable to provide appropriate supervision for the child; or

74.32       (4) any other information available to the license holder that indicate the parent may  
74.33 not be able to adequately care for the child.

74.34       (b) The license holder must have written procedures specifying the actions to be  
74.35 taken by staff if a parent is or becomes unable to adequately care for the parent's child.

75.1            Subd. 4. **Alternative supervision arrangements.** The license holder must  
 75.2 have written procedures addressing whether the program permits a parent to arrange  
 75.3 for supervision of the parent's child by another client in the program. If permitted, the  
 75.4 facility must have a procedure that requires staff approval of the supervision arrangement  
 75.5 before the supervision by the nonparental client occurs. The procedure for approval must  
 75.6 include an assessment of the nonparental client's capacity to assume the supervisory  
 75.7 responsibilities using the criteria in subdivision 3. The license holder must document  
 75.8 the license holder's approval of the supervisory arrangement and the assessment of the  
 75.9 nonparental client's capacity to supervise the child, and must keep this documentation in  
 75.10 the file of the parent of the child being supervised.

75.11            Sec. 17. Minnesota Statutes 2014, section 245A.148, is amended to read:

75.12            **245A.148 FAMILY CHILD CARE DIAPERING AREA DISINFECTION.**

75.13            Notwithstanding Minnesota Rules, part 9502.0435, a family child care provider may  
 75.14 disinfect the diaper changing surface with chlorine bleach in a manner consistent with label  
 75.15 directions for disinfection or with a surface disinfectant that meets the following criteria:

75.16            (1) the manufacturer's label or instructions state that the product is registered with  
 75.17 the United States Environmental Protection Agency;

75.18            (2) the manufacturer's label or instructions state that the disinfectant is effective  
 75.19 against *Staphylococcus aureus*, *Salmonella choleraesuis enterica*, and *Pseudomonas*  
 75.20 *aeruginosa*;

75.21            (3) the manufacturer's label or instructions state that the disinfectant is effective with  
 75.22 a ten minute or less contact time;

75.23            (4) the disinfectant is clearly labeled by the manufacturer with directions for mixing  
 75.24 and use;

75.25            (5) the disinfectant is used only in accordance with the manufacturer's directions; and

75.26            (6) the product does not include triclosan or derivatives of triclosan.

75.27            Sec. 18. Minnesota Statutes 2014, section 245A.16, subdivision 1, is amended to read:

75.28            Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and  
 75.29 private agencies that have been designated or licensed by the commissioner to perform  
 75.30 licensing functions and activities under section 245A.04 and background studies for family  
 75.31 child care under chapter 245C; to recommend denial of applicants under section 245A.05;  
 75.32 to issue correction orders, to issue variances, and recommend a conditional license under  
 75.33 section 245A.06<sub>2</sub>; or to recommend suspending or revoking a license or issuing a fine  
 75.34 under section 245A.07, shall comply with rules and directives of the commissioner

76.1 governing those functions and with this section. The following variances are excluded  
76.2 from the delegation of variance authority and may be issued only by the commissioner:

76.3 (1) dual licensure of family child care and child foster care, dual licensure of child  
76.4 and adult foster care, and adult foster care and family child care;

76.5 (2) adult foster care maximum capacity;

76.6 (3) adult foster care minimum age requirement;

76.7 (4) child foster care maximum age requirement;

76.8 (5) variances regarding disqualified individuals except that county agencies may  
76.9 issue variances under section 245C.30 regarding disqualified individuals when the county  
76.10 is responsible for conducting a consolidated reconsideration according to sections 245C.25  
76.11 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination  
76.12 and a disqualification based on serious or recurring maltreatment;

76.13 (6) the required presence of a caregiver in the adult foster care residence during  
76.14 normal sleeping hours; and

76.15 (7) variances for community residential setting licenses under chapter 245D to  
76.16 requirements relating to chemical use problems of a license holder or a household member  
76.17 of a license holder.

76.18 Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency  
76.19 must not grant a license holder a variance to exceed the maximum allowable family child  
76.20 care license capacity of 14 children.

76.21 (b) County agencies must report information about disqualification reconsiderations  
76.22 under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances  
76.23 granted under paragraph (a), clause (5), to the commissioner at least monthly in a format  
76.24 prescribed by the commissioner.

76.25 (c) For family day care programs, the commissioner may authorize licensing reviews  
76.26 every two years after a licensee has had at least one annual review.

76.27 (d) For family adult day services programs, the commissioner may authorize  
76.28 licensing reviews every two years after a licensee has had at least one annual review.

76.29 (e) A license issued under this section may be issued for up to two years.

76.30 (f) During implementation of chapter 245D, the commissioner shall consider:

76.31 (1) the role of counties in quality assurance;

76.32 (2) the duties of county licensing staff; and

76.33 (3) the possible use of joint powers agreements, according to section 471.59, with  
76.34 counties through which some licensing duties under chapter 245D may be delegated by  
76.35 the commissioner to the counties.

77.1 Any consideration related to this paragraph must meet all of the requirements of the  
77.2 corrective action plan ordered by the federal Centers for Medicare and Medicaid Services.

77.3 (g) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or  
77.4 successor provisions; and section 245D.061 or successor provisions, for family child  
77.5 foster care programs providing out-of-home respite, as identified in section 245D.03,  
77.6 subdivision 1, paragraph (b), clause (1), is excluded from the delegation of authority  
77.7 to county and private agencies.

77.8 Sec. 19. Minnesota Statutes 2014, section 245A.175, is amended to read:

77.9 **245A.175 MENTAL HEALTH TRAINING REQUIREMENT.**

77.10 Prior to a nonemergency placement of a child in a foster care home, the child  
77.11 foster care ~~provider, licensed after July 1, 2007,~~ license holder and caregivers in foster  
77.12 family and treatment foster care settings, and all staff providing care in foster residence  
77.13 settings must complete two hours of training that addresses the causes, symptoms, and  
77.14 key warning signs of mental health disorders; cultural considerations; and effective  
77.15 approaches for dealing with a child's behaviors. At least one hour of the annual ~~12-hour~~  
77.16 training requirement for the foster parents family license holder and caregivers, and foster  
77.17 residence staff must be on children's mental health issues and treatment. Short-term  
77.18 substitute caregivers are exempt from these requirements. Training curriculum shall be  
77.19 approved by the commissioner of human services.

77.20 Sec. 20. Minnesota Statutes 2014, section 245A.1915, is amended to read:

77.21 **245A.1915 OPIOID ADDICTION TREATMENT EDUCATION**  
77.22 **REQUIREMENT FOR PROVIDERS LICENSED TO PROVIDE CHEMICAL**  
77.23 **DEPENDENCY TREATMENT SERVICES.**

77.24 All programs servicing persons with substance use issues licensed by the commissioner  
77.25 must provide educational information concerning: treatment options for opioid addiction,  
77.26 including the use of a medication for the use of opioid addiction; and recognition of  
77.27 and response to opioid overdose and the use and administration of naloxone, to clients  
77.28 identified as having or seeking treatment for opioid addiction. The commissioner shall  
77.29 develop educational materials that are supported by research and updated periodically that  
77.30 must be used by programs to comply with this requirement.

77.31 Sec. 21. Minnesota Statutes 2014, section 245A.192, subdivision 3, is amended to read:

77.32 Subd. 3. **Medication orders.** Prior to the program administering or dispensing a  
77.33 medication used for the treatment of opioid addiction:

78.1 (1) a client-specific order must be received from an appropriately credentialed  
78.2 physician who is enrolled as a Minnesota health care programs provider and meets all  
78.3 applicable provider standards;

78.4 (2) the signed order must be documented in the client's record; and

78.5 ~~(3) if the order is not directly issued by the physician, such as a verbal order, the~~  
78.6 ~~physician that issued the order must review the documentation and sign the order in the~~  
78.7 ~~client's record within 72 hours of the medication being administered or dispensed. The~~  
78.8 ~~physician must document whether the medication was administered or dispensed as~~  
78.9 ~~ordered. The license holder must report to the commissioner any medication error that~~  
78.10 ~~endangers a patient's health, as determined by the medical director. if the physician that~~  
78.11 ~~issued the order is not able to sign the order when issued, the unsigned order must be~~  
78.12 ~~entered in the client record at the time it was received, and the physician must review the~~  
78.13 ~~documentation and sign the order in the client's record within 72 hours of the medication~~  
78.14 ~~being ordered. The license holder must report to the commissioner any medication error~~  
78.15 ~~that endangers a patient's health, as determined by the medical director.~~

78.16 Sec. 22. Minnesota Statutes 2014, section 245A.192, is amended by adding a  
78.17 subdivision to read:

78.18 Subd. 3a. **High dose requirements.** A client being administered or dispensed a  
78.19 dose beyond that set forth in subdivision 5, paragraph (a), clause (1), that exceeds 150  
78.20 milligrams of methadone or 24 milligrams of buprenorphine daily, and for each subsequent  
78.21 increase, must meet face-to-face with a prescribing physician. The meeting must occur  
78.22 before the administering or dispensing of the increased dose.

78.23 Sec. 23. Minnesota Statutes 2014, section 245A.192, subdivision 5, is amended to read:

78.24 **Subd. 5. Criteria for unsupervised use.** (a) To limit the potential for diversion  
78.25 of medication used for the treatment of opioid addiction to the illicit market, any such  
78.26 medications dispensed to patients for unsupervised use shall be subject to the following  
78.27 requirements:

78.28 (1) any patient in an opioid treatment program may receive a single take-home dose  
78.29 for a day that the clinic is closed for business, including Sundays and state and federal  
78.30 holidays; and

78.31 (2) treatment program decisions on dispensing medications used to treat opioid  
78.32 addiction to patients for unsupervised use beyond that set forth in clause (1) shall be  
78.33 determined by the medical director.

79.1 (b) ~~The medical director~~ A physician with authority to prescribe must consider the  
 79.2 criteria in this subdivision in determining whether a client may be permitted unsupervised  
 79.3 or take-home use of such medications. The criteria must also be considered when  
 79.4 determining whether dispensing medication for a client's unsupervised use is appropriate to  
 79.5 increase or to extend the amount of time between visits to the program. The criteria include:

- 79.6 (1) absence of recent abuse of drugs including but not limited to opioids,  
 79.7 nonnarcotics, and alcohol;
- 79.8 (2) regularity of program attendance;
- 79.9 (3) absence of serious behavioral problems at the program;
- 79.10 (4) absence of known recent criminal activity such as drug dealing;
- 79.11 (5) stability of the client's home environment and social relationships;
- 79.12 (6) length of time in comprehensive maintenance treatment;
- 79.13 (7) reasonable assurance that take-home medication will be safely stored within the  
 79.14 client's home; and
- 79.15 (8) whether the rehabilitative benefit the client derived from decreasing the frequency  
 79.16 of program attendance outweighs the potential risks of diversion or unsupervised use.
- 79.17 (c) The determination, including the basis of the determination, must be consistent  
 79.18 with the criteria in this subdivision and must be documented in the client's medical record.

79.19 Sec. 24. Minnesota Statutes 2014, section 245A.192, subdivision 10, is amended to  
 79.20 read:

79.21 Subd. 10. **Nonmedication treatment services; documentation.** (a) The program  
 79.22 must offer at least 50 consecutive minutes of individual or group therapy treatment services  
 79.23 as defined in Minnesota Rules, part 9530.6430, subpart 1, item A, subitem (1), per week,  
 79.24 for the first ten weeks following admission, and at least 50 consecutive minutes per month  
 79.25 thereafter. As clinically appropriate, the program may offer these services cumulatively  
 79.26 and not consecutively in increments of no less than 15 minutes over the required time  
 79.27 period, and for a total of 60 minutes of treatment services over the time period, and must  
 79.28 document the reason for providing services cumulatively in the client's record. The  
 79.29 program may offer additional levels of service when deemed clinically necessary.

79.30 (b) Notwithstanding the requirements of comprehensive assessments in Minnesota  
 79.31 Rules, part 9530.6422, the assessment must be completed within 21 days of service  
 79.32 initiation.

79.33 (c) Notwithstanding the requirements of individual treatment plans set forth in  
 79.34 Minnesota Rules, part 9530.6425:

80.1 (1) treatment plan contents for maintenance clients are not required to include goals  
80.2 the client must reach to complete treatment and have services terminated;

80.3 (2) treatment plans for clients in a taper or detox status must include goals the client  
80.4 must reach to complete treatment and have services terminated;

80.5 (3) for the initial ten weeks after admission for all new admissions, readmissions, and  
80.6 transfers, progress notes must be entered in a client's file at least weekly and be recorded  
80.7 in each of the six dimensions upon the development of the treatment plan and thereafter.  
80.8 Subsequently, the counselor must document progress no less than one time monthly,  
80.9 recorded in the six dimensions or when clinical need warrants more frequent notations; and

80.10 (4) upon the development of the treatment plan and thereafter, treatment plan  
80.11 reviews must occur weekly, or after each treatment service, whichever is less frequent,  
80.12 for the first ten weeks of treatment for all new admissions, readmissions, and transfers  
80.13 after the treatment plan is developed. Following the first ten weeks of treatment, treatment  
80.14 plan reviews, reviews may occur monthly, unless the client has needs that warrant more  
80.15 frequent revisions or documentation.

80.16 Sec. 25. Minnesota Statutes 2014, section 245A.192, subdivision 11, is amended to read:

80.17 Subd. 11. **Prescription monitoring program.** (a) ~~Upon admission to a methadone~~  
80.18 ~~clinic outpatient treatment program, clients shall be notified that the Department of Human~~  
80.19 ~~Services and the medical director will monitor the prescription monitoring program to~~  
80.20 ~~review the prescribed controlled drugs the clients have received. The medical director or~~  
80.21 ~~the medical director's delegate must review data from the Minnesota Board of Pharmacy~~  
80.22 ~~prescription monitoring program (PMP) established under section 152.126 prior to the~~  
80.23 ~~client being ordered any controlled substance as defined under section 152.126, subdivision~~  
80.24 ~~1, paragraph (b), including medications used for the treatment of opioid addiction. The~~  
80.25 ~~subsequent reviews of the PMP data must occur quarterly and be documented in the~~  
80.26 ~~client's individual file. When the PMP data shows a recent history of multiple prescribers~~  
80.27 ~~or multiple prescriptions for controlled substances, then subsequent reviews of the PMP~~  
80.28 ~~data must occur monthly and be documented in the client's individual file. If, at any time,~~  
80.29 ~~the medical director believes the use of the controlled substances places the client at risk~~  
80.30 ~~of harm, the program must seek the client's consent to discuss the client's opioid treatment~~  
80.31 ~~with other prescribers and must seek consent for the other prescriber to disclose to the~~  
80.32 ~~opioid treatment program's medical director the client's condition that formed the basis of~~  
80.33 ~~the other prescriptions. Additionally, any findings from the PMP data that are relevant to~~  
80.34 ~~the medical director's course of treatment for the client must be documented in the client's~~  
80.35 ~~individual file. A review of the PMP is not required for every medication dose adjustment.~~



81.1 The program must develop and maintain a policy and procedure that requires the ongoing  
81.2 monitoring of the data from the prescription monitoring program for each client. The policy  
81.3 and procedure must include how the program will meet the requirements in paragraph (b).

81.4 (b) If a medication used for the treatment of opioid addiction is administered or  
81.5 dispensed to a client, the license holder shall be subject to the following requirements:

81.6 (1) upon admission to a methadone clinic outpatient treatment program, clients must  
81.7 be notified in writing that the commissioner of human services and the medical director  
81.8 will monitor the prescription monitoring program to review the prescribed controlled  
81.9 drugs the clients have received;

81.10 (2) the medical director or the medical director's delegate must review the data from  
81.11 the Minnesota Board of Pharmacy prescription monitoring program (PMP) established  
81.12 under section 152.126 prior to the client being ordered any controlled substance, as  
81.13 defined under section 152.126, subdivision 1, paragraph (c), including medications used  
81.14 for the treatment of opioid addiction, and subsequent reviews of the PMP data must occur  
81.15 at least every 90 days;

81.16 (3) a copy of the PMP data reviewed must be maintained in the client file;

81.17 (4) when the PMP data contains a recent history of multiple prescribers or multiple  
81.18 prescriptions for controlled substances, the physician's review of the data and subsequent  
81.19 actions must be documented in the client's individual file within 72 hours and must contain  
81.20 the medical director's determination of whether or not the prescriptions place the client at  
81.21 risk of harm and the actions to be taken in response to the PMP findings. In addition, the  
81.22 provider must conduct subsequent reviews of the PMP on a monthly basis; and

81.23 (5) if at any time the medical director believes the use of the controlled substances  
81.24 places the client at risk of harm, the program must seek the client's consent to discuss  
81.25 the client's opioid treatment with other prescribers and must seek consent for the other  
81.26 prescriber to disclose to the opioid treatment program's medical director the client's  
81.27 condition that formed the basis of the other prescriptions. If the information is not  
81.28 obtained within seven days, the medical director must document whether or not changes  
81.29 to the client's medication dose or number of take-home doses are necessary until the  
81.30 information is obtained.

81.31 (c) The commissioner shall collaborate with the Minnesota Board of Pharmacy  
81.32 to develop and implement an electronic system through which the commissioner shall  
81.33 routinely access the data from the Minnesota Board of Pharmacy prescription monitoring  
81.34 program established under section 152.126 for the purpose of determining whether  
81.35 any client enrolled in an opioid addiction treatment program licensed according to this  
81.36 section has also been prescribed or dispensed a controlled substance in addition to

82.1 that administered or dispensed by the opioid addiction treatment program. When the  
82.2 commissioner determines there have been multiple prescribers or multiple prescriptions of  
82.3 controlled substances, the commissioner shall:

82.4 (1) inform the medical director of the opioid treatment program only that the  
82.5 commissioner determined the existence of multiple prescribers or multiple prescriptions of  
82.6 controlled substances; and

82.7 (2) direct the medical director of the opioid treatment program to access the data  
82.8 directly, review the effect of the multiple prescribers or multiple prescriptions, and  
82.9 document the review.

82.10 (e) (d) If determined necessary, the commissioner shall seek a federal waiver of, or  
82.11 exception to, any applicable provision of Code of Federal Regulations, title 42, section  
82.12 2.34(c), prior to implementing this subdivision.

82.13 Sec. 26. Minnesota Statutes 2014, section 245A.192, is amended by adding a  
82.14 subdivision to read:

82.15 Subd. 15. **A program's duty to report suspected drug diversion.** (a) To the  
82.16 fullest extent permitted under Code of Federal Regulations, title 42, sections 2.1 to 2.67,  
82.17 a program shall report to law enforcement any credible evidence that the program or its  
82.18 personnel knows, or reasonably should know, that is directly related to a diversion crime  
82.19 on the premises of the program, or a threat to commit a diversion crime.

82.20 (b) "Diversion crime," for the purposes of this section, means diverting, attempting  
82.21 to divert, or conspiring to divert schedule I, II, III, or IV drugs, as defined in section  
82.22 152.02, on the program's premises.

82.23 (c) The program must document its compliance with the requirement in paragraph  
82.24 (a) in either a client's record or an incident report.

82.25 (d) Failure to comply with the duty in paragraph (a) may result in sanctions as  
82.26 provided in sections 245A.06 and 245A.07.

82.27 Sec. 27. Minnesota Statutes 2014, section 245A.192, is amended by adding a  
82.28 subdivision to read:

82.29 Subd. 16. **Variance.** The commissioner may grant a variance to the requirements  
82.30 of this section.

82.31 Sec. 28. Minnesota Statutes 2014, section 245A.40, subdivision 3, is amended to read:

82.32 Subd. 3. **First aid.** (a) All teachers and assistant teachers in a child care center  
82.33 governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and at least one staff person

83.1 during field trips and when transporting children in care, must satisfactorily complete first  
83.2 aid training within 90 days of the start of work, unless the training has been completed  
83.3 within the previous three years.

83.4 (b) Notwithstanding paragraph (a), which allows 90 days to complete training, at  
83.5 least one staff person who has satisfactorily completed first aid training must be present at  
83.6 all times in the center, during field trips, and when transporting children in care.

83.7 (c) The first aid training must be repeated at least every three years, documented in  
83.8 the person's personnel record and indicated on the center's staffing chart, and provided by  
83.9 an individual approved as a first aid instructor. This training may be less than eight hours.

83.10 Sec. 29. Minnesota Statutes 2014, section 245A.40, subdivision 4, is amended to read:

83.11 Subd. 4. **Cardiopulmonary resuscitation.** (a) All teachers and assistant teachers  
83.12 in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and  
83.13 at least one staff person during field trips and when transporting children in care, must  
83.14 satisfactorily complete training in cardiopulmonary resuscitation (CPR) that includes CPR  
83.15 techniques for infants and children and in the treatment of obstructed airways ~~that includes~~  
83.16 ~~CPR techniques for infants and children~~. The CPR training must be completed within 90  
83.17 days of the start of work, unless the training has been completed within the previous  
83.18 three years. The CPR training must have been provided by an individual approved to  
83.19 provide CPR instruction, must be repeated at least once every three years, and must be  
83.20 documented in the staff person's records.

83.21 (b) Notwithstanding paragraph (a), which allows 90 days to complete training, at  
83.22 least one staff person who has satisfactorily completed cardiopulmonary resuscitation  
83.23 training must be present at all times in the center, during field trips, and when transporting  
83.24 children in care.

83.25 ~~(b)~~ (c) CPR training may be provided for less than four hours.

83.26 ~~(e)~~ (d) Persons providing CPR training must use CPR training that has been  
83.27 developed:

83.28 (1) by the American Heart Association or the American Red Cross and incorporates  
83.29 psychomotor skills to support the instruction; or

83.30 (2) using nationally recognized, evidence-based guidelines for CPR and incorporates  
83.31 psychomotor skills to support the instruction.

83.32 Sec. 30. Minnesota Statutes 2014, section 245A.40, subdivision 5, is amended to read:

83.33 Subd. 5. **Sudden unexpected infant death and abusive head trauma training.** (a)  
83.34 License holders must document that before staff persons and volunteers care for infants,

84.1 they are instructed on the standards in section 245A.1435 and receive training on reducing  
84.2 the risk of sudden unexpected infant death. In addition, license holders must document  
84.3 that before staff persons care for infants or children under school age, they receive training  
84.4 on the risk of abusive head trauma from shaking infants and young children. The training  
84.5 in this subdivision may be provided as orientation training under subdivision 1 and  
84.6 in-service training under subdivision 7.

84.7 (b) Sudden unexpected infant death reduction training required under this  
84.8 subdivision must be at least one-half hour in length and must be completed at least once  
84.9 every year. At a minimum, the training must address the risk factors related to sudden  
84.10 unexpected infant death, means of reducing the risk of sudden unexpected infant death in  
84.11 child care, and license holder communication with parents regarding reducing the risk of  
84.12 sudden unexpected infant death.

84.13 (c) Abusive head trauma training under this subdivision must be at least one-half  
84.14 hour in length and must be completed at least once every year. At a minimum, the training  
84.15 must address the risk factors related to shaking infants and young children, means to  
84.16 reduce the risk of abusive head trauma in child care, and license holder communication  
84.17 with parents regarding reducing the risk of abusive head trauma.

84.18 (d) The commissioner shall make available for viewing a video presentation on  
84.19 the dangers associated with shaking infants and young children, which may be used in  
84.20 conjunction with the annual training required under paragraph (c). ~~The video presentation~~  
84.21 ~~must be part of the orientation and annual in-service training of licensed child care center~~  
84.22 ~~staff persons caring for children under school age. The commissioner shall provide to~~  
84.23 ~~child care providers and interested individuals, at cost, copies of a video approved by the~~  
84.24 ~~commissioner of health under section 144.574 on the dangers associated with shaking~~  
84.25 ~~infants and young children.~~

84.26 Sec. 31. Minnesota Statutes 2014, section 245C.02, subdivision 2, is amended to read:

84.27 Subd. 2. **Access to persons served by a program.** "Access to persons served by a  
84.28 program" means physical access to persons receiving services ~~or~~, access to the persons'  
84.29 personal property, or access to the persons' personal, financial, or health information,  
84.30 without continuous, direct supervision, as defined in subdivision 8.

84.31 Sec. 32. Minnesota Statutes 2014, section 245C.04, subdivision 4, is amended to read:

84.32 Subd. 4. **Supplemental nursing services agencies.** (a) The commissioner shall  
84.33 conduct a background study of an individual required to be studied under section 245C.03,

85.1 subdivision 3, at least upon application for registration under section 144A.71, subdivision  
85.2 1.

85.3 (b) Each supplemental nursing services agency must initiate background studies  
85.4 using the electronic system known as NETStudy before an individual begins a position  
85.5 allowing direct contact with persons served by the agency and annually thereafter.

85.6 (c) A supplemental nursing services agency that initiates background studies through  
85.7 NETStudy 2.0 is exempt from the requirement to initiate annual background studies under  
85.8 paragraph (b) for individuals who are on the agency's active roster.

85.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

85.10 Sec. 33. Minnesota Statutes 2014, section 245C.04, subdivision 5, is amended to read:

85.11 Subd. 5. **Personnel agencies; educational programs; professional services**  
85.12 **agencies.** (a) Agencies, programs, and individuals who initiate background studies under  
85.13 section 245C.03, subdivision 4, must initiate the studies annually using the electronic  
85.14 system known as NETStudy.

85.15 (b) Agencies, programs, and individuals who initiate background studies through  
85.16 NETStudy 2.0 are exempt from the requirement to initiate annual background studies  
85.17 under paragraph (a) for individuals who are on the agency's or program's active roster.

85.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

85.19 Sec. 34. Minnesota Statutes 2014, section 245C.04, subdivision 6, is amended to read:

85.20 Subd. 6. **Unlicensed home and community-based waiver providers of service to**  
85.21 **seniors and individuals with disabilities.** (a) Providers required to initiate background  
85.22 studies under section 256B.4912 must initiate a study using the electronic system known  
85.23 as NETStudy before the individual begins in a position allowing direct contact with  
85.24 persons served by the provider.

85.25 (b) Except as provided in ~~paragraph~~ paragraphs (c) and (d), the providers must  
85.26 initiate a background study annually of an individual required to be studied under section  
85.27 245C.03, subdivision 6.

85.28 (c) After an initial background study under this subdivision is initiated on an  
85.29 individual by a provider of both services licensed by the commissioner and the unlicensed  
85.30 services under this subdivision, a repeat annual background study is not required if:

85.31 (1) the provider maintains compliance with the requirements of section 245C.07,  
85.32 paragraph (a), regarding one individual with one address and telephone number as the  
85.33 person to receive sensitive background study information for the multiple programs that

86.1 depend on the same background study, and that the individual who is designated to receive  
86.2 the sensitive background information is capable of determining, upon the request of the  
86.3 commissioner, whether a background study subject is providing direct contact services  
86.4 in one or more of the provider's programs or services and, if so, at which location or  
86.5 locations; and

86.6 (2) the individual who is the subject of the background study provides direct  
86.7 contact services under the provider's licensed program for at least 40 hours per year so  
86.8 the individual will be recognized by a probation officer or corrections agent to prompt  
86.9 a report to the commissioner regarding criminal convictions as required under section  
86.10 245C.05, subdivision 7.

86.11 (d) A provider who initiates background studies through NETStudy 2.0 is exempt  
86.12 from the requirement to initiate annual background studies under paragraph (b) for  
86.13 individuals who are on the provider's active roster.

86.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

86.15 Sec. 35. Minnesota Statutes 2014, section 245C.05, subdivision 1, is amended to read:

86.16 Subdivision 1. **Individual studied.** (a) The individual who is the subject of the  
86.17 background study must provide the applicant, license holder, or other entity under section  
86.18 245C.04 with sufficient information to ensure an accurate study, including:

86.19 (1) the individual's first, middle, and last name and all other names by which the  
86.20 individual has been known;

86.21 (2) current home address, city, and state of residence;

86.22 (3) current zip code;

86.23 (4) sex;

86.24 (5) date of birth;

86.25 (6) ~~Minnesota~~ driver's license number or state identification number; and

86.26 (7) upon implementation of NETStudy 2.0, the home address, city, county, and  
86.27 state of residence for the past five years.

86.28 (b) Every subject of a background study conducted or initiated by counties or private  
86.29 agencies under this chapter must also provide the home address, city, county, and state of  
86.30 residence for the past five years.

86.31 (c) Every subject of a background study related to private agency adoptions or  
86.32 related to child foster care licensed through a private agency, who is 18 years of age  
86.33 or older, shall also provide the commissioner a signed consent for the release of any  
86.34 information received from national crime information databases to the private agency that  
86.35 initiated the background study.

87.1 (d) The subject of a background study shall provide fingerprints and a photograph as  
87.2 required in subdivision 5.

87.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

87.4 Sec. 36. Minnesota Statutes 2014, section 245C.07, is amended to read:

87.5 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

87.6 (a) Subject to the conditions in paragraph (d), when a license holder, applicant, or  
87.7 other entity owns multiple programs or services that are licensed by the Department  
87.8 of Human Services, Department of Health, or Department of Corrections, only one  
87.9 background study is required for an individual who provides direct contact services in one  
87.10 or more of the licensed programs or services if:

87.11 (1) the license holder designates one individual with one address and telephone  
87.12 number as the person to receive sensitive background study information for the multiple  
87.13 licensed programs or services that depend on the same background study; and

87.14 (2) the individual designated to receive the sensitive background study information  
87.15 is capable of determining, upon request of the department, whether a background study  
87.16 subject is providing direct contact services in one or more of the license holder's programs  
87.17 or services and, if so, at which location or locations.

87.18 (b) When a license holder maintains background study compliance for multiple  
87.19 licensed programs according to paragraph (a), and one or more of the licensed programs  
87.20 closes, the license holder shall immediately notify the commissioner which staff must be  
87.21 transferred to an active license so that the background studies can be electronically paired  
87.22 with the license holder's active program.

87.23 (c) When a background study is being initiated by a licensed program or service or a  
87.24 foster care provider that is also registered under chapter 144D, a study subject affiliated  
87.25 with multiple licensed programs or services may attach to the background study form a  
87.26 cover letter indicating the additional names of the programs or services, addresses, and  
87.27 background study identification numbers.

87.28 When the commissioner receives a notice, the commissioner shall notify each  
87.29 program or service identified by the background study subject of the study results.

87.30 The background study notice the commissioner sends to the subsequent agencies  
87.31 shall satisfy those programs' or services' responsibilities for initiating a background study  
87.32 on that individual.

87.33 (d) If a background study was conducted on an individual related to child foster care  
87.34 and the requirements under paragraph (a) are met, the background study is transferable

88.1 across all licensed programs. If a background study was conducted on an individual under  
88.2 a license other than child foster care and the requirements under paragraph (a) are met, the  
88.3 background study is transferable to all licensed programs except child foster care.

88.4 (e) The provisions of this section that allow a single background study in one  
88.5 or more licensed programs or services do not apply to background studies submitted  
88.6 by adoption agencies, supplemental nursing services agencies, personnel agencies,  
88.7 educational programs, professional services agencies, and unlicensed personal care  
88.8 provider organizations.

88.9 (f) For an entity operating under NETStudy 2.0, the entity's active roster must be  
88.10 the system used to document when a background study subject is affiliated with multiple  
88.11 entities. For a background study to be transferable:

88.12 (1) the background study subject must be on and moving to a roster for which the  
88.13 person designated to receive sensitive background study information is the same; and

88.14 (2) the same entity must own or legally control both the roster from which the  
88.15 transfer is occurring and the roster to which the transfer is occurring. For an entity that  
88.16 holds or controls multiple licenses, or unlicensed personal care provider organizations,  
88.17 there must be a common highest level entity that has a legally identifiable structure that  
88.18 can be verified through records available from the secretary of state.

88.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

88.20 Sec. 37. Minnesota Statutes 2014, section 245C.10, is amended by adding a  
88.21 subdivision to read:

88.22 Subd. 1a. **Expenses.** Section 181.645 does not apply to background studies  
88.23 completed under this chapter.

88.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

88.25 Sec. 38. Minnesota Statutes 2014, section 245C.20, subdivision 2, is amended to read:

88.26 Subd. 2. **Background studies initiated by others; personnel pool agencies,**  
88.27 **temporary personnel agencies, or professional services agencies.** When a license  
88.28 holder relies on a background study initiated by a personnel pool agency, a temporary  
88.29 personnel agency, ~~an educational program,~~ or a professional services agency for a person  
88.30 required to have a background study completed under section 245C.03, the license holder  
88.31 must maintain a copy of the background study results in the license holder's files.



89.1 Sec. 39. Minnesota Statutes 2014, section 245C.20, is amended by adding a  
89.2 subdivision to read:

89.3 Subd. 2a. **Background studies initiated by others; educational programs.** When  
89.4 a license holder relies on a background study initiated by an educational program for a  
89.5 person required to have a background study completed under section 245C.03 and the  
89.6 person is on the educational program's active roster, the license holder is responsible  
89.7 for ensuring that the background study has been completed. The license holder may  
89.8 satisfy the documentation requirements through a written agreement with the educational  
89.9 program verifying that documentation of the background study may be provided upon  
89.10 request and that the educational program will inform the license holder if there is a change  
89.11 in the person's background study status. The license holder remains responsible for  
89.12 ensuring that all background study requirements are met.

89.13 Sec. 40. Minnesota Statutes 2014, section 245E.01, subdivision 8, is amended to read:

89.14 Subd. 8. **Financial misconduct or misconduct.** "Financial misconduct" or  
89.15 "misconduct" means an entity's or individual's acts or omissions that result in fraud and  
89.16 abuse or error against the Department of Human Services. Financial misconduct includes  
89.17 acting as a recruiter offering conditional employment on behalf of a provider that has  
89.18 received funds from the child care assistance program.

89.19 Sec. 41. Minnesota Statutes 2014, section 245E.01, is amended by adding a subdivision  
89.20 to read:

89.21 Subd. 13a. **Recruiter offering conditional employment.** "Recruiter offering  
89.22 conditional employment" means a child care provider, center owner, director, manager,  
89.23 license holder, or other controlling individual or agent who, for pecuniary gain, directly  
89.24 procures or solicits an applicant or a prospective employee and requires as a condition of  
89.25 employment that the applicant or prospective employee has one or more children who are  
89.26 eligible for or receive child care assistance.

89.27 Sec. 42. Minnesota Statutes 2014, section 245E.02, subdivision 1, is amended to read:

89.28 Subdivision 1. **Investigating provider or recipient financial misconduct.** The  
89.29 department shall investigate alleged or suspected financial misconduct by providers and  
89.30 errors related to payments issued by the child care assistance program under this chapter.  
89.31 Recipients, employees, and staff may be investigated when the evidence shows that their  
89.32 conduct is related to the financial misconduct of a provider, license holder, or controlling  
89.33 individual. When the alleged or suspected financial misconduct relates to acting as a

90.1 recruiter offering conditional employment on behalf of a provider that has received funds  
 90.2 from the child care assistance program, the department may investigate the provider,  
 90.3 center owner, director, manager, license holder, or other controlling individual or agent,  
 90.4 who is alleged to have acted as a recruiter offering conditional employment.

90.5 Sec. 43. Minnesota Statutes 2014, section 245E.02, is amended by adding a subdivision  
 90.6 to read:

90.7 Subd. 3a. **Prohibited hiring practice.** It is prohibited to hire a child care center  
 90.8 employee when, as a condition of employment, the employee is required to have one or  
 90.9 more children who are eligible for or receive child care assistance, if:

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

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

90.15 Sec. 44. Minnesota Statutes 2014, section 245E.02, subdivision 4, is amended to read:

90.16 Subd. 4. **Actions or administrative sanctions.** (a) After completing the  
 90.17 determination under subdivision 3, the department may take one or more of the actions  
 90.18 or sanctions specified in this subdivision.

90.19 (b) The department may take the following actions:

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

90.22 (2) refer relevant information to the department's licensing division, the child care  
 90.23 assistance program, the Department of Education, the federal child and adult care food  
 90.24 program, or appropriate child or adult protection agency;

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

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

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

90.30 (1) pursuing administrative disqualification through hearings or waivers;

90.31 (2) establishing and seeking monetary recovery or recoupment; ~~or~~

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

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

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

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

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

91.14 Sec. 45. Minnesota Statutes 2014, section 245E.06, subdivision 2, is amended to read:

91.15 Subd. 2. **Written notice of department sanction; sanction effective date;**  
 91.16 **informal meeting.** (a) The department shall give notice in writing to a person of an  
 91.17 administrative sanction that is to be imposed. The notice shall be sent by mail as defined  
 91.18 in section 245E.01, subdivision 11.

91.19 (b) The notice shall state:

91.20 (1) the factual basis for the department's determination;

91.21 (2) the sanction the department intends to take;

91.22 (3) the dollar amount of the monetary recovery or recoupment, if any;

91.23 (4) how the dollar amount was computed;

91.24 (5) the right to dispute the department's determination and to provide evidence;

91.25 (6) the right to appeal the department's proposed sanction; and

91.26 (7) the option to meet informally with department staff, and to bring additional  
 91.27 documentation or information, to resolve the issues.

91.28 (c) In cases of determinations resulting in denial or termination of payments, in  
 91.29 addition to the requirements of paragraph (b), the notice must state:

91.30 (1) the length of the denial or termination;

91.31 (2) the requirements and procedures for reinstatement; and

91.32 (3) the provider's right to submit documents and written arguments against the  
 91.33 denial or termination of payments for review by the department before the effective date  
 91.34 of denial or termination.

92.1 (d) The submission of documents and written argument for review by the department  
92.2 under paragraph (b), clause (5) or (7), or paragraph (c), clause (3), does not stay the  
92.3 deadline for filing an appeal.

92.4 (e) ~~Unless timely appealed~~ Notwithstanding section 245E.03, subdivision 4, the  
92.5 effective date of the proposed sanction shall be 30 days after the license holder's, provider's,  
92.6 controlling individual's, or recipient's receipt of the notice, unless timely appealed. If a  
92.7 timely appeal is made, the proposed sanction shall be delayed pending the final outcome  
92.8 of the appeal. Implementation of a proposed sanction following the resolution of a timely  
92.9 appeal may be postponed if, in the opinion of the department, the delay of sanction is  
92.10 necessary to protect the health or safety of children in care. The department may consider  
92.11 the economic hardship of a person in implementing the proposed sanction, but economic  
92.12 hardship shall not be a determinative factor in implementing the proposed sanction.

92.13 (f) Requests for an informal meeting to attempt to resolve issues and requests  
92.14 for appeals must be sent or delivered to the department's Office of Inspector General,  
92.15 Financial Fraud and Abuse Division.

92.16 Sec. 46. Minnesota Statutes 2014, section 245E.06, subdivision 3, is amended to read:

92.17 Subd. 3. **Appeal of department sanction.** (a) If the department does not pursue  
92.18 a criminal action against a provider, license holder, controlling individual, or recipient  
92.19 for financial misconduct, but the department imposes an administrative sanction under  
92.20 section 245E.02, subdivision 4, paragraph (c), any individual or entity against whom  
92.21 the sanction was imposed may appeal the department's administrative sanction under  
92.22 this section pursuant to section 119B.16 or 256.045 with the additional requirements in  
92.23 clauses (1) to (4). An appeal must specify:

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

92.26 (2) the computation that is believed to be correct, if appropriate;

92.27 (3) the authority in the statute or rule relied upon for each disputed item; and

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

92.30 (b) Notwithstanding section 245E.03, subdivision 4, an appeal is considered timely  
92.31 only if postmarked or received by the department's Appeals Division within 30 days after  
92.32 receiving a notice of department sanction.

92.33 (c) Before the appeal hearing, the department may deny or terminate authorizations  
92.34 or payment to the entity or individual if the department determines that the action is  
92.35 necessary to protect the public welfare or the interests of the child care assistance program.

93.1 Sec. 47. Minnesota Statutes 2014, section 256.01, subdivision 4, is amended to read:

93.2 Subd. 4. **Duties as state agency.** (a) The state agency shall:

93.3 (1) supervise the administration of assistance to dependent children under Laws  
93.4 1937, chapter 438, by the county agencies in an integrated program with other service for  
93.5 dependent children maintained under the direction of the state agency;

93.6 (2) establish adequate standards for personnel employed by the counties and the  
93.7 state agency in the administration of Laws 1937, chapter 438, and make the necessary  
93.8 rules to maintain such standards;

93.9 (3) prescribe the form of and print and supply to the county agencies blanks for  
93.10 applications, reports, affidavits, and such other forms as it may deem necessary and  
93.11 advisable;

93.12 (4) cooperate with the federal government and its public welfare agencies in  
93.13 any reasonable manner as may be necessary to qualify for federal aid for temporary  
93.14 assistance for needy families and in conformity with title I of Public Law 104-193, the  
93.15 Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and successor  
93.16 amendments, including the making of such reports and such forms and containing such  
93.17 information as the Federal Social Security Board may from time to time require, and  
93.18 comply with such provisions as such board may from time to time find necessary to assure  
93.19 the correctness and verification of such reports;

93.20 (5) on or before October 1 in each even-numbered year make a biennial report to the  
93.21 governor concerning the activities of the agency;

93.22 (6) enter into agreements with other departments of the state as necessary to meet all  
93.23 requirements of the federal government; and

93.24 (7) cooperate with the commissioner of education to enforce the requirements for  
93.25 program integrity and fraud prevention for investigation for child care assistance under  
93.26 chapter 119B.

93.27 (b) The state agency may:

93.28 (1) subpoena witnesses and administer oaths, make rules, and take such action as  
93.29 may be necessary or desirable for carrying out the provisions of Laws 1937, chapter 438.  
93.30 All rules made by the state agency shall be binding on the counties and shall be complied  
93.31 with by the respective county agencies;

93.32 (2) cooperate with other state agencies in establishing reciprocal agreements in  
93.33 instances where a child receiving Minnesota family investment program assistance moves  
93.34 or contemplates moving into or out of the state, in order that the child may continue  
93.35 to receive supervised aid from the state moved from until the child has resided for one  
93.36 year in the state moved to; and

94.1 (3) administer oaths and affirmations, take depositions, certify to official acts, and  
 94.2 issue subpoenas to compel the attendance of individuals and the production of documents  
 94.3 and other personal property necessary in connection with the administration of programs  
 94.4 administered by, or for the purpose of any investigation, hearing, proceeding, or inquiry  
 94.5 related to the duties and responsibilities of, the Department of Human Services.

94.6 (c) The fees for service of a subpoena in paragraph (b), clause (3), must be paid in  
 94.7 the same manner as prescribed by law for a service of process issued by a district court.  
 94.8 Witnesses must receive the same fees and mileage as in civil actions.

94.9 (d) The subpoena in paragraph (b), clause (3), shall be enforceable through the  
 94.10 district court in the district where the subpoena is issued.

94.11 (e) A subpoena issued under this subdivision must state that the person to whom the  
 94.12 subpoena is directed may not disclose the fact that the subpoena was issued or the fact  
 94.13 that the requested records have been given to law enforcement personnel or agents of  
 94.14 the commissioner except:

94.15 (1) insofar as the disclosure is necessary and agreed upon by the commissioner, to  
 94.16 find and disclose the records; or

94.17 (2) pursuant to court order.

94.18 Sec. 48. **[256.041] CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP**  
 94.19 **COUNCIL.**

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

94.24 Subd. 2. **Members.** (a) The council must consist of:

94.25 (1) the chairs and ranking minority members of the committees in the house of  
 94.26 representatives and the senate with jurisdiction over human services; and

94.27 (2) no fewer than 15 and no more than 25 members appointed by and serving at  
 94.28 the pleasure of the commissioner of human services, in consultation with county, tribal,  
 94.29 cultural, and ethnic communities; diverse program participants; and parent representatives  
 94.30 from these communities.

94.31 (b) In making appointments under this section, the commissioner shall give priority  
 94.32 consideration to public members of the legislative councils of color established under  
 94.33 chapter 3.

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

94.35 (1) racial and ethnic minority groups;

- 95.1 (2) the American Indian community, which must be represented by two members;  
95.2 (3) culturally and linguistically specific advocacy groups and service providers;  
95.3 (4) human services program participants;  
95.4 (5) public and private institutions;  
95.5 (6) parents of human services program participants;  
95.6 (7) members of the faith community;  
95.7 (8) Department of Human Services employees; and  
95.8 (9) any other group the commissioner deems appropriate to facilitate the goals  
95.9 and duties of the council.

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

- 95.14 (1) the chairs of relevant committees; and  
95.15 (2) county, tribal, and cultural communities and program participants from these  
95.16 communities.

95.17 Subd. 4. **Chair.** The commissioner shall appoint a chair.

95.18 Subd. 5. **Terms for first appointees.** The initial members appointed shall serve  
95.19 until January 15, 2016.

95.20 Subd. 6. **Terms.** A term shall be for two years and appointees may be reappointed  
95.21 to serve two additional terms. The commissioner shall make appointments to replace  
95.22 members vacating their positions by January 15 of each year.

95.23 Subd. 7. **Duties of commissioner.** (a) The commissioner of human services or the  
95.24 commissioner's designee shall:

- 95.25 (1) maintain the council established in this section;  
95.26 (2) supervise and coordinate policies for persons from racial, ethnic, cultural,  
95.27 linguistic, and tribal communities who experience disparities in access and outcomes;  
95.28 (3) identify human services rules or statutes affecting persons from racial, ethnic,  
95.29 cultural, linguistic, and tribal communities that may need to be revised;  
95.30 (4) investigate and implement cost-effective models of service delivery such as  
95.31 careful adaptation of clinically proven services that constitute one strategy for increasing the  
95.32 number of culturally relevant services available to currently underserved populations; and  
95.33 (5) based on recommendations of the council, review identified department  
95.34 policies that maintain racial, ethnic, cultural, linguistic, and tribal disparities, and make  
95.35 adjustments to ensure those disparities are not perpetuated.

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

96.4 Subd. 8. **Duties of council.** The council shall:

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

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

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

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

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

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

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

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

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

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

96.29 (11) by February 15 each year, prepare and submit to the chairs and ranking minority  
96.30 members of the committees in the house of representatives and the senate with jurisdiction  
96.31 over human services a report that summarizes the activities of the council, identifies  
96.32 the major problems and issues confronting racial and ethnic groups in accessing human  
96.33 services, makes recommendations to address issues, and lists the specific objectives that  
96.34 the council seeks to attain during the next biennium. The report must also include a list of  
96.35 programs, groups, and grants used to reduce disparities, and statistically valid reports of  
96.36 outcomes on the reduction of the disparities.



97.1 Subd. 9. **Duties of council members.** The members of the council shall:  
 97.2 (1) attend and participate in scheduled meetings and be prepared by reviewing  
 97.3 meeting notes;  
 97.4 (2) maintain open communication channels with respective constituencies;  
 97.5 (3) identify and communicate issues and risks that could impact the timely  
 97.6 completion of tasks;  
 97.7 (4) collaborate on disparity reduction efforts;  
 97.8 (5) communicate updates of the council's work progress and status on the  
 97.9 Department of Human Services Web site; and  
 97.10 (6) participate in any activities the council or chair deems appropriate and necessary  
 97.11 to facilitate the goals and duties of the council.

97.12 Subd. 10. **Expiration.** The council expires on June 30, 2020.

97.13 **EFFECTIVE DATE.** This section is effective retroactively from March 15, 2015.

97.14 Sec. 49. Minnesota Statutes 2014, section 256.98, subdivision 1, is amended to read:

97.15 Subdivision 1. **Wrongfully obtaining assistance.** A person who commits any of  
 97.16 the following acts or omissions with intent to defeat the purposes of sections 145.891 to  
 97.17 145.897, the MFIP program formerly codified in sections 256.031 to 256.0361, the AFDC  
 97.18 program formerly codified in sections 256.72 to 256.871, chapters 256B, 256D, 256J,  
 97.19 256K, or 256L, ~~and~~ child care assistance programs, and emergency assistance programs  
 97.20 under section 256D.06, is guilty of theft and shall be sentenced under section 609.52,  
 97.21 subdivision 3, clauses (1) to (5):

97.22 (1) obtains or attempts to obtain, or aids or abets any person to obtain by means of  
 97.23 a willfully false statement or representation, by intentional concealment of any material  
 97.24 fact, or by impersonation or other fraudulent device, assistance or the continued receipt of  
 97.25 assistance, to include child care assistance or vouchers produced according to sections  
 97.26 145.891 to 145.897 and MinnesotaCare services according to sections 256.9365, 256.94,  
 97.27 and 256L.01 to 256L.15, to which the person is not entitled or assistance greater than that  
 97.28 to which the person is entitled;

97.29 (2) knowingly aids or abets in buying or in any way disposing of the property of a  
 97.30 recipient or applicant of assistance without the consent of the county agency; or

97.31 (3) obtains or attempts to obtain, alone or in collusion with others, the receipt of  
 97.32 payments to which the individual is not entitled as a provider of subsidized child care, or  
 97.33 by furnishing or concurring in a willfully false claim for child care assistance.

97.34 The continued receipt of assistance to which the person is not entitled or greater  
 97.35 than that to which the person is entitled as a result of any of the acts, failure to act, or

98.1 concealment described in this subdivision shall be deemed to be continuing offenses from  
98.2 the date that the first act or failure to act occurred.

98.3 Sec. 50. Minnesota Statutes 2014, section 256B.0625, is amended by adding a  
98.4 subdivision to read:

98.5 Subd. 17b. **Documentation required.** (a) As a condition for payment,  
98.6 nonemergency medical transportation providers must document each occurrence of a  
98.7 service provided to a recipient according to this subdivision. Providers must maintain  
98.8 odometer and other records sufficient to distinguish individual trips with specific vehicles  
98.9 and drivers. The documentation may be maintained in an electronic or paper form but  
98.10 must be made available and produced upon request. Program funds paid for transportation  
98.11 that is not documented according to this subdivision shall be recovered by the department.

98.12 (b) A nonemergency medical transportation provider must compile transportation  
98.13 records that meet the following requirements:

98.14 (1) the record must be in English and must be legible according to the standard  
98.15 of a reasonable person;

98.16 (2) the recipient's name must be on each page of the record; and

98.17 (3) each entry in the record must document:

98.18 (i) the date on which the entry is made;

98.19 (ii) the date or dates the service is provided;

98.20 (iii) the printed last name, first name, and middle initial of the driver;

98.21 (iv) the signature of the driver attesting to the following: "I certify that I have  
98.22 accurately reported in this mileage log the miles I actually drove and the dates and times I  
98.23 actually drove them. I understand that misreporting the miles driven and hours worked is  
98.24 fraud for which I could face criminal prosecution or civil proceedings.";

98.25 (v) the signature of the recipient attesting to the following: "I certify that I received  
98.26 the reported transportation service.";

98.27 (vi) the description and address of both the origin and destination, and the mileage  
98.28 for the most direct route from the origin to the destination;

98.29 (vii) the mode of transportation in which the service is provided;

98.30 (viii) the license plate number of the vehicle used to transport the recipient;

98.31 (ix) whether the service was ambulatory or nonambulatory until the modes under  
98.32 subdivision 17 are implemented;

98.33 (x) the time of the pickup and the time of the drop-off with "a.m." and "p.m."  
98.34 designations;

98.35 (xi) the number of medical assistance occupants in the vehicle;

99.1 (xii) the name of the extra attendant when an extra attendant is used to provide  
 99.2 special transportation service; and

99.3 (xiii) the electronic source documentation used to calculate driving directions and  
 99.4 mileage.

99.5 **Sec. 51. [256B.0705] PERSONAL CARE ASSISTANCE SERVICES;**  
 99.6 **MANDATED SERVICE VERIFICATION.**

99.7 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms  
 99.8 have the meanings given them.

99.9 (b) "Personal care assistance services" or "PCA services" means services provided  
 99.10 according to section 256B.0659.

99.11 (c) "Personal care assistant" or "PCA" has the meaning given in section 256B.0659,  
 99.12 subdivision 1.

99.13 (d) "Service verification" means a random, unscheduled telephone call made for the  
 99.14 purpose of verifying that the individual personal care assistant is present at the location  
 99.15 where personal care assistance services are being provided and is providing services  
 99.16 as scheduled.

99.17 Subd. 2. **Verification schedule.** An agency that submits claims for reimbursement  
 99.18 for PCA services under this chapter must develop and implement administrative policies  
 99.19 and procedures by which the agency verifies the services provided by a PCA. For each  
 99.20 service recipient, the agency must conduct at least one service verification every 90 days.  
 99.21 If more than one PCA provides services to a single service recipient, the agency must  
 99.22 conduct a service verification for each PCA providing services before conducting a service  
 99.23 verification for a PCA whose services were previously verified by the agency. Service  
 99.24 verification must occur on an ongoing basis while the agency provides PCA services to  
 99.25 the recipient. During service verification, the agency must speak with both the PCA and  
 99.26 the service recipient or recipient's authorized representative. Only qualified professional  
 99.27 service verifications are eligible for reimbursement. An agency may substitute a visit  
 99.28 by a qualified professional that is eligible for reimbursement under section 256B.0659,  
 99.29 subdivision 14 or 19.

99.30 Subd. 3. **Documentation of verification.** An agency must fully document service  
 99.31 verifications in a legible manner and must maintain the documentation on site for at least  
 99.32 five years from the date of documentation. For each service verification, documentation  
 99.33 must include:

100.1 (1) the names and signatures of the service recipient or recipient's authorized  
100.2 representative, the PCA and any other agency staff present with the PCA during the  
100.3 service verification, and the staff person conducting the service verification; and

100.4 (2) the start and end time, day, month, and year of the service verification, and the  
100.5 corresponding PCA time sheet.

100.6 Subd. 4. **Variance.** The Office of Inspector General at the Department of Human  
100.7 Services may grant a variance to the service verification requirements in this section if  
100.8 an agency uses an electronic monitoring system or other methods that verify a PCA is  
100.9 present at the location where services are provided and is providing services according to  
100.10 the prescribed schedule. A decision to grant or deny a variance request is final and not  
100.11 subject to appeal under chapter 14.

100.12 Sec. 52. Minnesota Statutes 2014, section 402A.12, is amended to read:

100.13 **402A.12 ESTABLISHMENT OF A PERFORMANCE MANAGEMENT**  
100.14 **SYSTEM FOR HUMAN SERVICES.**

100.15 By January 1, 2014, the commissioner shall implement a performance management  
100.16 system for essential human services as described in sections 402A.16 and 402A.18  
100.17 that includes initial performance measures and ~~standards~~ thresholds consistent with the  
100.18 recommendations of the Steering Committee on Performance and Outcome Reforms in  
100.19 the December 2012 report to the legislature.

100.20 Sec. 53. Minnesota Statutes 2014, section 402A.16, subdivision 2, is amended to read:

100.21 Subd. 2. **Duties.** The Human Services Performance Council shall:

100.22 (1) hold meetings at least quarterly that are in compliance with Minnesota's Open  
100.23 Meeting Law under chapter 13D;

100.24 (2) annually review the annual performance data submitted by counties or service  
100.25 delivery authorities;

100.26 (3) review and advise the commissioner on department procedures related to the  
100.27 implementation of the performance management system and system process requirements  
100.28 and on barriers to process improvement in human services delivery;

100.29 (4) advise the commissioner on the training and technical assistance needs of county  
100.30 or service delivery authority and department personnel;

100.31 (5) review instances in which a county or service delivery authority has not made  
100.32 adequate progress on a performance improvement plan and make recommendations to  
100.33 the commissioner under section 402A.18;

- 101.1 (6) consider appeals from counties or service delivery authorities that are in the  
101.2 remedies process and make recommendations to the commissioner on resolving the issue;
- 101.3 (7) convene working groups to update and develop outcomes, measures, and  
101.4 performance ~~standards~~ thresholds for the performance management system and,  
101.5 on an annual basis, present these recommendations to the commissioner, including  
101.6 recommendations on when a particular essential human services program has a balanced  
101.7 set of program measures in place;
- 101.8 (8) make recommendations on human services administrative rules or statutes that  
101.9 could be repealed in order to improve service delivery;
- 101.10 (9) provide information to stakeholders on the council's role and regularly collect  
101.11 stakeholder input on performance management system performance; and
- 101.12 (10) submit an annual report to the legislature and the commissioner, which  
101.13 includes a comprehensive report on the performance of individual counties or service  
101.14 delivery authorities as it relates to system measures; a list of counties or service delivery  
101.15 authorities that have been required to create performance improvement plans and the areas  
101.16 identified for improvement as part of the remedies process; a summary of performance  
101.17 improvement training and technical assistance activities offered to the county personnel  
101.18 by the department; recommendations on administrative rules or state statutes that could be  
101.19 repealed in order to improve service delivery; recommendations for system improvements,  
101.20 including updates to system outcomes, measures, and ~~standards~~ thresholds; and a response  
101.21 from the commissioner.

101.22 Sec. 54. Minnesota Statutes 2014, section 402A.16, subdivision 4, is amended to read:

101.23 Subd. 4. **Commissioner duties.** The commissioner shall:

- 101.24 (1) implement and maintain the performance management system for human services;
- 101.25 (2) establish and regularly update the system's outcomes, measures, and ~~standards~~  
101.26 thresholds, including the minimum performance ~~standard~~ threshold for each performance  
101.27 measure;
- 101.28 (3) determine when a particular program has a balanced set of measures;
- 101.29 (4) receive reports from counties or service delivery authorities at least annually on  
101.30 their performance against system measures, provide counties with data needed to assess  
101.31 performance and monitor progress, and provide timely feedback to counties or service  
101.32 delivery authorities on their performance;
- 101.33 (5) implement and monitor the remedies process in section 402A.18;
- 101.34 (6) report to the Human Services Performance Council on county or service delivery  
101.35 authority performance on a semiannual basis;

- 102.1 (7) provide general training and technical assistance to counties or service delivery  
102.2 authorities on topics related to performance measurement and performance improvement;  
102.3 (8) provide targeted training and technical assistance to counties or service delivery  
102.4 authorities that supports their performance improvement plans; and  
102.5 (9) provide staff support for the Human Services Performance Council.

102.6 Sec. 55. Minnesota Statutes 2014, section 402A.18, is amended to read:

102.7 **402A.18 COMMISSIONER POWER TO REMEDY FAILURE TO MEET**  
102.8 **PERFORMANCE OUTCOMES.**

102.9 Subdivision 1. **Underperforming county; specific service.** If the commissioner  
102.10 determines that a county or service delivery authority is deficient in achieving minimum  
102.11 performance ~~standards~~ thresholds for a specific essential human services program, the  
102.12 commissioner may impose the following remedies and adjust state and federal program  
102.13 allocations accordingly:

102.14 (1) voluntary incorporation of the administration and operation of the specific  
102.15 essential human services program with an existing service delivery authority or another  
102.16 county. A service delivery authority or county incorporating an underperforming county  
102.17 shall not be financially liable for the costs associated with remedying performance  
102.18 outcome deficiencies;

102.19 (2) mandatory incorporation of the administration and operation of the specific  
102.20 essential human services program with an existing service delivery authority or another  
102.21 county. A service delivery authority or county incorporating an underperforming county  
102.22 shall not be financially liable for the costs associated with remedying performance  
102.23 outcome deficiencies; or

102.24 (3) transfer of authority for program administration and operation of the specific  
102.25 essential human services program to the commissioner.

102.26 Subd. 2. **Underperforming county; more than one-half of services.** If the  
102.27 commissioner determines that a county or service delivery authority is deficient in  
102.28 achieving minimum performance ~~standards~~ thresholds for more than one-half of the defined  
102.29 essential human services programs, the commissioner may impose the following remedies:

102.30 (1) voluntary incorporation of the administration and operation of essential human  
102.31 services programs with an existing service delivery authority or another county. A  
102.32 service delivery authority or county incorporating an underperforming county shall  
102.33 not be financially liable for the costs associated with remedying performance outcome  
102.34 deficiencies;

103.1 (2) mandatory incorporation of the administration and operation of essential human  
103.2 services programs with an existing service delivery authority or another county. A  
103.3 service delivery authority or county incorporating an underperforming county shall  
103.4 not be financially liable for the costs associated with remedying performance outcome  
103.5 deficiencies; or

103.6 (3) transfer of authority for administration and operation of essential human services  
103.7 programs to the commissioner.

103.8 Subd. 2a. **Financial responsibility of underperforming county.** A county subject  
103.9 to remedies under subdivision 1 or 2 shall provide to the entity assuming administration of  
103.10 the essential human services program or programs the amount of nonfederal and nonstate  
103.11 funding needed to remedy performance outcome deficiencies.

103.12 Subd. 3. **Conditions prior to imposing remedies.** (a) The commissioner  
103.13 shall notify a county or service delivery authority that it must submit a performance  
103.14 improvement plan if:

103.15 (1) the county or service delivery authority does not meet the minimum performance  
103.16 standard threshold for a measure; or

103.17 (2) the county or service delivery authority does not meet the minimum performance  
103.18 standard threshold for one or more racial or ethnic subgroup for which there is a  
103.19 statistically valid population size for three or more measures, even if the county or service  
103.20 delivery authority met the standard threshold for the overall population.

103.21 The commissioner must approve the performance improvement plan. The county or  
103.22 service delivery authority may negotiate the terms of the performance improvement plan  
103.23 with the commissioner.

103.24 (b) When the department determines that a county or service delivery authority  
103.25 does not meet the minimum performance standard threshold for a given measure, the  
103.26 commissioner must advise the county or service delivery authority that fiscal penalties  
103.27 may result if the performance does not improve. The department must offer technical  
103.28 assistance to the county or service delivery authority. Within 30 days of the initial  
103.29 advisement from the department, the county or service delivery authority may claim  
103.30 and the department may approve an extenuating circumstance that relieves the county  
103.31 or service delivery authority of any further remedy. If a county or service delivery  
103.32 authority has a small number of participants in an essential human services program such  
103.33 that reliable measurement is not possible, the commissioner may approve extenuating  
103.34 circumstances or may average performance over three years.

103.35 (c) If there are no extenuating circumstances, the county or service delivery authority  
103.36 must submit a performance improvement plan to the commissioner within 60 days of the

104.1 initial advisement from the department. The term of the performance improvement plan  
104.2 must be two years, starting with the date the plan is approved by the commissioner. This  
104.3 plan must include a target level for improvement for each measure that did not meet  
104.4 the minimum performance ~~standard~~ threshold. The commissioner must approve the  
104.5 performance improvement plan within 60 days of submittal.

104.6 (d) The department must monitor the performance improvement plan for two  
104.7 years. After two years, if the county or service delivery authority meets the minimum  
104.8 performance ~~standard~~ threshold, there is no further remedy. If the county or service  
104.9 delivery authority fails to meet the minimum performance ~~standard~~ threshold, but  
104.10 meets the improvement target in the performance improvement plan, the county or  
104.11 service delivery authority shall modify the performance improvement plan for further  
104.12 improvement and the department shall continue to monitor the plan.

104.13 (e) If, after two years of monitoring, the county or service delivery authority fails  
104.14 to meet both the minimum performance ~~standard~~ threshold and the improvement target  
104.15 identified in the performance improvement plan, the next step of the remedies process  
104.16 shall be invoked by the commissioner. This phase of the remedies process may include:

104.17 (1) fiscal penalties for the county or service delivery authority that do not exceed  
104.18 one percent of the county's human services expenditures and that are negotiated in the  
104.19 performance improvement plan, based on what is needed to improve outcomes. Counties  
104.20 or service delivery authorities must reinvest the amount of the fiscal penalty into the  
104.21 essential human services program that was underperforming. A county or service delivery  
104.22 authority shall not be required to pay more than three fiscal penalties in a year; and

104.23 (2) the department's provision of technical assistance to the county or service  
104.24 delivery authority that is targeted to address the specific performance issues.

104.25 The commissioner shall continue monitoring the performance improvement plan for a  
104.26 third year.

104.27 (f) If, after the third year of monitoring, the county or service delivery authority  
104.28 meets the minimum performance ~~standard~~ threshold, there is no further remedy. If the  
104.29 county or service delivery authority fails to meet the minimum performance ~~standard~~  
104.30 threshold, but meets the improvement target for the performance improvement plan, the  
104.31 county or service delivery authority shall modify the performance improvement plan for  
104.32 further improvement and the department shall continue to monitor the plan.

104.33 (g) If, after the third year of monitoring, the county or service delivery authority  
104.34 fails to meet the minimum performance ~~standard~~ threshold and the improvement target  
104.35 identified in the performance improvement plan, the Human Services Performance  
104.36 Council shall review the situation and recommend a course of action to the commissioner.



105.1 (h) If the commissioner has determined that a program has a balanced set of program  
105.2 measures and a county or service delivery authority is subject to fiscal penalties for more  
105.3 than one-half of the measures for that program, the commissioner may apply further  
105.4 remedies as described in subdivisions 1 and 2.

105.5 Sec. 56. Minnesota Statutes 2014, section 471.346, is amended to read:

105.6 **471.346 PUBLICLY OWNED AND LEASED VEHICLES IDENTIFIED.**

105.7 All motor vehicles owned or leased by a statutory or home rule charter city, county,  
105.8 town, school district, metropolitan or regional agency, or other political subdivision,  
105.9 except for unmarked vehicles used in general police and fire work, arson investigations,  
105.10 ~~and~~ Department of Human Services investigations including conducted by central office  
105.11 staff, and county fraud prevention investigations conducted by county or contract fraud  
105.12 prevention investigators, shall have the name of the political subdivision plainly displayed  
105.13 on both sides of the vehicle in letters not less than 2-1/2 inches high and one-half inch wide.  
105.14 The identification must be in a color that contrasts with the color of the part of the vehicle  
105.15 on which it is placed and must remain on and be clean and visible throughout the period of  
105.16 which the vehicle is owned or leased by the political subdivision. The identification must  
105.17 not be on a removable plate or placard except on leased vehicles but the plate or placard  
105.18 must not be removed from a leased vehicle at any time during the term of the lease.

105.19 Sec. 57. **609.816 WRONGFUL EMPLOYMENT AT A CHILD CARE CENTER.**

105.20 A person is guilty of a crime and may be sentenced as provided in section 609.52,  
105.21 subdivision 3, clauses (1) to (5), if the person:

105.22 (1) is a child care center owner, director, manager, license holder, or other controlling  
105.23 individual or agent of a child care center;

105.24 (2) engages in the recruitment or screening of potential employees or applicants or  
105.25 instructs other persons engaged in the recruitment or screening of potential employees  
105.26 or applicants; and

105.27 (3) requires, as a condition of obtaining or continuing employment at the child  
105.28 care center, in order to obtain child care assistance program funds, that the applicant,  
105.29 potential employee, or employee has one or more children who are eligible for or receive  
105.30 child care assistance.

105.31 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes  
105.32 committed on or after that date.

106.1 Sec. 58. Minnesota Statutes 2014, section 609.821, is amended to read:

106.2 **609.821 FINANCIAL TRANSACTION CARD FRAUD.**

106.3 Subdivision 1. **Definitions.** For the purposes of this section, the following terms  
106.4 have the meanings given them:

106.5 (a) "Financial transaction card" means any instrument or device, whether known as  
106.6 a credit card, credit plate, charge plate, courtesy card, bank services card, banking card,  
106.7 check guarantee card, debit card, electronic benefit system (EBS) card, electronic benefit  
106.8 transfer (EBT) card, assistance transaction card, or by any other name, issued with or  
106.9 without fee by an issuer for the use of the cardholder in obtaining credit, money, goods,  
106.10 services, public assistance benefits, or anything else of value, and includes the account or  
106.11 identification number or symbol of a financial transaction card.

106.12 (b) "Cardholder" means a person in whose name a card is issued.

106.13 (c) "Issuer" means a person, firm, or governmental agency, or a duly authorized  
106.14 agent or designee, that issues a financial transaction card.

106.15 (d) "Property" includes money, goods, services, public assistance benefit, or  
106.16 anything else of value.

106.17 (e) "Public assistance benefit" means any money, goods or services, or anything else  
106.18 of value, issued under chapters 256, 256B, 256D, or section 393.07, subdivision 10.

106.19 (f) "Trafficking of SNAP benefits" means:

106.20 (1) the buying, selling, stealing, or otherwise effecting an exchange of Supplemental  
106.21 Nutrition Assistance Program (SNAP) benefits issued and accessed via an electronic  
106.22 benefit transfer (EBT) card, card number and personal identification number (PIN), or  
106.23 manual voucher and signature, for cash or consideration other than eligible food, either  
106.24 directly, indirectly, in complicity or collusion with others, or acting alone;

106.25 (2) the exchange of one of the following for SNAP benefits: firearms, ammunition,  
106.26 explosives, or controlled substances as defined in United States Code, title 21, section 802;

106.27 (3) purchasing a product with SNAP benefits that has a container requiring a return  
106.28 deposit with the intent of obtaining cash by discarding the product and returning the  
106.29 container for the deposit amount, intentionally discarding the product, and intentionally  
106.30 returning the container for the deposit amount;

106.31 (4) purchasing a product with SNAP benefits with the intent of obtaining cash or  
106.32 consideration other than eligible food by reselling the product, and intentionally reselling  
106.33 the product purchased with SNAP benefits in exchange for cash or consideration other  
106.34 than eligible food;

106.35 (5) intentionally purchasing products originally purchased with SNAP benefits in  
106.36 exchange for cash or consideration other than eligible food; or

107.1 (6) attempting to buy, sell, steal, or otherwise effect an exchange of SNAP benefits  
 107.2 issued and accessed via an EBT card, card number and PIN number, or manual voucher  
 107.3 and signature, for cash or consideration other than eligible food, either directly, indirectly,  
 107.4 in complicity or collusion with others, or acting alone.

107.5 Subd. 2. **Violations; penalties.** A person who does any of the following commits  
 107.6 financial transaction card fraud:

107.7 (1) without the consent of the cardholder, and knowing that the cardholder has not  
 107.8 given consent, uses or attempts to use a card to obtain the property of another, or a public  
 107.9 assistance benefit issued for the use of another;

107.10 (2) uses or attempts to use a card knowing it to be forged, false, fictitious, or obtained  
 107.11 in violation of clause (6);

107.12 (3) sells or transfers a card knowing that the cardholder and issuer have not  
 107.13 authorized the person to whom the card is sold or transferred to use the card, or that the  
 107.14 card is forged, false, fictitious, or was obtained in violation of clause (6);

107.15 (4) without a legitimate business purpose, and without the consent of the cardholders,  
 107.16 receives or possesses, with intent to use, or with intent to sell or transfer in violation of  
 107.17 clause (3), two or more cards issued in the name of another, or two or more cards knowing  
 107.18 the cards to be forged, false, fictitious, or obtained in violation of clause (6);

107.19 (5) being authorized by an issuer to furnish money, goods, services, or anything else  
 107.20 of value, knowingly and with an intent to defraud the issuer or the cardholder:

107.21 (i) furnishes money, goods, services, or anything else of value upon presentation of a  
 107.22 financial transaction card knowing it to be forged, expired, or revoked, or knowing that it  
 107.23 is presented by a person without authority to use the card; or

107.24 (ii) represents in writing to the issuer that the person has furnished money, goods,  
 107.25 services, or anything else of value which has not in fact been furnished;

107.26 (6) upon applying for a financial transaction card to an issuer, or for a public  
 107.27 assistance benefit which is distributed by means of a financial transaction card:

107.28 (i) knowingly gives a false name or occupation;

107.29 (ii) knowingly and substantially overvalues assets or substantially undervalues  
 107.30 indebtedness for the purpose of inducing the issuer to issue a financial transaction card; or

107.31 (iii) knowingly makes a false statement or representation for the purpose of inducing  
 107.32 an issuer to issue a financial transaction card used to obtain a public assistance benefit;

107.33 (7) with intent to defraud, falsely notifies the issuer or any other person of a theft,  
 107.34 loss, disappearance, or nonreceipt of a financial transaction card; or

108.1 (8) without the consent of the cardholder and knowing that the cardholder has not  
108.2 given consent, falsely alters, makes, or signs any written document pertaining to a card  
108.3 transaction to obtain or attempt to obtain the property of another; or

108.4 (9) engages in trafficking of SNAP benefits.

108.5 Subd. 3. **Sentence.** (a) A person who commits financial transaction card fraud may  
108.6 be sentenced as follows:

108.7 (1) for a violation of subdivision 2, clause (1), (2), (5), ~~or (8)~~, or (9):

108.8 (i) to imprisonment for not more than 20 years or to payment of a fine of not more  
108.9 than \$100,000, or both, if the value of the property the person obtained or attempted to  
108.10 obtain was more than \$35,000, or the aggregate amount of the transactions under this  
108.11 subdivision was more than \$35,000; or

108.12 (ii) to imprisonment for not more than ten years or to payment of a fine of not more  
108.13 than \$20,000, or both, if the value of the property the person obtained or attempted to  
108.14 obtain was more than \$2,500, or the aggregate amount of the transactions under this  
108.15 subdivision was more than \$2,500; or

108.16 (iii) to imprisonment for not more than five years or to payment of a fine of not  
108.17 more than \$10,000, or both, if the value of the property the person obtained or attempted  
108.18 to obtain was more than \$250 but not more than \$2,500, or the aggregate amount of the  
108.19 transactions under this subdivision was more than \$250 but not more than \$2,500; or

108.20 (iv) to imprisonment for not more than five years or to payment of a fine of not  
108.21 more than \$10,000, or both, if the value of the property the person obtained or attempted  
108.22 to obtain was not more than \$250, or the aggregate amount of the transactions under  
108.23 this subdivision was not more than \$250, and the person has previously been convicted  
108.24 within the preceding five years for an offense under this section, section 609.24; 609.245;  
108.25 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.631, or a statute  
108.26 from another state in conformity with any of those sections, and the person received a  
108.27 felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under  
108.28 section 609.135 if the offense to which a plea was entered would allow imposition of a  
108.29 felony or gross misdemeanor sentence; or

108.30 (v) to imprisonment for not more than one year or to payment of a fine of not more  
108.31 than \$3,000, or both, if the value of the property the person obtained or attempted to  
108.32 obtain was not more than \$250, or the aggregate amount of the transactions under this  
108.33 subdivision was not more than \$250;

108.34 (2) for a violation of subdivision 2, clause (3) or (4), to imprisonment for not more  
108.35 than three years or to payment of a fine of not more than \$5,000, or both; or

108.36 (3) for a violation of subdivision 2, clause (6) or (7):

109.1 (i) if no property, other than a financial transaction card, has been obtained by the  
109.2 defendant by means of the false statement or false report, to imprisonment for not more  
109.3 than one year or to payment of a fine of not more than \$3,000, or both; or

109.4 (ii) if property, other than a financial transaction card, is so obtained, in the manner  
109.5 provided in clause (1).

109.6 (b) In any prosecution under paragraph (a), clause (1), the value of the transactions  
109.7 made or attempted within any six-month period may be aggregated and the defendant  
109.8 charged accordingly in applying the provisions of this section. When two or more offenses  
109.9 are committed by the same person in two or more counties, the accused may be prosecuted  
109.10 in any county in which one of the card transactions occurred for all of the transactions  
109.11 aggregated under this paragraph.

109.12 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes  
109.13 committed on or after that date.

109.14 Sec. 59. **REPEALER.**

109.15 Minnesota Statutes 2014, section 245E.07, subdivision 3, is repealed.

## 109.16 **ARTICLE 5**

### 109.17 **HEALTH CARE**

109.18 Section 1. Minnesota Statutes 2014, section 62J.495, subdivision 1, is amended to read:

109.19 Subdivision 1. **Implementation.** By January 1, 2015, all hospitals and health care  
109.20 providers must have in place an interoperable electronic health records system within their  
109.21 hospital system or clinical practice setting. The commissioner of health, in consultation  
109.22 with the e-Health Advisory Committee, shall develop a statewide plan to meet this goal,  
109.23 including uniform standards to be used for the interoperable system for sharing and  
109.24 synchronizing patient data across systems. The standards must be compatible with federal  
109.25 efforts. The uniform standards must be developed by January 1, 2009, and updated on an  
109.26 ongoing basis. The commissioner shall include an update on standards development as part  
109.27 of an annual report to the legislature. A health care provider in private practice with no more  
109.28 than six additional health care providers is exempt from the requirements of this section.

109.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

109.30 Sec. 2. Minnesota Statutes 2014, section 256B.0625, subdivision 31, is amended to read:

109.31 Subd. 31. **Medical supplies and equipment.** (a) Medical assistance covers medical  
109.32 supplies and equipment. Separate payment outside of the facility's payment rate shall

110.1 be made for wheelchairs and wheelchair accessories for recipients who are residents  
110.2 of intermediate care facilities for the developmentally disabled. Reimbursement for  
110.3 wheelchairs and wheelchair accessories for ICF/DD recipients shall be subject to the same  
110.4 conditions and limitations as coverage for recipients who do not reside in institutions. A  
110.5 wheelchair purchased outside of the facility's payment rate is the property of the recipient.  
110.6 The commissioner may set reimbursement rates for specified categories of medical  
110.7 supplies at levels below the Medicare payment rate.

110.8 (b) Vendors of durable medical equipment, prosthetics, orthotics, or medical supplies  
110.9 must enroll as a Medicare provider.

110.10 (c) When necessary to ensure access to durable medical equipment, prosthetics,  
110.11 orthotics, or medical supplies, the commissioner may exempt a vendor from the Medicare  
110.12 enrollment requirement if:

110.13 (1) the vendor supplies only one type of durable medical equipment, prosthetic,  
110.14 orthotic, or medical supply;

110.15 (2) the vendor serves ten or fewer medical assistance recipients per year;

110.16 (3) the commissioner finds that other vendors are not available to provide same or  
110.17 similar durable medical equipment, prosthetics, orthotics, or medical supplies; and

110.18 (4) the vendor complies with all screening requirements in this chapter and Code of  
110.19 Federal Regulations, title 42, part 455. The commissioner may also exempt a vendor from  
110.20 the Medicare enrollment requirement if the vendor is accredited by a Centers for Medicare  
110.21 and Medicaid Services approved national accreditation organization as complying with  
110.22 the Medicare program's supplier and quality standards and the vendor serves primarily  
110.23 pediatric patients.

110.24 (d) Durable medical equipment means a device or equipment that:

110.25 (1) can withstand repeated use;

110.26 (2) is generally not useful in the absence of an illness, injury, or disability; and

110.27 (3) is provided to correct or accommodate a physiological disorder or physical  
110.28 condition or is generally used primarily for a medical purpose.

110.29 (e) Electronic tablets may be considered durable medical equipment if the electronic  
110.30 tablet will be used as an augmentative and alternative communication system as defined  
110.31 under subdivision 31a, paragraph (a). To be covered by medical assistance, the device  
110.32 must be locked in order to prevent use not related to communication.

110.33 (f) Notwithstanding the requirement in paragraph (e) that an electronic tablet must  
110.34 be locked to prevent use not as an augmentative communication device, a recipient of  
110.35 waiver services may use an electronic tablet for a use not related to communication when  
110.36 the recipient has been authorized under the waiver to receive one or more additional

111.1 applications that can be loaded onto the electronic tablet, such that allowing the additional  
111.2 use prevents the purchase of a separate electronic tablet with waiver funds.

111.3 **Sec. 3. OBSOLETE RULES REGARDING PRIOR AUTHORIZATIONS FOR**  
111.4 **MEDICAL SUPPLIES AND EQUIPMENT.**

111.5 (a) The commissioner of human services shall amend Minnesota Rules, part  
111.6 9505.0310, subpart 3, to remove the following medical supplies and equipment from the  
111.7 list for which prior authorization is required as a condition of medical assistance payment:  
111.8 a nondurable medical supply that costs more than the performance agreement limit;  
111.9 and durable medical equipment, prostheses, and orthoses if the cost of their purchase,  
111.10 projected cumulative rental for the period of the recipient's expected use, or repairs  
111.11 exceeds the performance agreement limit.

111.12 (b) The commissioner of human services shall amend Minnesota Rules, part  
111.13 9505.0365, subpart 3, to remove the requirement that prior authorization for an ambulatory  
111.14 aid is required for an aid that costs in excess of the limits specified in the provider's  
111.15 performance agreement.

111.16 (c) The commissioner may use the good cause exemption in Minnesota Statutes,  
111.17 section 14.388, subdivision 1, clause (3), to adopt rules under this section. Minnesota  
111.18 Statutes, section 14.386, does not apply except as provided in Minnesota Statutes, section  
111.19 14.388.

111.20 **Sec. 4. REPEALER.**

111.21 Minnesota Rules, parts 9505.0175, subpart 32; 9505.0365, subpart 2; 9505.1696,  
111.22 subpart 10; and 9505.1709, are repealed.

111.23 **ARTICLE 6**

111.24 **CONTINUING CARE**

111.25 Section 1. Minnesota Statutes 2014, section 144.0724, subdivision 12, is amended to  
111.26 read:

111.27 Subd. 12. **Appeal of nursing facility level of care determination.** (a) A resident or  
111.28 prospective resident whose level of care determination results in a denial of long-term care  
111.29 services can appeal the determination as outlined in section 256B.0911, subdivision 3a,  
111.30 paragraph (h), clause (9).

111.31 (b) The commissioner of human services shall ensure that notice of changes in  
111.32 eligibility due to a nursing facility level of care determination is provided to each affected

112.1 recipient or the recipient's guardian at least 30 days before the effective date of the change.

112.2 The notice shall include the following information:

112.3 (1) how to obtain further information on the changes;

112.4 (2) how to receive assistance in obtaining other services;

112.5 (3) a list of community resources; and

112.6 (4) appeal rights.

112.7 A recipient who meets the criteria in section 256B.0922, subdivision 2, paragraph (a),  
 112.8 clauses (1) and (2), may request continued services pending appeal within the time period  
 112.9 allowed to request an appeal under section 256.045, subdivision 3, paragraph ~~(h)~~ (i). This  
 112.10 paragraph is in effect for appeals filed between January 1, 2015, and December 31, 2016.

112.11 Sec. 2. Minnesota Statutes 2014, section 148E.065, subdivision 4a, is amended to read:

112.12 Subd. 4a. **City, county, and state social workers.** ~~(a)~~ Beginning July 1, 2016, the  
 112.13 licensure of city, county, and state agency social workers is voluntary, except an individual  
 112.14 who is newly employed by a city or state agency after July 1, 2016, must be licensed  
 112.15 if the individual who provides social work services, as those services are defined in  
 112.16 section 148E.010, subdivision 11, paragraph (b), is presented to the public by any title  
 112.17 incorporating the words "social work" or "social worker."

112.18 ~~(b) City, county, and state agencies employing social workers and staff who are~~  
 112.19 ~~designated to perform mandated duties under sections 256.01, subdivision 24, and~~  
 112.20 ~~256.975, subdivisions 7 to 7e, are not required to employ licensed social workers.~~

112.21 Sec. 3. Minnesota Statutes 2014, section 245D.10, subdivision 3, is amended to read:

112.22 Subd. 3. **Service suspension and service termination.** (a) The license holder  
 112.23 must establish policies and procedures for temporary service suspension ~~and service~~  
 112.24 ~~termination~~ that promote continuity of care and service coordination with the person and  
 112.25 the case manager and with other licensed caregivers, if any, who also provide support to  
 112.26 the person. The policy must include the requirements specified in paragraphs (b) to (f).

112.27 (b) The license holder must limit temporary service suspension to situations in which:

112.28 (1) the person's conduct poses an imminent risk of physical harm to self or others  
 112.29 and either positive support strategies have been implemented to resolve the issues leading  
 112.30 to the temporary service suspension but have not been effective and additional positive  
 112.31 support strategies would not achieve and maintain safety, or less restrictive measures  
 112.32 would not resolve the issues leading to the suspension;

112.33 (2) the person has emergent medical issues that exceed the license holder's ability to  
 112.34 meet the person's needs; or



113.1 (3) the program has not been paid for services.

113.2 (c) Prior to giving notice of temporary service suspension, the license holder must  
 113.3 document actions taken to minimize or eliminate the need for service suspension. Action  
 113.4 taken by the license holder must include, at a minimum:

113.5 (1) consultation with the person's support team or expanded support team to identify  
 113.6 and resolve issues leading to issuance of the notice; and

113.7 (2) a request to the case manager for intervention services identified in section  
 113.8 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or  
 113.9 intervention services to support the person in the program. This requirement does not  
 113.10 apply to temporary suspensions issued under paragraph (b), clause (3).

113.11 If, based on the best interests of the person, the circumstances at the time of the notice  
 113.12 were such that the license holder was unable to take the action specified in clauses (1)  
 113.13 and (2), the license holder must document the specific circumstances and the reason  
 113.14 for being unable to do so.

113.15 ~~(b)~~ (d) The policy notice of temporary service suspension must include meet the  
 113.16 following requirements:

113.17 (1) the license holder must notify the person or the person's legal representative and  
 113.18 case manager in writing of the intended ~~termination or~~ temporary service suspension;  
 113.19 ~~and the person's right to seek a temporary order staying the termination of service~~  
 113.20 ~~according to the procedures in section 256.045, subdivision 4a, or 6, paragraph (c). If~~  
 113.21 ~~the temporary service suspension is from residential supports and services as defined in~~  
 113.22 ~~section 245D.03, subdivision 1, paragraph (c), clause (3), the license holder must also~~  
 113.23 ~~notify the commissioner in writing;~~

113.24 (2) ~~notice of the proposed termination of services, including those situations that~~  
 113.25 ~~began with a temporary service suspension, must be given at least 60 days before the~~  
 113.26 ~~proposed termination is to become effective when a license holder is providing intensive~~  
 113.27 ~~supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30~~  
 113.28 ~~days prior to termination for all other services licensed under this chapter. This notice may~~  
 113.29 ~~be given in conjunction with a notice of temporary service suspension;~~

113.30 ~~(3) notice of temporary service suspension must be given on the first day of the~~  
 113.31 ~~service suspension; and~~

113.32 (3) the notice must include the reason for the action, a summary of actions taken to  
 113.33 minimize or eliminate the need for temporary service suspension as required under this  
 113.34 paragraph, and why these measures failed to prevent the suspension.

113.35 (e) During the temporary suspension period, the license holder must:

114.1 ~~(4) the license holder must~~ (1) provide information requested by the person or case  
 114.2 ~~manager when services are temporarily suspended or upon notice of termination;~~

114.3 ~~(5) prior to giving notice of service termination or temporary service suspension,~~  
 114.4 ~~the license holder must document actions taken to minimize or eliminate the need for~~  
 114.5 ~~service suspension or termination;~~

114.6 ~~(6) during the temporary service suspension or service termination notice period,~~  
 114.7 ~~the license holder must~~ (2) work with the support team or expanded support team to  
 114.8 develop reasonable alternatives to protect the person and others and to support continuity  
 114.9 of care; and

114.10 ~~(7) the license holder must~~ (3) maintain information about the service suspension or  
 114.11 termination, including the written termination notice of temporary service suspension, in  
 114.12 the service recipient record; and

114.13 ~~(8) the license holder must restrict temporary service suspension to situations in~~  
 114.14 ~~which the person's conduct poses an imminent risk of physical harm to self or others and~~  
 114.15 ~~less restrictive or positive support strategies would not achieve and maintain safety.~~

114.16 (f) If, based on a review by the person's support team or expanded support team,  
 114.17 that team determines the person no longer poses an imminent risk of physical harm to  
 114.18 self or others, the person has a right to return to receiving services. If, at the time of the  
 114.19 service suspension or at any time during the suspension, the person is receiving treatment  
 114.20 related to the conduct that resulted in the service suspension, the support team or expanded  
 114.21 support team must consider the recommendation of the licensed health professional,  
 114.22 mental health professional, or other licensed professional involved in the person's care  
 114.23 or treatment when determining whether the person no longer poses an imminent risk of  
 114.24 physical harm to self or others and can return to the program. If the support team or  
 114.25 expanded support team makes a determination that is contrary to the recommendation of a  
 114.26 licensed professional treating the person, the license holder must document the specific  
 114.27 reasons why a contrary decision was made.

114.28 Sec. 4. Minnesota Statutes 2014, section 245D.10, is amended by adding a subdivision  
 114.29 to read:

114.30 Subd. 3a. **Service termination.** (a) The license holder must establish policies  
 114.31 and procedures for service termination that promote continuity of care and service  
 114.32 coordination with the person and the case manager and with other licensed caregivers, if  
 114.33 any, who also provide support to the person. The policy must include the requirements  
 114.34 specified in paragraphs (b) to (f).

115.1 (b) The license holder must permit each person to remain in the program and must  
115.2 not terminate services unless:

115.3 (1) the termination is necessary for the person's welfare and the person's needs  
115.4 cannot be met in the facility;

115.5 (2) the safety of the person or others in the program is endangered and positive  
115.6 support strategies were attempted and have not achieved and effectively maintained safety  
115.7 for the person or others;

115.8 (3) the health of the person or others in the program would otherwise be endangered;

115.9 (4) the program has not been paid for services;

115.10 (5) the program ceases to operate; or

115.11 (6) the person has been terminated by the lead agency from waiver eligibility.

115.12 (c) Prior to giving notice of service termination, the license holder must document  
115.13 actions taken to minimize or eliminate the need for termination. Action taken by the  
115.14 license holder must include, at a minimum:

115.15 (1) consultation with the person's support team or expanded support team to identify  
115.16 and resolve issues leading to issuance of the notice; and

115.17 (2) a request to the case manager for intervention services identified in section  
115.18 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or  
115.19 intervention services to support the person in the program. This requirement does not  
115.20 apply to notices of service termination issued under paragraph (b), clause (4).

115.21 If, based on the best interests of the person, the circumstances at the time of the notice  
115.22 were such that the license holder was unable to take the action specified in clauses (1)  
115.23 and (2), the license holder must document the specific circumstances and the reason  
115.24 for being unable to do so.

115.25 (d) The notice of service termination must meet the following requirements:

115.26 (1) the license holder must notify the person or the person's legal representative and  
115.27 the case manager in writing of the intended service termination. If the service termination  
115.28 is from residential supports and services as defined in section 245D.03, subdivision 1,  
115.29 paragraph (c), clause (3), the license holder must also notify the commissioner in writing;  
115.30 and

115.31 (2) the notice must include:

115.32 (i) the reason for the action;

115.33 (ii) except for a service termination under paragraph (b), clause (5), a summary of  
115.34 actions taken to minimize or eliminate the need for service termination or temporary  
115.35 service suspension as required under paragraph (c), and why these measures failed to  
115.36 prevent the termination or suspension;

116.1 (iii) the person's right to appeal the termination of services under section 256.045,  
116.2 subdivision 3, paragraph (a); and

116.3 (iv) the person's right to seek a temporary order staying the termination of services  
116.4 according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

116.5 (e) Notice of the proposed termination of service, including those situations that  
116.6 began with a temporary service suspension, must be given at least 60 days prior to  
116.7 termination when a license holder is providing intensive supports and services identified  
116.8 in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all  
116.9 other services licensed under this chapter. This notice may be given in conjunction with a  
116.10 notice of temporary service suspension under subdivision 3.

116.11 (f) During the service termination notice period, the license holder must:

116.12 (1) work with the support team or expanded support team to develop reasonable  
116.13 alternatives to protect the person and others and to support continuity of care;

116.14 (2) provide information requested by the person or case manager; and

116.15 (3) maintain information about the service termination, including the written notice  
116.16 of intended service termination, in the service recipient record.

116.17 Sec. 5. Minnesota Statutes 2014, section 256.01, subdivision 4, is amended to read:

116.18 Subd. 4. **Duties as state agency.** (a) The state agency shall:

116.19 (1) supervise the administration of assistance to dependent children under Laws  
116.20 1937, chapter 438, by the county agencies in an integrated program with other service for  
116.21 dependent children maintained under the direction of the state agency;

116.22 (2) establish adequate standards for personnel employed by the counties and the  
116.23 state agency in the administration of Laws 1937, chapter 438, and make the necessary  
116.24 rules to maintain such standards;

116.25 (3) prescribe the form of and print and supply to the county agencies blanks for  
116.26 applications, reports, affidavits, and such other forms as it may deem necessary and  
116.27 advisable;

116.28 (4) cooperate with the federal government and its public welfare agencies in  
116.29 any reasonable manner as may be necessary to qualify for federal aid for temporary  
116.30 assistance for needy families and in conformity with title I of Public Law 104-193, the  
116.31 Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and successor  
116.32 amendments, including the making of such reports and such forms and containing such  
116.33 information as the Federal Social Security Board may from time to time require, and  
116.34 comply with such provisions as such board may from time to time find necessary to assure  
116.35 the correctness and verification of such reports;

117.1 (5) on or before October 1 in each even-numbered year make a biennial report to the  
117.2 governor concerning the activities of the agency;

117.3 (6) enter into agreements with other departments of the state as necessary to meet all  
117.4 requirements of the federal government; ~~and~~

117.5 (7) cooperate with the commissioner of education to enforce the requirements for  
117.6 program integrity and fraud prevention for investigation for child care assistance under  
117.7 chapter 119B; and

117.8 (8) require that the county or tribal case manager for any person who is notified that  
117.9 their services will be terminated under section 245D.10, subdivision 3a, from residential  
117.10 supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause  
117.11 (3), develops an action plan within five business days of being notified of the termination;  
117.12 proceeds to promptly work with the support team to resolve the issues which led to the  
117.13 termination; and if resolution appears unlikely, assist, if necessary, to locate or arrange for  
117.14 alternative services as expeditiously as possible within the 60-day notice period.

117.15 (b) The state agency may:

117.16 (1) subpoena witnesses and administer oaths, make rules, and take such action as  
117.17 may be necessary or desirable for carrying out the provisions of Laws 1937, chapter 438.  
117.18 All rules made by the state agency shall be binding on the counties and shall be complied  
117.19 with by the respective county agencies;

117.20 (2) cooperate with other state agencies in establishing reciprocal agreements in  
117.21 instances where a child receiving Minnesota family investment program assistance moves  
117.22 or contemplates moving into or out of the state, in order that the child may continue  
117.23 to receive supervised aid from the state moved from until the child has resided for one  
117.24 year in the state moved to; and

117.25 (3) administer oaths and affirmations, take depositions, certify to official acts, and  
117.26 issue subpoenas to compel the attendance of individuals and the production of documents  
117.27 and other personal property necessary in connection with the administration of programs  
117.28 administered by the Department of Human Services.

117.29 (c) The fees for service of a subpoena in paragraph (b), clause (3), must be paid in  
117.30 the same manner as prescribed by law for a service of process issued by a district court.  
117.31 Witnesses must receive the same fees and mileage as in civil actions.

117.32 (d) The subpoena in paragraph (b), clause (3), shall be enforceable through the  
117.33 district court in the district where the subpoena is issued.

117.34 Sec. 6. Minnesota Statutes 2014, section 256.045, subdivision 3, is amended to read:

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

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

118.8 (2) any patient or relative aggrieved by an order of the commissioner under section  
118.9 252.27;

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

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

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

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

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

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

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

118.26 (10) except as provided under chapter 245C, an individual disqualified under sections  
118.27 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,  
118.28 on the basis of serious or recurring maltreatment; a preponderance of the evidence that  
118.29 the individual has committed an act or acts that meet the definition of any of the crimes  
118.30 listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required  
118.31 under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a  
118.32 maltreatment determination under clause (4) or (9) and a disqualification under this clause  
118.33 in which the basis for a disqualification is serious or recurring maltreatment, shall be  
118.34 consolidated into a single fair hearing. In such cases, the scope of review by the human  
118.35 services judge shall include both the maltreatment determination and the disqualification.  
118.36 The failure to exercise the right to an administrative reconsideration shall not be a bar to a

119.1 hearing under this section if federal law provides an individual the right to a hearing to  
119.2 dispute a finding of maltreatment; ~~or~~

119.3 (11) any person with an outstanding debt resulting from receipt of public assistance,  
119.4 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the  
119.5 Department of Human Services or a county agency. The scope of the appeal is the  
119.6 validity of the claimant agency's intention to request a setoff of a refund under chapter  
119.7 270A against the debt;<sub>2</sub>

119.8 (12) a person issued a notice of service termination under section 245D.10,  
119.9 subdivision 3a, from residential supports and services as defined in section 245D.03,  
119.10 subdivision 1, paragraph (c), clause (3), that is not otherwise subject to appeal under  
119.11 subdivision 4a; or

119.12 (13) an individual disability waiver recipient based on a denial of a request for a  
119.13 rate exception under section 256B.4914.

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

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

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

120.1 (e) The scope of hearings under paragraph (a), clause (12), shall be limited to whether  
120.2 the proposed termination of services is authorized under section 245D.10, subdivision 3a,  
120.3 paragraph (b), and whether the requirements of section 245D.10, subdivision 3a, paragraph  
120.4 (c), were met. If the appeal includes a request for a temporary stay of termination of  
120.5 services, the scope of the hearing shall also include whether the case management provider  
120.6 has finalized arrangements for a residential facility, a program, or services that will meet  
120.7 the assessed needs of the recipient by the effective date of the service termination.

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

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

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

120.18 ~~(h)~~ (i) Unless federal or Minnesota law specifies a different time frame in which to file  
120.19 an appeal, an individual or organization specified in this section may contest the specified  
120.20 action, decision, or final disposition before the state agency by submitting a written request  
120.21 for a hearing to the state agency within 30 days after receiving written notice of the action,  
120.22 decision, or final disposition, or within 90 days of such written notice if the applicant,  
120.23 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision  
120.24 13, why the request was not submitted within the 30-day time limit. The individual filing  
120.25 the appeal has the burden of proving good cause by a preponderance of the evidence.

120.26 Sec. 7. Minnesota Statutes 2014, section 256.045, subdivision 6, is amended to read:

120.27 Subd. 6. **Additional powers of commissioner; subpoenas.** (a) The commissioner  
120.28 of human services, or the commissioner of health for matters within the commissioner's  
120.29 jurisdiction under subdivision 3b, may initiate a review of any action or decision of a  
120.30 county agency and direct that the matter be presented to a state human services judge  
120.31 for a hearing held under subdivision 3, 3a, 3b, or 4a. In all matters dealing with human  
120.32 services committed by law to the discretion of the county agency, the commissioner's  
120.33 judgment may be substituted for that of the county agency. The commissioner may order  
120.34 an independent examination when appropriate.



121.1 (b) Any party to a hearing held pursuant to subdivision 3, 3a, 3b, or 4a may request  
 121.2 that the commissioner issue a subpoena to compel the attendance of witnesses and the  
 121.3 production of records at the hearing. A local agency may request that the commissioner  
 121.4 issue a subpoena to compel the release of information from third parties prior to a request  
 121.5 for a hearing under section 256.046 upon a showing of relevance to such a proceeding.  
 121.6 The issuance, service, and enforcement of subpoenas under this subdivision is governed  
 121.7 by section 357.22 and the Minnesota Rules of Civil Procedure.

121.8 (c) The commissioner may issue a temporary order staying a proposed demission by  
 121.9 a residential facility licensed under chapter 245A:

121.10 (1) while an appeal by a recipient under subdivision 3 is pending or for the period of  
 121.11 time necessary for the county agency to implement the commissioner's order;

121.12 (2) for the period of time necessary for the case management provider to implement  
 121.13 the commissioner's order; or

121.14 (3) for appeals under subdivision 3, paragraph (a), clause (12), when the individual  
 121.15 is seeking a temporary stay of demission on the basis that the county has not yet finalized  
 121.16 an alternative arrangement for a residential facility, a program, or services that will meet  
 121.17 the assessed needs of the individual by the effective date of the service termination, a  
 121.18 temporary stay of demission may be issued for no more than 30 calendar days to allow for  
 121.19 such arrangements to be finalized.

121.20 Sec. 8. Minnesota Statutes 2014, section 256.975, subdivision 7, is amended to read:

121.21 Subd. 7. **Consumer information and assistance and long-term care options**  
 121.22 **counseling; Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a  
 121.23 statewide service to aid older Minnesotans and their families in making informed choices  
 121.24 about long-term care options and health care benefits. Language services to persons  
 121.25 with limited English language skills may be made available. The service, known as  
 121.26 Senior LinkAge Line, shall serve older adults as the designated Aging and Disability  
 121.27 Resource Center under United States Code, title 42, section 3001, the Older Americans  
 121.28 Act Amendments of 2006 in partnership with the Disability Linkage Line under section  
 121.29 256.01, subdivision 24, and must be available during business hours through a statewide  
 121.30 toll-free number and the Internet. The Minnesota Board on Aging shall consult with,  
 121.31 and when appropriate work through, the area agencies on aging counties, and other  
 121.32 entities that serve aging and disabled populations of all ages, to provide and maintain  
 121.33 the telephone infrastructure and related support for the Aging and Disability Resource  
 121.34 Center partners which agree by memorandum to access the infrastructure, including the  
 121.35 designated providers of the Senior LinkAge Line and the Disability Linkage Line.

122.1 (b) The service must provide long-term care options counseling by assisting older  
122.2 adults, caregivers, and providers in accessing information and options counseling about  
122.3 choices in long-term care services that are purchased through private providers or available  
122.4 through public options. The service must:

122.5 (1) develop and provide for regular updating of a comprehensive database that  
122.6 includes detailed listings in both consumer- and provider-oriented formats that can provide  
122.7 search results down to the neighborhood level;

122.8 (2) make the database accessible on the Internet and through other telecommunication  
122.9 and media-related tools;

122.10 (3) link callers to interactive long-term care screening tools and make these tools  
122.11 available through the Internet by integrating the tools with the database;

122.12 (4) develop community education materials with a focus on planning for long-term  
122.13 care and evaluating independent living, housing, and service options;

122.14 (5) conduct an outreach campaign to assist older adults and their caregivers in  
122.15 finding information on the Internet and through other means of communication;

122.16 (6) implement a messaging system for overflow callers and respond to these callers  
122.17 by the next business day;

122.18 (7) link callers with county human services and other providers to receive more  
122.19 in-depth assistance and consultation related to long-term care options;

122.20 (8) link callers with quality profiles for nursing facilities and other home and  
122.21 community-based services providers developed by the commissioners of health and  
122.22 human services;

122.23 (9) develop an outreach plan to seniors and their caregivers with a particular focus  
122.24 on establishing a clear presence in places that seniors recognize and:

122.25 (i) place a significant emphasis on improved outreach and service to seniors and  
122.26 their caregivers by establishing annual plans by neighborhood, city, and county, as  
122.27 necessary, to address the unique needs of geographic areas in the state where there are  
122.28 dense populations of seniors;

122.29 (ii) establish an efficient workforce management approach and assign community  
122.30 living specialist staff and volunteers to geographic areas as well as aging and disability  
122.31 resource center sites so that seniors and their caregivers and professionals recognize the  
122.32 Senior LinkAge Line as the place to call for aging services and information;

122.33 (iii) recognize the size and complexity of the metropolitan area service system by  
122.34 working with metropolitan counties to establish a clear partnership with them, including  
122.35 seeking county advice on the establishment of local aging and disabilities resource center  
122.36 sites; and

123.1 (iv) maintain dashboards with metrics that demonstrate how the service is expanding  
123.2 and extending or enhancing its outreach efforts in dispersed or hard to reach locations in  
123.3 varied population centers;

123.4 (10) incorporate information about the availability of housing options, as well as  
123.5 registered housing with services and consumer rights within the MinnesotaHelp.info  
123.6 network long-term care database to facilitate consumer comparison of services and costs  
123.7 among housing with services establishments and with other in-home services and to  
123.8 support financial self-sufficiency as long as possible. Housing with services establishments  
123.9 and their arranged home care providers shall provide information that will facilitate price  
123.10 comparisons, including delineation of charges for rent and for services available. The  
123.11 commissioners of health and human services shall align the data elements required by  
123.12 section 144G.06, the Uniform Consumer Information Guide, and this section to provide  
123.13 consumers standardized information and ease of comparison of long-term care options.  
123.14 The commissioner of human services shall provide the data to the Minnesota Board on  
123.15 Aging for inclusion in the MinnesotaHelp.info network long-term care database;

123.16 (11) provide long-term care options counseling. Long-term care options counselors  
123.17 shall:

123.18 (i) for individuals not eligible for case management under a public program or public  
123.19 funding source, provide interactive decision support under which consumers, family  
123.20 members, or other helpers are supported in their deliberations to determine appropriate  
123.21 long-term care choices in the context of the consumer's needs, preferences, values, and  
123.22 individual circumstances, including implementing a community support plan;

123.23 (ii) provide Web-based educational information and collateral written materials to  
123.24 familiarize consumers, family members, or other helpers with the long-term care basics,  
123.25 issues to be considered, and the range of options available in the community;

123.26 (iii) provide long-term care futures planning, which means providing assistance to  
123.27 individuals who anticipate having long-term care needs to develop a plan for the more  
123.28 distant future; and

123.29 (iv) provide expertise in benefits and financing options for long-term care, including  
123.30 Medicare, long-term care insurance, tax or employer-based incentives, reverse mortgages,  
123.31 private pay options, and ways to access low or no-cost services or benefits through  
123.32 volunteer-based or charitable programs;

123.33 (12) using risk management and support planning protocols, provide long-term  
123.34 care options counseling to current residents of nursing homes deemed appropriate for  
123.35 discharge by the commissioner, former residents of nursing homes who were discharged  
123.36 to community settings, and older adults who request service after consultation with the

124.1 Senior LinkAge Line under clause (13). The Senior LinkAge Line shall also receive  
 124.2 referrals from the residents or staff of nursing homes. The Senior LinkAge Line shall  
 124.3 identify and contact residents deemed appropriate for discharge by developing targeting  
 124.4 criteria in consultation with the commissioner who shall provide designated Senior  
 124.5 LinkAge Line contact centers with a list of nursing home residents that meet the criteria  
 124.6 as being appropriate for discharge planning via a secure Web portal. Senior LinkAge  
 124.7 Line shall provide these residents, if they indicate a preference to receive long-term care  
 124.8 options counseling, with initial assessment and, if appropriate, a referral to:

124.9 (i) long-term care consultation services under section 256B.0911;

124.10 (ii) designated care coordinators of contracted entities under section 256B.035 for  
 124.11 persons who are enrolled in a managed care plan; or

124.12 (iii) the long-term care consultation team for those who are eligible for relocation  
 124.13 service coordination due to high-risk factors or psychological or physical disability; and

124.14 (13) develop referral protocols and processes that will assist certified health care  
 124.15 homes and hospitals to identify at-risk older adults and determine when to refer these  
 124.16 individuals to the Senior LinkAge Line for long-term care options counseling under this  
 124.17 section. The commissioner is directed to work with the commissioner of health to develop  
 124.18 protocols that would comply with the health care home designation criteria and protocols  
 124.19 available at the time of hospital discharge. The commissioner shall keep a record of the  
 124.20 number of people who choose long-term care options counseling as a result of this section.

124.21 (c) Nursing homes shall provide contact information to the Senior LinkAge Line  
 124.22 for residents identified in paragraph (b), clause (12), to provide long-term care options  
 124.23 counseling pursuant to paragraph (b), clause (11). The contact information for residents  
 124.24 shall include all information reasonably necessary to contact residents, including first and  
 124.25 last names, permanent and temporary addresses, telephone numbers, and e-mail addresses.

124.26 Sec. 9. Minnesota Statutes 2014, section 256B.0911, subdivision 1a, is amended to read:

124.27 Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

124.28 (a) Until additional requirements apply under paragraph (b), "long-term care  
 124.29 consultation services" means:

124.30 (1) intake for and access to assistance in identifying services needed to maintain an  
 124.31 individual in the most inclusive environment;

124.32 (2) providing recommendations for and referrals to cost-effective community  
 124.33 services that are available to the individual;

124.34 (3) development of an individual's person-centered community support plan;

124.35 (4) providing information regarding eligibility for Minnesota health care programs;

125.1 (5) face-to-face long-term care consultation assessments, which may be completed  
125.2 in a hospital, nursing facility, intermediate care facility for persons with developmental  
125.3 disabilities (ICF/DDs), regional treatment centers, or the person's current or planned  
125.4 residence;

125.5 (6) determination of home and community-based waiver and other service eligibility  
125.6 as required under sections 256B.0913, 256B.0915, and 256B.49, including level of  
125.7 care determination for individuals who need an institutional level of care as determined  
125.8 under subdivision 4e, based on assessment and community support plan development,  
125.9 appropriate referrals to obtain necessary diagnostic information, and including an  
125.10 eligibility determination for consumer-directed community supports;

125.11 (7) providing recommendations for institutional placement when there are no  
125.12 cost-effective community services available;

125.13 (8) providing access to assistance to transition people back to community settings  
125.14 after institutional admission; and

125.15 (9) providing information about competitive employment, with or without supports,  
125.16 for school-age youth and working-age adults and referrals to the Disability Linkage  
125.17 Line and Disability Benefits 101 to ensure that an informed choice about competitive  
125.18 employment can be made. For the purposes of this subdivision, "competitive employment"  
125.19 means work in the competitive labor market that is performed on a full-time or part-time  
125.20 basis in an integrated setting, and for which an individual is compensated at or above the  
125.21 minimum wage, but not less than the customary wage and level of benefits paid by the  
125.22 employer for the same or similar work performed by individuals without disabilities.

125.23 (b) Upon statewide implementation of lead agency requirements in subdivisions 2b,  
125.24 2c, and 3a, "long-term care consultation services" also means:

125.25 (1) service eligibility determination for state plan home care services identified in:

125.26 (i) section 256B.0625, subdivisions 7, 19a, and 19c; ~~or~~

125.27 (ii) consumer support grants under section 256.476; or

125.28 (iii) section 256B.85;

125.29 (2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024,  
125.30 determination of eligibility for case management services available under sections  
125.31 256B.0621, subdivision 2, paragraph (4), and 256B.0924 and Minnesota Rules, part  
125.32 9525.0016;

125.33 (3) determination of institutional level of care, home and community-based service  
125.34 waiver, and other service eligibility as required under section 256B.092, determination  
125.35 of eligibility for family support grants under section 252.32, semi-independent living

126.1 services under section 252.275, and day training and habilitation services under section  
126.2 256B.092; and

126.3 (4) obtaining necessary diagnostic information to determine eligibility under clauses  
126.4 (2) and (3).

126.5 (c) "Long-term care options counseling" means the services provided by the linkage  
126.6 lines as mandated by sections 256.01, subdivision 24, and 256.975, subdivision 7, and  
126.7 also includes telephone assistance and follow up once a long-term care consultation  
126.8 assessment has been completed.

126.9 (d) "Minnesota health care programs" means the medical assistance program under  
126.10 chapter 256B and the alternative care program under section 256B.0913.

126.11 (e) "Lead agencies" means counties administering or tribes and health plans under  
126.12 contract with the commissioner to administer long-term care consultation assessment and  
126.13 support planning services.

126.14 Sec. 10. Minnesota Statutes 2014, section 256B.0911, subdivision 2b, is amended to  
126.15 read:

126.16 Subd. 2b. **MnCHOICES certified assessors.** (a) Each lead agency shall use  
126.17 certified assessors who have completed MnCHOICES training and the certification  
126.18 processes determined by the commissioner in subdivision 2c. Certified assessors shall  
126.19 demonstrate best practices in assessment and support planning including person-centered  
126.20 planning principals and have a common set of skills that must ensure consistency  
126.21 and equitable access to services statewide. A lead agency may choose, according  
126.22 to departmental policies, to contract with a qualified, certified assessor to conduct  
126.23 assessments and reassessments on behalf of the lead agency.

126.24 (b) MnCHOICES certified assessors are persons with a minimum of a bachelor's  
126.25 degree in social work, nursing with a public health nursing certificate, or other closely  
126.26 related field with at least one year of home and community-based experience, or a  
126.27 registered nurse ~~without public health certification~~ with at least two years of home and  
126.28 community-based experience ~~that~~ who has received training and certification specific to  
126.29 assessment and consultation for long-term care services in the state.

126.30 Sec. 11. Minnesota Statutes 2014, section 256B.0911, subdivision 3, is amended to read:

126.31 Subd. 3. **Long-term care consultation team.** (a) A long-term care consultation  
126.32 team shall be established by the county board of commissioners. Two or more counties  
126.33 may collaborate to establish a joint local consultation team or teams.

127.1 ~~(b) Certified assessors must be part of a multidisciplinary long-term care consultation~~  
127.2 Each lead agency shall establish and maintain a team of professionals that includes public  
127.3 health nurses, social workers, and other professionals as defined in certified assessors  
127.4 qualified under subdivision 2b, paragraph (b). Each team member is responsible for  
127.5 providing consultation with other team members upon request. The team is responsible  
127.6 for providing long-term care consultation services to all persons located in the county who  
127.7 request the services, regardless of eligibility for Minnesota health care programs. The  
127.8 team of certified assessors must include, at a minimum:

127.9 (1) a social worker; and

127.10 (2) a public health nurse or registered nurse.

127.11 (c) The commissioner shall allow arrangements and make recommendations that  
127.12 encourage counties and tribes to collaborate to establish joint local long-term care  
127.13 consultation teams to ensure that long-term care consultations are done within the  
127.14 timelines and parameters of the service. This includes integrated service models as  
127.15 required in subdivision 1, paragraph (b).

127.16 (d) Tribes and health plans under contract with the commissioner must provide  
127.17 long-term care consultation services as specified in the contract.

127.18 (e) The lead agency must provide the commissioner with an administrative contact  
127.19 for communication purposes.

127.20 Sec. 12. Minnesota Statutes 2014, section 256B.0911, subdivision 3a, is amended to  
127.21 read:

127.22 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment,  
127.23 services planning, or other assistance intended to support community-based living,  
127.24 including persons who need assessment in order to determine waiver or alternative care  
127.25 program eligibility, must be visited by a long-term care consultation team within 20  
127.26 calendar days after the date on which an assessment was requested or recommended.  
127.27 Upon statewide implementation of subdivisions 2b, 2c, and 5, this requirement also  
127.28 applies to an assessment of a person requesting personal care assistance services and home  
127.29 care nursing. The commissioner shall provide at least a 90-day notice to lead agencies  
127.30 prior to the effective date of this requirement. Face-to-face assessments must be conducted  
127.31 according to paragraphs (b) to (i).

127.32 (b) ~~The lead agency may utilize a team of either the social worker or public health~~  
127.33 ~~nurse, or both.~~ Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall  
127.34 use certified assessors to conduct the assessment. ~~The consultation team members must~~  
127.35 ~~confer regarding the most appropriate care for each individual screened or assessed.~~ For

128.1 a person with complex health care needs, a public health or registered nurse from the  
128.2 team must be consulted.

128.3 (c) The MnCHOICES assessment provided by the commissioner to lead agencies  
128.4 must be used to complete a comprehensive and include a person-centered assessment of.  
128.5 The assessment must include the health, psychological, functional, environmental, and  
128.6 social needs of referred individuals and provide information the individual necessary to  
128.7 develop a community support plan that meets the consumers individual's needs, using an  
128.8 assessment form provided by the commissioner and preferences.

128.9 (d) The assessment must be conducted in a face-to-face interview with the person  
128.10 being assessed and the person's legal representative, and other individuals as requested by  
128.11 the person, who can provide information on the needs, strengths, and preferences of the  
128.12 person necessary to develop a community support plan that ensures the person's health and  
128.13 safety, but who is not a provider of service or has any financial interest in the provision  
128.14 of services. For persons who are to be assessed for elderly waiver customized living  
128.15 services under section 256B.0915, with the permission of the person being assessed or  
128.16 the person's designated or legal representative, the client's current or proposed provider  
128.17 of services may submit a copy of the provider's nursing assessment or written report  
128.18 outlining its recommendations regarding the client's care needs. The person conducting  
128.19 the assessment ~~will~~ must notify the provider of the date by which this information is to be  
128.20 submitted. This information shall be provided to the person conducting the assessment  
128.21 prior to the assessment. For a person who is to be assessed for waiver services under  
128.22 section 256B.092 or 256B.49, with the permission of the person being assessed or the  
128.23 person's designated legal representative, the person's current provider of services may  
128.24 submit a written report outlining recommendations regarding the person's care needs  
128.25 prepared by a direct service employee with at least 20 hours of service to that client. The  
128.26 person conducting the assessment or reassessment must notify the provider of the date  
128.27 by which this information is to be submitted. This information shall be provided to the  
128.28 person conducting the assessment and the person or the person's legal representative, and  
128.29 must be considered prior to the finalization of the assessment or reassessment.

128.30 (e) ~~If the person chooses to use community-based services,~~ The person or the person's  
128.31 legal representative must be provided with a written community support plan within 40  
128.32 calendar days of the assessment visit, regardless of whether the individual is eligible for  
128.33 Minnesota health care programs. The written community support plan must include:

128.34 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

128.35 (2) the individual's options and choices to meet identified needs, including all  
128.36 available options for case management services and providers;



129.1 (3) identification of health and safety risks and how those risks will be addressed,  
129.2 including personal risk management strategies;

129.3 (4) referral information; and

129.4 (5) informal caregiver supports, if applicable.

129.5 For a person determined eligible for state plan home care under subdivision 1a,  
129.6 paragraph (b), clause (1), the person or person's representative must also receive a copy of  
129.7 the home care service plan developed by the certified assessor.

129.8 (f) A person may request assistance in identifying community supports without  
129.9 participating in a complete assessment. Upon a request for assistance identifying  
129.10 community support, the person must be transferred or referred to long-term care options  
129.11 counseling services available under sections 256.975, subdivision 7, and 256.01,  
129.12 subdivision 24, for telephone assistance and follow up.

129.13 (g) The person has the right to make the final decision between institutional  
129.14 placement and community placement after the recommendations have been provided,  
129.15 except as provided in section 256.975, subdivision 7a, paragraph (d).

129.16 (h) The lead agency must give the person receiving assessment or support planning,  
129.17 or the person's legal representative, materials, and forms supplied by the commissioner  
129.18 containing the following information:

129.19 (1) written recommendations for community-based services and consumer-directed  
129.20 options;

129.21 (2) documentation that the most cost-effective alternatives available were offered to  
129.22 the individual. For purposes of this clause, "cost-effective" means community services and  
129.23 living arrangements that cost the same as or less than institutional care. For an individual  
129.24 found to meet eligibility criteria for home and community-based service programs under  
129.25 section 256B.0915 or 256B.49, "cost-effectiveness" has the meaning found in the federally  
129.26 approved waiver plan for each program;

129.27 (3) the need for and purpose of preadmission screening conducted by long-term care  
129.28 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects  
129.29 nursing facility placement. If the individual selects nursing facility placement, the lead  
129.30 agency shall forward information needed to complete the level of care determinations and  
129.31 screening for developmental disability and mental illness collected during the assessment  
129.32 to the long-term care options counselor using forms provided by the commissioner;

129.33 (4) the role of long-term care consultation assessment and support planning in  
129.34 eligibility determination for waiver and alternative care programs, and state plan home  
129.35 care, case management, and other services as defined in subdivision 1a, paragraphs (a),  
129.36 clause (6), and (b);

- 130.1 (5) information about Minnesota health care programs;
- 130.2 (6) the person's freedom to accept or reject the recommendations of the team;
- 130.3 (7) the person's right to confidentiality under the Minnesota Government Data
- 130.4 Practices Act, chapter 13;
- 130.5 (8) the certified assessor's decision regarding the person's need for institutional
- 130.6 level of care as determined under criteria established in subdivision 4e and the certified
- 130.7 assessor's decision regarding eligibility for all services and programs as defined in
- 130.8 subdivision 1a, paragraphs (a), clause (6), and (b); and
- 130.9 (9) the person's right to appeal the certified assessor's decision regarding eligibility
- 130.10 for all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7),
- 130.11 and (8), and (b), and incorporating the decision regarding the need for institutional level of
- 130.12 care or the lead agency's final decisions regarding public programs eligibility according to
- 130.13 section 256.045, subdivision 3.
- 130.14 (i) Face-to-face assessment completed as part of eligibility determination for
- 130.15 the alternative care, elderly waiver, community alternatives for disabled individuals,
- 130.16 community alternative care, and brain injury waiver programs under sections 256B.0913,
- 130.17 256B.0915, and 256B.49 is valid to establish service eligibility for no more than 60
- 130.18 calendar days after the date of assessment.
- 130.19 (j) The effective eligibility start date for programs in paragraph (i) can never be prior
- 130.20 to the date of assessment. If an assessment was completed more than 60 days before
- 130.21 the effective waiver or alternative care program eligibility start date, assessment and
- 130.22 support plan information must be updated and documented in the department's Medicaid
- 130.23 Management Information System (MMIS). Notwithstanding retroactive medical assistance
- 130.24 coverage of state plan services, the effective date of eligibility for programs included in
- 130.25 paragraph (i) cannot be prior to the date the most recent updated assessment is completed.

130.26 Sec. 13. Minnesota Statutes 2014, section 256B.0913, subdivision 4, is amended to read:

130.27 Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.**

130.28 (a) Funding for services under the alternative care program is available to persons who

130.29 meet the following criteria:

130.30 (1) the person is a citizen of the United States or a United States national;

130.31 ~~(1)~~ (2) the person has been determined by a community assessment under section

130.32 256B.0911 to be a person who would require the level of care provided in a nursing

130.33 facility, as determined under section 256B.0911, subdivision 4e, but for the provision of

130.34 services under the alternative care program;

130.35 ~~(2)~~ (3) the person is age 65 or older;

131.1 ~~(3)~~ (4) the person would be eligible for medical assistance within 135 days of  
131.2 admission to a nursing facility;

131.3 ~~(4)~~ (5) the person is not ineligible for the payment of long-term care services by the  
131.4 medical assistance program due to an asset transfer penalty under section 256B.0595 or  
131.5 equity interest in the home exceeding \$500,000 as stated in section 256B.056;

131.6 ~~(5)~~ (6) the person needs long-term care services that are not funded through other  
131.7 state or federal funding, or other health insurance or other third-party insurance such as  
131.8 long-term care insurance;

131.9 ~~(6)~~ (7) except for individuals described in clause ~~(7)~~ (8), the monthly cost of the  
131.10 alternative care services funded by the program for this person does not exceed 75 percent  
131.11 of the monthly limit described under section 256B.0915, subdivision 3a. This monthly  
131.12 limit does not prohibit the alternative care client from payment for additional services,  
131.13 but in no case may the cost of additional services purchased under this section exceed the  
131.14 difference between the client's monthly service limit defined under section 256B.0915,  
131.15 subdivision 3, and the alternative care program monthly service limit defined in this  
131.16 paragraph. If care-related supplies and equipment or environmental modifications and  
131.17 adaptations are or will be purchased for an alternative care services recipient, the costs  
131.18 may be prorated on a monthly basis for up to 12 consecutive months beginning with the  
131.19 month of purchase. If the monthly cost of a recipient's other alternative care services  
131.20 exceeds the monthly limit established in this paragraph, the annual cost of the alternative  
131.21 care services shall be determined. In this event, the annual cost of alternative care services  
131.22 shall not exceed 12 times the monthly limit described in this paragraph;

131.23 ~~(7)~~ (8) for individuals assigned a case mix classification A as described under  
131.24 section 256B.0915, subdivision 3a, paragraph (a), with (i) no dependencies in activities  
131.25 of daily living, or (ii) up to two dependencies in bathing, dressing, grooming, walking,  
131.26 and eating when the dependency score in eating is three or greater as determined by an  
131.27 assessment performed under section 256B.0911, the monthly cost of alternative care  
131.28 services funded by the program cannot exceed \$593 per month for all new participants  
131.29 enrolled in the program on or after July 1, 2011. This monthly limit shall be applied to  
131.30 all other participants who meet this criteria at reassessment. This monthly limit shall be  
131.31 increased annually as described in section 256B.0915, subdivision 3a, paragraph (a). This  
131.32 monthly limit does not prohibit the alternative care client from payment for additional  
131.33 services, but in no case may the cost of additional services purchased exceed the difference  
131.34 between the client's monthly service limit defined in this clause and the limit described in  
131.35 clause ~~(6)~~ (7) for case mix classification A; and

131.36 ~~(8)~~ (9) the person is making timely payments of the assessed monthly fee.

132.1 A person is ineligible if payment of the fee is over 60 days past due, unless the person  
132.2 agrees to:

132.3 (i) the appointment of a representative payee;

132.4 (ii) automatic payment from a financial account;

132.5 (iii) the establishment of greater family involvement in the financial management of  
132.6 payments; or

132.7 (iv) another method acceptable to the lead agency to ensure prompt fee payments.

132.8 The lead agency may extend the client's eligibility as necessary while making  
132.9 arrangements to facilitate payment of past-due amounts and future premium payments.

132.10 Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be  
132.11 reinstated for a period of 30 days.

132.12 (b) Alternative care funding under this subdivision is not available for a person who  
132.13 is a medical assistance recipient or who would be eligible for medical assistance without a  
132.14 spenddown or waiver obligation. A person whose initial application for medical assistance  
132.15 and the elderly waiver program is being processed may be served under the alternative care  
132.16 program for a period up to 60 days. If the individual is found to be eligible for medical  
132.17 assistance, medical assistance must be billed for services payable under the federally  
132.18 approved elderly waiver plan and delivered from the date the individual was found eligible  
132.19 for the federally approved elderly waiver plan. Notwithstanding this provision, alternative  
132.20 care funds may not be used to pay for any service the cost of which: (i) is payable by  
132.21 medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to  
132.22 pay a medical assistance income spenddown for a person who is eligible to participate in the  
132.23 federally approved elderly waiver program under the special income standard provision.

132.24 (c) Alternative care funding is not available for a person who resides in a licensed  
132.25 nursing home, certified boarding care home, hospital, or intermediate care facility, except  
132.26 for case management services which are provided in support of the discharge planning  
132.27 process for a nursing home resident or certified boarding care home resident to assist with  
132.28 a relocation process to a community-based setting.

132.29 (d) Alternative care funding is not available for a person whose income is greater  
132.30 than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal  
132.31 to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal  
132.32 year for which alternative care eligibility is determined, who would be eligible for the  
132.33 elderly waiver with a waiver obligation.

132.34 Sec. 14. Minnesota Statutes 2014, section 256B.0913, subdivision 5, is amended to read:

- 133.1 Subd. 5. **Services covered under alternative care.** Alternative care funding may  
 133.2 be used for payment of costs of:
- 133.3 (1) adult day care services and adult day services bath;
  - 133.4 (2) home health aide care;
  - 133.5 (3) homemaker services;
  - 133.6 (4) personal care;
  - 133.7 (5) case management and conversion case management;
  - 133.8 (6) respite care;
  - 133.9 (7) care-related specialized supplies and equipment;
  - 133.10 (8) meals delivered to the home home-delivered meals;
  - 133.11 (9) nonmedical transportation;
  - 133.12 (10) nursing services;
  - 133.13 (11) chore services;
  - 133.14 (12) companion services;
  - 133.15 (13) nutrition services;
  - 133.16 (14) training for direct informal caregivers family caregiver training and education;
  - 133.17 (15) coaching and counseling;
  - 133.18 ~~(15)~~ (16) telehome care to provide services in their own homes in conjunction with  
 133.19 in-home visits;
  - 133.20 ~~(16)~~ (17) consumer-directed community services supports under the alternative care  
 133.21 programs which are available statewide and limited to the average monthly expenditures  
 133.22 representative of all alternative care program participants for the same case mix resident  
 133.23 class assigned in the most recent fiscal year for which complete expenditure data is  
 133.24 available;
  - 133.25 ~~(17)~~ (18) environmental modifications accessibility and adaptations; and
  - 133.26 ~~(18)~~ (19) discretionary services, for which lead agencies may make payment from  
 133.27 their alternative care program allocation for services not otherwise defined in this section  
 133.28 or section 256B.0625, following approval by the commissioner.
  - 133.29 Total annual payments for discretionary services for all clients served by a lead  
 133.30 agency must not exceed 25 percent of that lead agency's annual alternative care program  
 133.31 base allocation, except that when alternative care services receive federal financial  
 133.32 participation under the 1115 waiver demonstration, funding shall be allocated in  
 133.33 accordance with subdivision 17.

133.34 Sec. 15. Minnesota Statutes 2014, section 256B.0913, subdivision 5a, is amended to  
 133.35 read:

134.1 Subd. 5a. **Services; service definitions; service standards.** (a) Unless specified in  
134.2 statute, the services, service definitions, and standards for alternative care services shall  
134.3 be the same as the services, service definitions, and standards specified in the federally  
134.4 approved elderly waiver plan, except alternative care does not cover transitional support  
134.5 services, assisted living services, adult foster care services, and residential care and  
134.6 benefits defined under section 256B.0625 that meet primary and acute health care needs.

134.7 (b) The lead agency must ensure that the funds are not used to supplant or  
134.8 supplement services available through other public assistance or services programs,  
134.9 including supplementation of client co-pays, deductibles, premiums, or other cost-sharing  
134.10 arrangements for health-related benefits and services or entitlement programs and services  
134.11 that are available to the person, but in which they have elected not to enroll. The  
134.12 lead agency must ensure that the benefit department recovery system in the Medicaid  
134.13 Management Information System (MMIS) has the necessary information on any other  
134.14 health insurance or third-party insurance policy to which the client may have access.  
134.15 Supplies and equipment may be purchased from a vendor not certified to participate in the  
134.16 Medicaid program if the cost for the item is less than that of a Medicaid vendor.

134.17 (c) Personal care services must meet the service standards defined in the federally  
134.18 approved elderly waiver plan, except that a lead agency may authorize services to be  
134.19 provided by a client's relative who meets the relative hardship waiver requirements or a  
134.20 relative who meets the criteria and is also the responsible party under an individual service  
134.21 plan that ensures the client's health and safety and supervision of the personal care services  
134.22 by a qualified professional as defined in section 256B.0625, subdivision 19c. Relative  
134.23 hardship is established by the lead agency when the client's care causes a relative caregiver  
134.24 to do any of the following: resign from a paying job, reduce work hours resulting in lost  
134.25 wages, obtain a leave of absence resulting in lost wages, incur substantial client-related  
134.26 expenses, provide services to address authorized, unstaffed direct care time, or meet  
134.27 special needs of the client unmet in the formal service plan.

134.28 (d) Alternative care covers sign language interpreter services and spoken language  
134.29 interpreter services for recipients eligible for alternative care when the services are  
134.30 necessary to help deaf and hard-of-hearing recipients or recipients with limited English  
134.31 proficiency obtain covered services. Coverage for face-to-face spoken language interpreter  
134.32 services shall be provided only if the spoken language interpreter used by the enrolled  
134.33 health care provider is listed in the registry or roster established under section 144.058.

134.34 Sec. 16. Minnesota Statutes 2014, section 256B.0913, subdivision 6, is amended to read:

135.1 Subd. 6. **Alternative care program administration.** (a) The alternative care  
135.2 program is administered by the county agency. This agency is the lead agency responsible  
135.3 for the local administration of the alternative care program as described in this section.  
135.4 However, it may contract with the public health nursing service to be the lead agency. The  
135.5 commissioner may contract with federally recognized Indian tribes with a reservation in  
135.6 Minnesota to serve as the lead agency responsible for the local administration of the  
135.7 alternative care program as described in the contract. When the commissioner determines  
135.8 that an overpayment has been made by the state, the commissioner shall recover the  
135.9 overpayment.

135.10 (b) Alternative care pilot projects operate according to this section and the provisions  
135.11 of Laws 1993, First Special Session chapter 1, article 5, section 133, under agreement  
135.12 with the commissioner. Each pilot project agreement period shall begin no later than the  
135.13 first payment cycle of the state fiscal year and continue through the last payment cycle of  
135.14 the state fiscal year.

135.15 Sec. 17. Minnesota Statutes 2014, section 256B.0913, subdivision 10, is amended to  
135.16 read:

135.17 Subd. 10. **Allocation formula.** (a) By July 15 of each year, the commissioner  
135.18 shall allocate to county agencies the state funds available for alternative care for persons  
135.19 eligible under subdivision 2, except that when alternative care services receive federal  
135.20 financial participation under the 1115 waiver demonstration, funding shall be allocated in  
135.21 accordance with subdivision 17.

135.22 (b) The adjusted base for each lead agency is the lead agency's current fiscal  
135.23 year base allocation plus any targeted funds approved during the current fiscal year.  
135.24 Calculations for paragraphs (c) and (d) are to be made as follows: for each lead agency,  
135.25 the determination of alternative care program expenditures shall be based on payments  
135.26 for services rendered from April 1 through March 31 in the base year, to the extent that  
135.27 claims have been submitted and paid by June 1 of that year, except that when alternative  
135.28 care services receive federal financial participation under the 1115 waiver demonstration,  
135.29 funding shall be allocated in accordance with subdivision 17.

135.30 (c) If the alternative care program expenditures as defined in paragraph (b) are 95  
135.31 percent or more of the lead agency's adjusted base allocation, the allocation for the next  
135.32 fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation  
135.33 is included in the state budget.

135.34 (d) If the alternative care program expenditures as defined in paragraph (b) are  
135.35 less than 95 percent of the lead agency's adjusted base allocation, the allocation for the

136.1 next fiscal year is the adjusted base allocation less the amount of unspent funds below  
136.2 the 95 percent level.

136.3 (e) If the annual legislative appropriation for the alternative care program is  
136.4 inadequate to fund the combined lead agency allocations for a biennium, the commissioner  
136.5 shall distribute to each lead agency the entire annual appropriation as that lead agency's  
136.6 percentage of the computed base as calculated in paragraphs (c) and (d).

136.7 (f) On agreement between the commissioner and the lead agency, the commissioner  
136.8 may have discretion to reallocate alternative care base allocations distributed to lead  
136.9 agencies in which the base amount exceeds program expenditures.

136.10 Sec. 18. Minnesota Statutes 2014, section 256B.0913, subdivision 11, is amended to  
136.11 read:

136.12 Subd. 11. **Targeted funding.** (a) The purpose of targeted funding is to make  
136.13 additional money available to lead agencies with the greatest need. Targeted funds are  
136.14 not intended to be distributed equitably among all lead agencies, but rather, allocated to  
136.15 those with long-term care strategies that meet state goals.

136.16 (b) The funds available for targeted funding shall be the total appropriation for each  
136.17 fiscal year minus lead agency allocations determined under subdivision 10 as adjusted  
136.18 for any inflation increases provided in appropriations for the biennium, except that when  
136.19 alternative care services receive federal financial participation under the 1115 waiver  
136.20 demonstration, funding shall be allocated in accordance with subdivision 17.

136.21 (c) The commissioner shall allocate targeted funds to lead agencies that demonstrate  
136.22 to the satisfaction of the commissioner that they have developed feasible plans to increase  
136.23 alternative care spending, except that when alternative care services receive federal  
136.24 financial participation under the 1115 waiver demonstration, funding shall be allocated in  
136.25 accordance with subdivision 17. In making targeted funding allocations, the commissioner  
136.26 shall use the following priorities:

136.27 (1) lead agencies that received a lower allocation in fiscal year 1991 than in fiscal  
136.28 year 1990. Counties remain in this priority until they have been restored to their fiscal  
136.29 year 1990 level plus inflation;

136.30 (2) lead agencies that sustain a base allocation reduction for failure to spend 95  
136.31 percent of the allocation if they demonstrate that the base reduction should be restored;

136.32 (3) lead agencies that propose projects to divert community residents from nursing  
136.33 home placement or convert nursing home residents to community living; and

136.34 (4) lead agencies that can otherwise justify program growth by demonstrating the  
136.35 existence of waiting lists, demographically justified needs, or other unmet needs.



137.1 (d) Lead agencies that would receive targeted funds according to paragraph (c) must  
137.2 demonstrate to the commissioner's satisfaction that the funds would be appropriately spent  
137.3 by showing how the funds would be used to further the state's alternative care goals  
137.4 as described in subdivision 1, and that the county has the administrative and service  
137.5 delivery capability to use them.

137.6 (e) The commissioner shall make applications available for targeted funds by  
137.7 November 1 of each year, except that when alternative care services receive federal  
137.8 financial participation under the 1115 waiver demonstration, funding shall be allocated  
137.9 in accordance with subdivision 17. The lead agencies selected for targeted funds shall  
137.10 be notified of the amount of their additional funding. Targeted funds allocated to a lead  
137.11 agency in one year shall be treated as part of the lead agency's base allocation for that  
137.12 year in determining allocations for subsequent years. No reallocations between lead  
137.13 agencies shall be made.

137.14 Sec. 19. Minnesota Statutes 2014, section 256B.0913, subdivision 12, is amended to  
137.15 read:

137.16 Subd. 12. **Client fees.** (a) A fee is required for all alternative care eligible clients  
137.17 to help pay for the cost of participating in the program. The amount of the fee for the  
137.18 alternative care client shall be determined as follows:

137.19 (1) when the alternative care client's income less recurring and predictable medical  
137.20 expenses is less than 100 percent of the federal poverty guideline effective on July 1 of  
137.21 the state fiscal year in which the fee is being computed, and total assets are less than  
137.22 \$10,000, the fee is zero;

137.23 (2) when the alternative care client's income less recurring and predictable medical  
137.24 expenses is equal to or greater than 100 percent but less than 150 percent of the federal  
137.25 poverty guideline effective on July 1 of the state fiscal year in which the fee is being  
137.26 computed, and total assets are less than \$10,000, the fee is five percent of the cost of  
137.27 alternative care services;

137.28 (3) when the alternative care client's income less recurring and predictable medical  
137.29 expenses is equal to or greater than 150 percent but less than 200 percent of the federal  
137.30 poverty guidelines effective on July 1 of the state fiscal year in which the fee is being  
137.31 computed and assets are less than \$10,000, the fee is 15 percent of the cost of alternative  
137.32 care services;

137.33 (4) when the alternative care client's income less recurring and predictable medical  
137.34 expenses is equal to or greater than 200 percent of the federal poverty guidelines effective

138.1 on July 1 of the state fiscal year in which the fee is being computed and assets are less than  
138.2 \$10,000, the fee is 30 percent of the cost of alternative care services; and

138.3 (5) when the alternative care client's assets are equal to or greater than \$10,000, the  
138.4 fee is 30 percent of the cost of alternative care services.

138.5 For married persons, total assets are defined as the total marital assets less the  
138.6 estimated community spouse asset allowance, under section 256B.059, if applicable. For  
138.7 married persons, total income is defined as the client's income less the monthly spousal  
138.8 allotment, under section 256B.058.

138.9 All alternative care services shall be included in the estimated costs for the purpose  
138.10 of determining the fee.

138.11 Fees are due and payable each month alternative care services are received unless the  
138.12 actual cost of the services is less than the fee, in which case the fee is the lesser amount.

138.13 (b) The fee shall be waived by the commissioner when:

138.14 (1) a person is residing in a nursing facility;

138.15 (2) a married couple is requesting an asset assessment under the spousal  
138.16 impoverishment provisions;

138.17 (3) a person is found eligible for alternative care, but is not yet receiving alternative  
138.18 care services including case management services; ~~or~~

138.19 (4) a person has chosen to participate in a consumer-directed service plan ~~for which~~  
138.20 ~~the cost is no greater than the total cost of the person's alternative care service plan less the~~  
138.21 ~~monthly fee amount that would otherwise be assessed;~~ or

138.22 (5) a person is receiving temporary alternative care services.

138.23 (c) The commissioner will bill and collect the fee from the client. Money collected  
138.24 must be deposited in the general fund and is appropriated to the commissioner for the  
138.25 alternative care program. The client must supply the lead agency with the client's Social  
138.26 Security number at the time of application. The lead agency shall supply the commissioner  
138.27 with the client's Social Security number and other information the commissioner requires  
138.28 to collect the fee from the client. The commissioner shall collect unpaid fees using the  
138.29 Revenue Recapture Act in chapter 270A and other methods available to the commissioner.  
138.30 The commissioner may require lead agencies to inform clients of the collection procedures  
138.31 that may be used by the state if a fee is not paid.

138.32 Sec. 20. Minnesota Statutes 2014, section 256B.0913, is amended by adding a  
138.33 subdivision to read:

138.34 Subd. 17. **Allocation under 1115 waiver demonstration.** When alternative care  
138.35 services receive federal financial participation under the 1115 waiver demonstration,

139.1 alternative care funding shall be distributed in accordance with the projected demand for  
139.2 services based on service and financial eligibility. Discretionary alternative care services  
139.3 not listed in subdivision 5 or section 256B.0625 require approval from the commissioner.

139.4 Sec. 21. Minnesota Statutes 2014, section 256B.85, is amended to read:

139.5 **256B.85 COMMUNITY FIRST SERVICES AND SUPPORTS.**

139.6 Subdivision 1. **Basis and scope.** (a) Upon federal approval, the commissioner  
139.7 shall establish a ~~medical-assistance~~ state plan option for the provision of home and  
139.8 community-based personal assistance service and supports called "community first  
139.9 services and supports (CFSS)."

139.10 (b) CFSS is a participant-controlled method of selecting and providing services  
139.11 and supports that allows the participant maximum control of the services and supports.  
139.12 Participants may choose the degree to which they direct and manage their supports by  
139.13 choosing to have a significant and meaningful role in the management of services and  
139.14 supports including by directly employing support workers with the necessary supports  
139.15 to perform that function.

139.16 (c) CFSS is available statewide to eligible ~~individuals~~ people to assist with  
139.17 accomplishing activities of daily living (ADLs), instrumental activities of daily living  
139.18 (IADLs), and health-related procedures and tasks through hands-on assistance to  
139.19 accomplish the task or constant supervision and cueing to accomplish the task; and to  
139.20 assist with acquiring, maintaining, and enhancing the skills necessary to accomplish  
139.21 ADLs, IADLs, and health-related procedures and tasks. CFSS allows payment for certain  
139.22 supports and goods such as environmental modifications and technology that are intended  
139.23 to replace or decrease the need for human assistance.

139.24 (d) Upon federal approval, CFSS will replace the personal care assistance program  
139.25 under sections 256.476, 256B.0625, subdivisions 19a and 19c, and 256B.0659.

139.26 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in  
139.27 this subdivision have the meanings given.

139.28 (b) "Activities of daily living" or "ADLs" means eating, toileting, grooming,  
139.29 dressing, bathing, mobility, positioning, and transferring.

139.30 (c) "Agency-provider model" means a method of CFSS under which a qualified  
139.31 agency provides services and supports through the agency's own employees and policies.  
139.32 The agency must allow the participant to have a significant role in the selection and  
139.33 dismissal of support workers of their choice for the delivery of their specific services  
139.34 and supports.

140.1 (d) "Behavior" means a description of a need for services and supports used to  
140.2 determine the home care rating and additional service units. The presence of Level I  
140.3 behavior is used to determine the home care rating. ~~"Level I behavior" means physical~~  
140.4 ~~aggression towards self or others or destruction of property that requires the immediate~~  
140.5 ~~response of another person. If qualified for a home care rating as described in subdivision~~  
140.6 ~~8, additional service units can be added as described in subdivision 8, paragraph (f), for~~  
140.7 ~~the following behaviors:~~

140.8 (1) ~~Level I behavior;~~

140.9 (2) ~~increased vulnerability due to cognitive deficits or socially inappropriate~~  
140.10 ~~behavior; or~~

140.11 (3) ~~increased need for assistance for participants who are verbally aggressive or~~  
140.12 ~~resistive to care so that time needed to perform activities of daily living is increased.~~

140.13 (e) "Budget model" means a service delivery method of CFSS that allows the use of  
140.14 a service budget and assistance from a financial management services (FMS) ~~contractor~~  
140.15 provider for a participant to directly employ support workers and purchase supports and  
140.16 goods.

140.17 (f) "Complex health-related needs" means an intervention listed in clauses (1) to  
140.18 (8) that has been ordered by a physician, and is specified in a community services and  
140.19 support plan, including:

140.20 (1) tube feedings requiring:

140.21 (i) a gastrojejunostomy tube; or

140.22 (ii) continuous tube feeding lasting longer than 12 hours per day;

140.23 (2) wounds described as:

140.24 (i) stage III or stage IV;

140.25 (ii) multiple wounds;

140.26 (iii) requiring sterile or clean dressing changes or a wound vac; or

140.27 (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require  
140.28 specialized care;

140.29 (3) parenteral therapy described as:

140.30 (i) IV therapy more than two times per week lasting longer than four hours for  
140.31 each treatment; or

140.32 (ii) total parenteral nutrition (TPN) daily;

140.33 (4) respiratory interventions, including:

140.34 (i) oxygen required more than eight hours per day;

140.35 (ii) respiratory vest more than one time per day;

140.36 (iii) bronchial drainage treatments more than two times per day;

- 141.1 (iv) sterile or clean suctioning more than six times per day;
- 141.2 (v) dependence on another to apply respiratory ventilation augmentation devices
- 141.3 such as BiPAP and CPAP; and
- 141.4 (vi) ventilator dependence under section ~~256B.0652~~ 256B.0651;
- 141.5 (5) insertion and maintenance of catheter, including:
- 141.6 (i) sterile catheter changes more than one time per month;
- 141.7 (ii) clean intermittent catheterization, and including self-catheterization more than
- 141.8 six times per day; or
- 141.9 (iii) bladder irrigations;
- 141.10 (6) bowel program more than two times per week requiring more than 30 minutes to
- 141.11 perform each time;
- 141.12 (7) neurological intervention, including:
- 141.13 (i) seizures more than two times per week and requiring significant physical
- 141.14 assistance to maintain safety; or
- 141.15 (ii) swallowing disorders diagnosed by a physician and requiring specialized
- 141.16 assistance from another on a daily basis; and
- 141.17 (8) other congenital or acquired diseases creating a need for significantly increased
- 141.18 direct hands-on assistance and interventions in six to eight activities of daily living.
- 141.19 (g) "Community first services and supports" or "CFSS" means the assistance and
- 141.20 supports program under this section needed for accomplishing activities of daily living,
- 141.21 instrumental activities of daily living, and health-related tasks through hands-on assistance
- 141.22 to accomplish the task or constant supervision and cueing to accomplish the task, or
- 141.23 the purchase of goods as defined in subdivision 7, clause (3), that replace the need for
- 141.24 human assistance.
- 141.25 (h) "Community first services and supports service delivery plan" or "CFSS service
- 141.26 delivery plan" means a written document detailing the services and supports chosen
- 141.27 by the participant to meet assessed needs that are within the approved CFSS service
- 141.28 authorization ~~amount~~, as determined in subdivision 8. Services and supports are based
- 141.29 on the ~~community support plan identified in section 256B.0911~~ and coordinated services
- 141.30 service and support plan ~~and budget~~ identified in section 256B.0915, subdivision 6, ~~if~~
- 141.31 ~~applicable, that is determined by the participant to meet the assessed needs, using a~~
- 141.32 ~~person-centered planning process.~~
- 141.33 (i) "Consultation services" means a Minnesota health care program enrolled provider
- 141.34 organization that ~~is under contract with the department and has the knowledge, skills,~~
- 141.35 ~~and ability to assist CFSS participants in using either the agency-provider model under~~
- 141.36 ~~subdivision 11 or the budget model under subdivision 13.~~ provides assistance to the

142.1 participant in making informed choices about CFSS services in general and self-directed  
142.2 tasks in particular, and in developing a person-centered CFSS service delivery plan to  
142.3 achieve quality service outcomes.

142.4 (j) "Critical activities of daily living" means transferring, mobility, eating, and  
142.5 toileting.

142.6 (k) "Dependency" in activities of daily living means a person requires hands-on  
142.7 assistance or constant supervision and cueing to accomplish one or more of the activities  
142.8 of daily living every day or on the days during the week that the activity is performed;  
142.9 however, a child may not be found to be dependent in an activity of daily living if,  
142.10 because of the child's age, an adult would either perform the activity for the child or assist  
142.11 the child with the activity and the assistance needed is the assistance appropriate for  
142.12 a typical child of the same age.

142.13 (l) "Extended CFSS" means CFSS services and supports provided under CFSS  
142.14 that are included in a the CFSS service delivery plan through one of the home and  
142.15 community-based services waivers and as approved and authorized under sections  
142.16 256B.0915; 256B.092, subdivision 5; and 256B.49, which exceed the amount, duration,  
142.17 and frequency of the state plan CFSS services for participants.

142.18 (m) "Financial management services ~~contractor or vendor~~ provider" or "FMS  
142.19 ~~contractor~~ provider" means a qualified organization required for participants using the  
142.20 budget model under subdivision 13 that ~~has a written contract~~ is an enrolled provider with  
142.21 the department to provide vendor fiscal/employer agent financial management services  
142.22 (FMS). ~~Services include but are not limited to: filing and payment of federal and state~~  
142.23 ~~payroll taxes on behalf of the participant; initiating criminal background checks; billing~~  
142.24 ~~for approved CFSS services with authorized funds; monitoring expenditures; accounting~~  
142.25 ~~for and disbursing CFSS funds; providing assistance in obtaining and filing for liability,~~  
142.26 ~~workers' compensation, and unemployment coverage; and providing participant instruction~~  
142.27 ~~and technical assistance to the participant in fulfilling employer-related requirements in~~  
142.28 ~~accordance with Section 3504 of the Internal Revenue Code and related regulations and~~  
142.29 ~~interpretations, including Code of Federal Regulations, title 26, section 31.3504-1.~~

142.30 (n) "Health-related procedures and tasks" means procedures and tasks related to  
142.31 the specific assessed health needs of ~~an individual~~ a participant that can be taught or  
142.32 assigned by a state-licensed health care or mental health professional and performed  
142.33 by a support worker.

142.34 (o) "Instrumental activities of daily living" means activities related to living  
142.35 independently in the community, including but not limited to: meal planning, preparation,  
142.36 and cooking; shopping for food, clothing, or other essential items; laundry; housecleaning;

143.1 assistance with medications; managing finances; communicating needs and preferences  
143.2 during activities; arranging supports; and assistance with traveling around and  
143.3 participating in the community.

143.4 (p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a,  
143.5 paragraph (e).

143.6 ~~(p)~~ (q) "Legal representative" means parent of a minor, a court-appointed guardian,  
143.7 or another representative with legal authority to make decisions about services and  
143.8 supports for the participant. Other representatives with legal authority to make decisions  
143.9 include but are not limited to a health care agent or an attorney-in-fact authorized through  
143.10 a health care directive or power of attorney.

143.11 (r) "Level I behavior" means physical aggression towards self or others or  
143.12 destruction of property that requires the immediate response of another person.

143.13 ~~(q)~~ (s) "Medication assistance" means providing verbal or visual reminders to take  
143.14 regularly scheduled medication, and includes any of the following supports listed in clauses  
143.15 (1) to (3) and other types of assistance, except that a support worker may not determine  
143.16 medication dose or time for medication or inject medications into veins, muscles, or skin:

143.17 (1) under the direction of the participant or the participant's representative, bringing  
143.18 medications to the participant including medications given through a nebulizer, opening a  
143.19 container of previously set-up medications, emptying the container into the participant's  
143.20 hand, opening and giving the medication in the original container to the participant, or  
143.21 bringing to the participant liquids or food to accompany the medication;

143.22 (2) organizing medications as directed by the participant or the participant's  
143.23 representative; and

143.24 (3) providing verbal or visual reminders to perform regularly scheduled medications.

143.25 (t) "Participant" means a person who is eligible for CFSS.

143.26 ~~(r)~~ (u) "Participant's representative" means a parent, family member, advocate, or  
143.27 other adult authorized by the participant or participant's legal representative, if any, to  
143.28 serve as a representative in connection with the provision of CFSS. This authorization  
143.29 must be in writing or by another method that clearly indicates the participant's free choice  
143.30 and may be withdrawn at any time. The participant's representative must have no financial  
143.31 interest in the provision of any services included in the participant's CFSS service delivery  
143.32 plan and must be capable of providing the support necessary to assist the participant in the  
143.33 use of CFSS. If through the assessment process described in subdivision 5 a participant  
143.34 is determined to be in need of a participant's representative, one must be selected. If  
143.35 the participant is unable to assist in the selection of a participant's representative, the  
143.36 legal representative shall appoint one. Two persons may be designated as a participant's

144.1 representative for reasons such as divided households and court-ordered custodies. Duties  
 144.2 of a participant's representatives may include:

144.3 (1) being available while services are provided in a method agreed upon by the  
 144.4 participant or the participant's legal representative and documented in the participant's  
 144.5 CFSS service delivery plan;

144.6 (2) monitoring CFSS services to ensure the participant's CFSS service delivery  
 144.7 plan is being followed; and

144.8 (3) reviewing and signing CFSS time sheets after services are provided to provide  
 144.9 verification of the CFSS services.

144.10 ~~(s)~~ (v) "Person-centered planning process" means a process that is directed by the  
 144.11 participant to plan for CFSS services and supports. ~~The person-centered planning process~~  
 144.12 ~~must:~~

144.13 ~~(1) include people chosen by the participant;~~

144.14 ~~(2) provide necessary information and support to ensure that the participant directs~~  
 144.15 ~~the process to the maximum extent possible, and is enabled to make informed choices~~  
 144.16 ~~and decisions;~~

144.17 ~~(3) be timely and occur at time and locations of convenience to the participant;~~

144.18 ~~(4) reflect cultural considerations of the participant;~~

144.19 ~~(5) include strategies for solving conflict or disagreement within the process,~~  
 144.20 ~~including clear conflict-of-interest guidelines for all planning;~~

144.21 ~~(6) provide the participant choices of the services and supports they receive and the~~  
 144.22 ~~staff providing those services and supports;~~

144.23 ~~(7) include a method for the participant to request updates to the plan; and~~

144.24 ~~(8) record the alternative home and community-based settings that were considered~~  
 144.25 ~~by the participant.~~

144.26 (w) "Service budget" means the authorized dollar amount used for the budget model  
 144.27 or for the purchase of goods.

144.28 ~~(t)~~ (x) "Shared services" means the provision of CFSS services by the same CFSS  
 144.29 support worker to two or three participants who voluntarily enter into an agreement to  
 144.30 receive services at the same time and in the same setting by the same employer.

144.31 ~~(u)~~ (y) "Support worker" means a qualified and trained employee of the  
 144.32 agency-provider as required by subdivision 11b or of the participant employer under the  
 144.33 budget model as required by subdivision 14 who has direct contact with the participant  
 144.34 and provides services as specified within the participant's CFSS service delivery plan.

144.35 (z) "Unit" means the increment of service based on hours or minutes identified  
 144.36 in the service agreement.



145.1 (aa) "Vendor fiscal employer agent" means an agency that provides financial  
145.2 management services.

145.3 ~~(v)~~ (bb) "Wages and benefits" means the hourly wages and salaries, the employer's  
145.4 share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers'  
145.5 compensation, mileage reimbursement, health and dental insurance, life insurance,  
145.6 disability insurance, long-term care insurance, uniform allowance, contributions to  
145.7 employee retirement accounts, or other forms of employee compensation and benefits.

145.8 ~~(w)~~ (cc) "Worker training and development" means services provided according to  
145.9 subdivision 18a for developing workers' skills as required by the participant's individual  
145.10 CFSS service delivery plan that are arranged for or provided by the agency-provider or  
145.11 purchased by the participant employer. These services include training, education, direct  
145.12 observation and supervision, and evaluation and coaching of job skills and tasks, including  
145.13 supervision of health-related tasks or behavioral supports.

145.14 Subd. 3. **Eligibility.** (a) CFSS is available to a person who meets one of the  
145.15 following:

145.16 (1) is an enrollee of medical assistance as determined under section 256B.055,  
145.17 256B.056, or 256B.057, subdivisions 5 and 9;

145.18 (2) is a participant in the alternative care program under section 256B.0913;

145.19 (3) is a waiver participant as defined under section 256B.0915, 256B.092, 256B.093,  
145.20 or 256B.49; or

145.21 (4) has medical services identified in a ~~participant's~~ person's individualized education  
145.22 program and is eligible for services as determined in section 256B.0625, subdivision 26.

145.23 (b) In addition to meeting the eligibility criteria in paragraph (a), a person must also  
145.24 meet all of the following:

145.25 (1) require assistance and be determined dependent in one activity of daily living or  
145.26 Level I behavior based on assessment under section 256B.0911; and

145.27 (2) is not a participant under a family support grant under section 252.32.

145.28 Subd. 4. **Eligibility for other services.** Selection of CFSS by a participant must not  
145.29 restrict access to other medically necessary care and services furnished under the state  
145.30 plan ~~medical assistance~~ benefit or other services available through alternative care.

145.31 Subd. 5. **Assessment requirements.** (a) The assessment of functional need must:

145.32 (1) be conducted by a certified assessor according to the criteria established in  
145.33 section 256B.0911, subdivision 3a;

145.34 (2) be conducted face-to-face, initially and at least annually thereafter, or when there  
145.35 is a significant change in the participant's condition or a change in the need for services

146.1 and supports, or at the request of the participant when the participant experiences a change  
146.2 in condition or needs a change in the services or supports; and

146.3 (3) be completed using the format established by the commissioner.

146.4 (b) The results of the assessment and any recommendations and authorizations for  
146.5 CFSS must be determined and communicated in writing by the lead agency's certified  
146.6 assessor as defined in section 256B.0911 to the participant and the agency-provider or  
146.7 FMS ~~contractor~~ provider chosen by the participant within 40 calendar days and must  
146.8 include the participant's right to appeal under section 256.045, subdivision 3.

146.9 (c) The lead agency assessor may authorize a temporary authorization for CFSS  
146.10 services to be provided under the agency-provider model. Authorization for a temporary  
146.11 level of CFSS services under the agency-provider model is limited to the time specified by  
146.12 the commissioner, but shall not exceed 45 days. The level of services authorized under  
146.13 this paragraph shall have no bearing on a future authorization. Participants approved for a  
146.14 temporary authorization shall access the consultation service to complete their orientation  
146.15 and selection of a service model.

146.16 Subd. 6. **Community first services and support supports service delivery**  
146.17 **plan.** (a) The CFSS service delivery plan must be developed and evaluated through a  
146.18 person-centered planning process by the participant, or the participant's representative  
146.19 or legal representative who may be assisted by a consultation services provider. The  
146.20 CFSS service delivery plan must reflect the services and supports that are important to the  
146.21 participant and for the participant to meet the needs assessed by the certified assessor and  
146.22 identified in the ~~community support plan under section 256B.0911, subdivision 3, or the~~  
146.23 ~~coordinated services~~ service and support plan identified in section 256B.0915, subdivision  
146.24 6, ~~if applicable~~. The CFSS service delivery plan must be reviewed by the participant, the  
146.25 consultation services provider, and the agency-provider or FMS ~~contractor~~ provider prior  
146.26 to starting services and at least annually upon reassessment, or when there is a significant  
146.27 change in the participant's condition, or a change in the need for services and supports.

146.28 (b) The commissioner shall establish the format and criteria for the CFSS service  
146.29 delivery plan.

146.30 (c) The CFSS service delivery plan must be person-centered and:

146.31 (1) specify the consultation services provider, agency-provider, or FMS ~~contractor~~  
146.32 provider selected by the participant;

146.33 (2) reflect the setting in which the participant resides that is chosen by the participant;

146.34 (3) reflect the participant's strengths and preferences;

146.35 (4) include the ~~means~~ methods and supports used to address the ~~clinical and support~~  
146.36 needs as identified through an assessment of functional needs;

147.1 (5) include ~~individually~~ the participant's identified goals and desired outcomes;

147.2 (6) reflect the services and supports, paid and unpaid, that will assist the participant  
147.3 to achieve identified goals, including the costs of the services and supports, and the  
147.4 providers of those services and supports, including natural supports;

147.5 (7) identify the amount and frequency of face-to-face supports and amount and  
147.6 frequency of remote supports and technology that will be used;

147.7 (8) identify risk factors and measures in place to minimize them, including  
147.8 individualized backup plans;

147.9 (9) be understandable to the participant and the individuals providing support;

147.10 (10) identify the individual or entity responsible for monitoring the plan;

147.11 (11) be finalized and agreed to in writing by the participant and signed by all  
147.12 individuals and providers responsible for its implementation;

147.13 (12) be distributed to the participant and other people involved in the plan;

147.14 (13) prevent the provision of unnecessary or inappropriate care;

147.15 (14) include a detailed budget for expenditures for budget model participants or  
147.16 participants under the agency-provider model if purchasing goods; and

147.17 (15) include a plan for worker training and development provided according to  
147.18 subdivision 18a detailing what service components will be used, when the service  
147.19 components will be used, how they will be provided, and how these service components  
147.20 relate to the participant's individual needs and CFSS support worker services.

147.21 (d) The total units of agency-provider services or the service budget amount for the  
147.22 budget model include both annual totals and a monthly average amount that cover the  
147.23 number of months of the service ~~authorization~~ agreement. The amount used each month  
147.24 may vary, but additional funds must not be provided above the annual service authorization  
147.25 amount, determined according to subdivision 8, unless a change in condition is assessed  
147.26 and authorized by the certified assessor and documented in the ~~community support plan~~,  
147.27 ~~coordinated services~~ service and ~~supports~~ support plan; and CFSS service delivery plan.

147.28 (e) In assisting with the development or modification of the CFSS service delivery  
147.29 plan during the authorization time period, the consultation services provider shall:

147.30 (1) consult with the FMS ~~contractor~~ provider on the spending budget when  
147.31 applicable; and

147.32 (2) consult with the participant or participant's representative, agency-provider, and  
147.33 case manager/care coordinator.

147.34 (f) The CFSS service delivery plan must be approved by the consultation services  
147.35 provider for participants without a case ~~manager/care~~ manager or care coordinator who is

148.1 responsible for authorizing services. A case ~~manager/care~~ manager or care coordinator  
 148.2 must approve the plan for a waiver or alternative care program participant.

148.3 Subd. 6a. Person-centered planning process. The person-centered planning  
 148.4 process must:

148.5 (1) include people chosen by the participant;

148.6 (2) provide necessary information and support to ensure that the participant directs  
 148.7 the process to the maximum extent possible, and is enabled to make informed choices  
 148.8 and decisions;

148.9 (3) be timely and occur at times and locations convenient to the participant;

148.10 (4) reflect cultural considerations of the participant;

148.11 (5) include within the process strategies for solving conflict or disagreement,  
 148.12 including clear conflict-of-interest guidelines as identified in Code of Federal Regulations,  
 148.13 title 42, section 441.500, for all planning;

148.14 (6) provide the participant choices of the services and supports the participant  
 148.15 receives and the staff providing those services and supports;

148.16 (7) include a method for the participant to request updates to the plan; and

148.17 (8) record the alternative home and community-based settings that were considered  
 148.18 by the participant.

148.19 Subd. 7. Community first services and supports; covered services. ~~Within the~~  
 148.20 ~~service unit authorization or service budget amount,~~ Services and supports covered under  
 148.21 CFSS include:

148.22 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities  
 148.23 of daily living (IADLs), and health-related procedures and tasks through hands-on  
 148.24 assistance to accomplish the task or constant supervision and cueing to accomplish the task;

148.25 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant  
 148.26 to accomplish activities of daily living, instrumental activities of daily living, or  
 148.27 health-related tasks;

148.28 (3) expenditures for items, services, supports, environmental modifications, or  
 148.29 goods, including assistive technology. These expenditures must:

148.30 (i) relate to a need identified in a participant's CFSS service delivery plan; and

148.31 (ii) increase independence or substitute for human assistance to the extent that  
 148.32 expenditures would otherwise be made for human assistance for the participant's assessed  
 148.33 needs;

148.34 (4) observation and redirection for behavior or symptoms where there is a need for  
 148.35 assistance. ~~An assessment of behaviors must meet the criteria in this clause. A participant~~  
 148.36 ~~qualifies as having a need for assistance due to behaviors if the participant's behavior~~

149.1 ~~requires assistance at least four times per week and shows one or more of the following~~  
 149.2 ~~behaviors:~~

149.3 ~~(i) physical aggression towards self or others, or destruction of property that requires~~  
 149.4 ~~the immediate response of another person;~~

149.5 ~~(ii) increased vulnerability due to cognitive deficits or socially inappropriate~~  
 149.6 ~~behavior; or~~

149.7 ~~(iii) increased need for assistance for participants who are verbally aggressive or~~  
 149.8 ~~resistive to care so that time needed to perform activities of daily living is increased;~~

149.9 (5) back-up systems or mechanisms, such as the use of pagers or other electronic  
 149.10 devices, to ensure continuity of the participant's services and supports;

149.11 (6) services provided by a consultation services provider as defined under  
 149.12 subdivision 17, that is under contract with the department and enrolled as a Minnesota  
 149.13 health care program provider as defined under subdivision 17;

149.14 (7) services provided by an FMS ~~contractor under contract~~ provider as defined  
 149.15 under subdivision 13a, that is an enrolled provider with the department as defined under  
 149.16 subdivision 13;

149.17 (8) CFSS services provided by a ~~qualified~~ support worker who is a parent, stepparent,  
 149.18 or legal guardian of a participant under age 18, or who is the participant's spouse. These  
 149.19 support workers shall not provide any medical assistance home and community-based  
 149.20 services in excess of 40 hours per seven-day period regardless of the number of parents  
 149.21 providing services, combination of parents and spouses providing services, or number  
 149.22 of children who receive medical assistance services; and

149.23 (9) worker training and development services as ~~defined in subdivision 2, paragraph~~  
 149.24 ~~(w), and~~ described in subdivision 18a.

149.25 Subd. 8. **Determination of CFSS service ~~methodology~~ authorization amount.** (a)  
 149.26 All community first services and supports must be authorized by the commissioner or the  
 149.27 commissioner's designee before services begin, ~~except for the assessments established in~~  
 149.28 ~~section 256B.0911~~. The authorization for CFSS must be completed as soon as possible  
 149.29 following an assessment but no later than 40 calendar days from the date of the assessment.

149.30 (b) The amount of CFSS authorized must be based on the participant's home care  
 149.31 rating described in paragraphs (d) and (e) and any additional service units for which the  
 149.32 participant qualifies as described in paragraph (f).

149.33 (c) The home care rating shall be determined by the commissioner or the  
 149.34 commissioner's designee based on information submitted to the commissioner identifying  
 149.35 the following for a participant:

- 150.1 (1) the total number of dependencies of activities of daily living ~~as defined in~~  
150.2 ~~subdivision 2, paragraph (b);~~
- 150.3 (2) the presence of complex health-related needs ~~as defined in subdivision 2,~~  
150.4 ~~paragraph (f); and~~
- 150.5 (3) the presence of Level I behavior ~~as defined in subdivision 2, paragraph (d).~~
- 150.6 (d) The methodology to determine the total service units for CFSS for each home  
150.7 care rating is based on the median paid units per day for each home care rating from  
150.8 fiscal year 2007 data for the PCA program.
- 150.9 (e) Each home care rating is designated by the letters P through Z and EN and has  
150.10 the following base number of service units assigned:
- 150.11 (1) P home care rating requires Level I behavior or one to three dependencies in  
150.12 ADLs and qualifies ~~one~~ the person for five service units;
- 150.13 (2) Q home care rating requires Level I behavior and one to three dependencies in  
150.14 ADLs and qualifies ~~one~~ the person for six service units;
- 150.15 (3) R home care rating requires a complex health-related need and one to three  
150.16 dependencies in ADLs and qualifies ~~one~~ the person for seven service units;
- 150.17 (4) S home care rating requires four to six dependencies in ADLs and qualifies ~~one~~  
150.18 the person for ten service units;
- 150.19 (5) T home care rating requires four to six dependencies in ADLs and Level I  
150.20 behavior and qualifies ~~one~~ the person for 11 service units;
- 150.21 (6) U home care rating requires four to six dependencies in ADLs and a complex  
150.22 health-related need and qualifies ~~one~~ the person for 14 service units;
- 150.23 (7) V home care rating requires seven to eight dependencies in ADLs and qualifies  
150.24 ~~one~~ the person for 17 service units;
- 150.25 (8) W home care rating requires seven to eight dependencies in ADLs and Level I  
150.26 behavior and qualifies ~~one~~ the person for 20 service units;
- 150.27 (9) Z home care rating requires seven to eight dependencies in ADLs and a complex  
150.28 health-related need and qualifies ~~one~~ the person for 30 service units; and
- 150.29 (10) EN home care rating includes ventilator dependency as defined in section  
150.30 256B.0651, subdivision 1, paragraph (g). ~~Participants~~ A person who ~~meet~~ meets the  
150.31 definition of ventilator-dependent and the EN home care rating and utilize a combination  
150.32 of CFSS and ~~other~~ home care nursing services ~~are~~ is limited to a total of 96 service units  
150.33 per day for those services in combination. Additional units may be authorized when  
150.34 a ~~participant's~~ person's assessment indicates a need for two staff to perform activities.  
150.35 Additional time is limited to 16 service units per day.

151.1 (f) Additional service units are provided through the assessment and identification of  
151.2 the following:

151.3 (1) 30 additional minutes per day for a dependency in each critical activity of daily  
151.4 living ~~as defined in subdivision 2, paragraph (j);~~

151.5 (2) 30 additional minutes per day for each complex health-related ~~function as defined~~  
151.6 ~~in subdivision 2, paragraph (f) need;~~ and

151.7 (3) 30 additional minutes per day ~~for each behavior issue as defined in subdivision~~  
151.8 ~~2, paragraph (d):~~ when the behavior requires assistance at least four times per week for  
151.9 one or more of the following behaviors:

151.10 (i) level I behavior;

151.11 (ii) increased vulnerability due to cognitive deficits or socially inappropriate  
151.12 behavior; or

151.13 (iii) increased need for assistance for participants who are verbally aggressive or  
151.14 resistive to care so that the time needed to perform activities of daily living is increased.

151.15 (g) The service budget for budget model participants shall be based on:

151.16 (1) assessed units as determined by the home care rating; and

151.17 (2) an adjustment needed for administrative expenses.

151.18 Subd. 9. **Noncovered services.** (a) Services or supports that are not eligible for  
151.19 payment under this section include those that:

151.20 (1) are not authorized by the certified assessor or included in the ~~written~~ CFSS  
151.21 service delivery plan;

151.22 (2) are provided prior to the authorization of services and the approval of the ~~written~~  
151.23 CFSS service delivery plan;

151.24 (3) are duplicative of other paid services in the ~~written~~ CFSS service delivery plan;

151.25 (4) supplant natural unpaid supports that appropriately meet a need in the CFSS  
151.26 service delivery plan, are provided voluntarily to the participant, and are selected by the  
151.27 participant in lieu of other services and supports;

151.28 (5) are not effective means to meet the participant's needs; and

151.29 (6) are available through other funding sources, including, but not limited to, funding  
151.30 through title IV-E of the Social Security Act.

151.31 (b) Additional services, goods, or supports that are not covered include:

151.32 (1) those that are not for the direct benefit of the participant, except that services for  
151.33 caregivers such as training to improve the ability to provide CFSS are considered to directly  
151.34 benefit the participant if chosen by the participant and approved in the support plan;

151.35 (2) any fees incurred by the participant, such as Minnesota health care programs fees  
151.36 and co-pays, legal fees, or costs related to advocate agencies;

- 152.1 (3) insurance, except for insurance costs related to employee coverage;
- 152.2 (4) room and board costs for the participant;
- 152.3 (5) services, supports, or goods that are not related to the assessed needs;
- 152.4 (6) special education and related services provided under the Individuals with
- 152.5 Disabilities Education Act and vocational rehabilitation services provided under the
- 152.6 Rehabilitation Act of 1973;
- 152.7 (7) assistive technology devices and assistive technology services other than those
- 152.8 for back-up systems or mechanisms to ensure continuity of service and supports listed in
- 152.9 subdivision 7;
- 152.10 (8) medical supplies and equipment covered under medical assistance;
- 152.11 (9) environmental modifications, except as specified in subdivision 7;
- 152.12 (10) expenses for travel, lodging, or meals related to training the participant or the
- 152.13 participant's representative or legal representative;
- 152.14 (11) experimental treatments;
- 152.15 (12) any service or good covered by other ~~medical assistance~~ state plan services,
- 152.16 including prescription and over-the-counter medications, compounds, and solutions and
- 152.17 related fees, including premiums and co-payments;
- 152.18 (13) membership dues or costs, except when the service is necessary and appropriate
- 152.19 to treat a health condition or to improve or maintain the participant's health condition. The
- 152.20 condition must be identified in the participant's CFSS service delivery plan and monitored
- 152.21 by a Minnesota health care program enrolled physician;
- 152.22 (14) vacation expenses other than the cost of direct services;
- 152.23 (15) vehicle maintenance or modifications not related to the disability, health
- 152.24 condition, or physical need;
- 152.25 (16) tickets and related costs to attend sporting or other recreational or entertainment
- 152.26 events;
- 152.27 (17) services provided and billed by a provider who is not an enrolled CFSS provider;
- 152.28 (18) CFSS provided by a participant's representative or paid legal guardian;
- 152.29 (19) services that are used solely as a child care or babysitting service;
- 152.30 (20) services that are the responsibility or in the daily rate of a residential or program
- 152.31 license holder under the terms of a service agreement and administrative rules;
- 152.32 (21) sterile procedures;
- 152.33 (22) giving of injections into veins, muscles, or skin;
- 152.34 (23) homemaker services that are not an integral part of the assessed CFSS service;
- 152.35 (24) home maintenance or chore services;



153.1 (25) home care services, including hospice services if elected by the participant,  
 153.2 covered by Medicare or any other insurance held by the participant;

153.3 (26) services to other members of the participant's household;

153.4 (27) services not specified as covered under medical assistance as CFSS;

153.5 (28) application of restraints or implementation of deprivation procedures;

153.6 (29) assessments by CFSS provider organizations or by independently enrolled  
 153.7 registered nurses;

153.8 (30) services provided in lieu of legally required staffing in a residential or child  
 153.9 care setting; and

153.10 (31) services provided by the residential or program license holder in a residence  
 153.11 for more than four ~~persons~~ participants.

153.12 Subd. 10. **Agency-provider and FMS contractor provider qualifications;**  
 153.13 **general requirements, and duties.** (a) Agency-providers ~~delivering services under the~~  
 153.14 ~~agency-provider model under~~ identified in subdivision 11 ~~or and~~ FMS contractors ~~under~~  
 153.15 providers identified in subdivision ~~13~~ 13a shall:

153.16 (1) enroll as a medical assistance Minnesota health care programs provider and meet  
 153.17 all applicable provider standards and requirements;

153.18 (2) demonstrate compliance with federal and state laws and policies for CFSS as  
 153.19 determined by the commissioner;

153.20 (3) comply with background study requirements under chapter 245C and maintain  
 153.21 documentation of background study requests and results;

153.22 (4) verify and maintain records of all services and expenditures by the participant,  
 153.23 including hours worked by support workers;

153.24 (5) not engage in any agency-initiated direct contact or marketing in person, by  
 153.25 telephone, or other electronic means to potential participants, guardians, family members,  
 153.26 or participants' representatives;

153.27 (6) directly provide services and not use a subcontractor or reporting agent;

153.28 (7) meet the financial requirements established by the commissioner for financial  
 153.29 solvency;

153.30 (8) have never had a lead agency contract or provider agreement discontinued due to  
 153.31 fraud, or have never had an owner, board member, or manager fail a state or FBI-based  
 153.32 criminal background check while enrolled or seeking enrollment as a Minnesota health  
 153.33 care programs provider; and

153.34 ~~(9) have established business practices that include written policies and procedures,~~  
 153.35 ~~internal controls, and a system that demonstrates the organization's ability to deliver~~  
 153.36 ~~quality CFSS; and~~

154.1 ~~(10)~~ (9) have an office located in Minnesota.

154.2 (b) In conducting general duties, agency-providers and FMS ~~contractors~~ providers  
154.3 shall:

154.4 (1) pay support workers based upon actual hours of services provided;

154.5 (2) pay for worker training and development services based upon actual hours of  
154.6 services provided or the unit cost of the training session purchased;

154.7 (3) withhold and pay all applicable federal and state payroll taxes;

154.8 (4) make arrangements and pay unemployment insurance, taxes, workers'  
154.9 compensation, liability insurance, and other benefits, if any;

154.10 (5) enter into a written agreement with the participant, participant's representative, or  
154.11 legal representative that assigns roles and responsibilities to be performed before services,  
154.12 supports, or goods are provided ~~using a format established by the commissioner;~~

154.13 (6) report maltreatment as required under sections 626.556 and 626.557; and

154.14 ~~(7) provide the participant with a copy of the service-related rights under subdivision~~  
154.15 ~~20 at the start of services and supports; and~~

154.16 ~~(8)~~ (7) comply with any data requests from the department consistent with the  
154.17 Minnesota Government Data Practices Act under chapter 13.

154.18 Subd. 11. **Agency-provider model.** (a) The agency-provider model includes  
154.19 services provided by support workers and staff providing worker training and development  
154.20 services who are employed by an agency-provider that ~~is licensed according to chapter~~  
154.21 ~~245A~~ or meets other the criteria established by the commissioner, including required  
154.22 training.

154.23 (b) The agency-provider shall allow the participant to have a significant role in the  
154.24 selection and dismissal of the support workers for the delivery of the services and supports  
154.25 specified in the participant's CFSS service delivery plan.

154.26 (c) A participant may use authorized units of CFSS services as needed within a  
154.27 service ~~authorization~~ agreement that is not greater than 12 months. Using authorized units  
154.28 in a flexible manner in either the agency-provider model or the budget model does not  
154.29 increase the total amount of services and supports authorized for a participant or included  
154.30 in the participant's CFSS service delivery plan.

154.31 (d) A participant may share CFSS services. Two or three CFSS participants may  
154.32 share services at the same time provided by the same support worker.

154.33 (e) The agency-provider must use a minimum of 72.5 percent of the revenue generated  
154.34 by the medical assistance payment for CFSS for support worker wages and benefits. The  
154.35 agency-provider must document how this requirement is being met. The revenue generated

155.1 by the worker training and development services and the reasonable costs associated with  
155.2 the worker training and development services must not be used in making this calculation.

155.3 (f) The agency-provider model must be used by individuals who ~~have been~~ are  
155.4 restricted by the Minnesota restricted recipient program under Minnesota Rules, parts  
155.5 9505.2160 to 9505.2245.

155.6 (g) Participants purchasing goods under this model, along with support worker  
155.7 services, must:

155.8 (1) specify the goods in the CFSS service delivery plan and detailed budget for  
155.9 expenditures that must be approved by the consultation services provider ~~or the~~ case  
155.10 manager/care manager, or care coordinator; and

155.11 (2) use the FMS ~~contractor~~ provider for the billing and payment of such goods.

155.12 Subd. 11a. Agency-provider model; evaluation of CFSS services. (a) The  
155.13 agency-provider is responsible to work with the participant and the participant's  
155.14 representative, if any, in the evaluation of the CFSS goals and CFSS service delivery  
155.15 plan as identified in subdivision 18a, paragraph (c), clause (4). The agency-provider  
155.16 must complete an evaluation of CFSS services within 90 days of service initiation and at  
155.17 least quarterly thereafter. Quarterly evaluations during the first year must be completed  
155.18 in person. Following the first year of service, at least one quarterly evaluation each year  
155.19 must be completed in person. An in-person evaluation must also be completed within 30  
155.20 calendar days of the discovery or receipt of information of any changes in the participant's  
155.21 condition for which CFSS is provided.

155.22 (b) Each CFSS evaluation required in paragraph (a) must evaluate and document  
155.23 the required elements in clauses (1) to (5):

155.24 (1) whether the CFSS service delivery plan accurately identifies the participant's  
155.25 current service needs;

155.26 (2) whether services are supporting accomplishment of the goals identified in the  
155.27 CFSS service delivery plan;

155.28 (3) whether workers are competent in providing services identified in the CFSS  
155.29 service delivery plan;

155.30 (4) whether the agency-provider, the participant, or the participant's representative,  
155.31 if any, has any additional concerns with the CFSS service delivery plan, goals, service  
155.32 delivery, or worker competency not identified in clauses (1) to (3); and

155.33 (5) based on the evaluation required in clauses (1) to (4), whether revisions are  
155.34 needed to the CFSS service delivery plan or goals or how CFSS is used or delivered,  
155.35 whether there is a need for additional worker training, or whether any other actions are  
155.36 needed to support the participant's use of CFSS and who will take the action.

156.1 If changes are needed based on the results of the evaluation, a revised CFSS service  
156.2 delivery plan must be completed and provided to the participant or participant's  
156.3 representative, if any, within 30 calendar days of the evaluation.

156.4 Subd. 11b. **Agency-provider model; support worker competency.** (a) The  
156.5 agency-provider must ensure that support workers are competent to meet the participant's  
156.6 assessed needs, goals, and additional requirements as written in the CFSS service  
156.7 delivery plan. Within 30 days of any support worker beginning to provide services for  
156.8 a participant, the agency-provider must evaluate the competency of the worker through  
156.9 direct observation of the support worker's performance of the job functions in a setting  
156.10 where the participant is using CFSS.

156.11 (b) The agency-provider must verify and maintain evidence of support worker  
156.12 competency, including documentation of the support worker's:

156.13 (1) education and experience relevant to the job responsibilities assigned to the  
156.14 support worker and the needs of the participant;

156.15 (2) relevant training received from sources other than the agency-provider;

156.16 (3) orientation and instruction to implement services and supports to participant  
156.17 needs and preferences as identified in the CFSS service delivery plan; and

156.18 (4) periodic performance reviews completed by the agency-provider at least  
156.19 annually, including any evaluations required under subdivision 11a, paragraph (a).

156.20 If a support worker is a minor, all evaluations of worker competency must be completed in  
156.21 person and in a setting where the participant is using CFSS.

156.22 (c) The agency-provider must develop a worker training and development plan  
156.23 with the participant to ensure support worker competency. The worker training and  
156.24 development plan must be updated when:

156.25 (1) the support worker begins providing services;

156.26 (2) there is any change in condition or a modification to the CFSS service delivery  
156.27 plan; or

156.28 (3) a performance review indicates that additional training is needed.

156.29 **Subd. 12. Requirements for enrollment of CFSS agency-providers.** (a) All CFSS  
156.30 agency-providers must provide, at the time of enrollment, reenrollment, and revalidation  
156.31 as a CFSS agency-provider in a format determined by the commissioner, information and  
156.32 documentation that includes, but is not limited to, the following:

156.33 (1) the CFSS agency-provider's current contact information including address,  
156.34 telephone number, and e-mail address;

156.35 (2) proof of surety bond coverage. Upon new enrollment, or if the agency-provider's  
156.36 Medicaid revenue in the previous calendar year is less than or equal to \$300,000, the

157.1 agency-provider must purchase a surety bond of \$50,000. If the agency-provider's  
157.2 Medicaid revenue in the previous calendar year is greater than \$300,000, the  
157.3 agency-provider must purchase a surety bond of \$100,000. The surety bond must be in  
157.4 a form approved by the commissioner, must be renewed annually, and must allow for  
157.5 recovery of costs and fees in pursuing a claim on the bond;

157.6 (3) proof of fidelity bond coverage in the amount of \$20,000;

157.7 (4) proof of workers' compensation insurance coverage;

157.8 (5) proof of liability insurance;

157.9 (6) a description of the CFSS agency-provider's organization identifying the names  
157.10 of all owners, managing employees, staff, board of directors, and the affiliations of the  
157.11 directors and owners to other service providers;

157.12 (7) a copy of the CFSS agency-provider's written policies and procedures including:  
157.13 hiring of employees; training requirements; service delivery; and employee and consumer  
157.14 safety, including the process for notification and resolution of consumer participant  
157.15 grievances, incident response, identification and prevention of communicable diseases,  
157.16 and employee misconduct;

157.17 (8) copies of all other forms the CFSS agency-provider uses in the course of daily  
157.18 business including, but not limited to:

157.19 (i) a copy of the CFSS agency-provider's time sheet ~~if the time sheet varies from~~  
157.20 ~~the standard time sheet for CFSS services approved by the commissioner, and a letter~~  
157.21 ~~requesting approval of the CFSS agency-provider's nonstandard time sheet; and~~

157.22 (ii) a copy of the participant's individual CFSS service delivery plan;

157.23 (9) a list of all training and classes that the CFSS agency-provider requires of its  
157.24 staff providing CFSS services;

157.25 (10) documentation that the CFSS agency-provider and staff have successfully  
157.26 completed all the training required by this section;

157.27 (11) documentation of the agency-provider's marketing practices;

157.28 (12) disclosure of ownership, leasing, or management of all residential properties  
157.29 that are used or could be used for providing home care services;

157.30 (13) documentation that the agency-provider will use at least the following  
157.31 percentages of revenue generated from the medical assistance rate paid for CFSS services  
157.32 for CFSS support worker wages and benefits: 72.5 percent of revenue from CFSS  
157.33 providers. The revenue generated by the worker training and development services and  
157.34 the reasonable costs associated with the worker training and development services shall  
157.35 not be used in making this calculation; and

158.1 (14) documentation that the agency-provider does not burden participants' free  
158.2 exercise of their right to choose service providers by requiring CFSS support workers to  
158.3 sign an agreement not to work with any particular CFSS participant or for another CFSS  
158.4 agency-provider after leaving the agency and that the agency is not taking action on any  
158.5 such agreements or requirements regardless of the date signed.

158.6 (b) CFSS agency-providers shall provide to the commissioner the information  
158.7 specified in paragraph (a).

158.8 (c) All CFSS agency-providers shall require all employees in management and  
158.9 supervisory positions and owners of the agency who are active in the day-to-day  
158.10 management and operations of the agency to complete mandatory training as determined  
158.11 by the commissioner. Employees in management and supervisory positions and owners  
158.12 who are active in the day-to-day operations of an agency who have completed the required  
158.13 training as an employee with a CFSS agency-provider do not need to repeat the required  
158.14 training if they are hired by another agency, if they have completed the training within  
158.15 the past three years. CFSS agency-provider billing staff shall complete training about  
158.16 CFSS program financial management. Any new owners or employees in management  
158.17 and supervisory positions involved in the day-to-day operations are required to complete  
158.18 mandatory training as a requisite of working for the agency.

158.19 (d) The commissioner shall send annual review notifications to agency-providers 30  
158.20 days prior to renewal. The notification must:

158.21 (1) list the materials and information the agency-provider is required to submit;

158.22 (2) provide instructions on submitting information to the commissioner; and

158.23 (3) provide a due date by which the commissioner must receive the requested  
158.24 information.

158.25 Agency-providers shall submit ~~the~~ all required documentation for annual review within  
158.26 30 days of notification from the commissioner. ~~If no documentation is submitted,~~  
158.27 ~~the agency-provider enrollment number must be terminated or suspended~~ If an  
158.28 agency-provider fails to submit all the required documentation, the commissioner may  
158.29 take action under subdivision 23a.

158.30 Subd. 12a. CFSS agency-provider requirements; policies for complaint process  
158.31 and incident response. (a) The CFSS agency-provider must establish policies and  
158.32 procedures that promote service recipient rights by providing a simple complaint process  
158.33 for participants served by the program and their authorized representatives to bring a  
158.34 grievance. The complaint process must:

158.35 (1) provide staff assistance with the complaint process when requested;

159.1 (2) allow the participant to bring the complaint to the highest level of authority in  
159.2 the program if the grievance cannot be resolved by other staff members, and provide the  
159.3 name, address, and telephone number of that person;

159.4 (3) provide the addresses and telephone numbers of outside agencies to assist the  
159.5 participant;

159.6 (4) require a prompt response to all complaints affecting a participant's health and  
159.7 safety and a timely response to all other complaints;

159.8 (5) require an evaluation of whether:

159.9 (i) related policies and procedures were followed and adequate;

159.10 (ii) there is a need for additional staff training;

159.11 (iii) the complaint is similar to past complaints with the persons, staff, or services  
159.12 involved; and

159.13 (iv) there is a need for corrective action by the agency-provider to protect the health  
159.14 and safety of participants receiving services;

159.15 (6) provide a written summary of the complaint and a notice of the complaint  
159.16 resolution to the participant and, if applicable, case manager or care coordinator; and

159.17 (7) require that the complaint summary and resolution notice be maintained in  
159.18 the participant's service record.

159.19 (b) The CFSS agency-provider must establish policies and procedures for responding  
159.20 to incidents that occur while services are being provided. When a participant has a  
159.21 legal representative or a participant's representative, incidents must be reported to these  
159.22 representatives. For the purposes of this paragraph, "incident" means an occurrence that  
159.23 involves a participant and requires a response that is not a part of the ordinary provision of  
159.24 the services to that participant, and includes:

159.25 (1) serious injury of a participant as determined by section 245.91, subdivision 6;

159.26 (2) a participant's death;

159.27 (3) any medical emergency, unexpected serious illness, or significant unexpected  
159.28 change in a participant's illness or medical condition that requires a call to 911, physician  
159.29 treatment, or hospitalization;

159.30 (4) any mental health crisis that requires a call to 911 or a mental health crisis  
159.31 intervention team;

159.32 (5) an act or situation involving a participant that requires a call to 911, law  
159.33 enforcement, or the fire department;

159.34 (6) a participant's unexplained absence;

159.35 (7) behavior that creates an imminent risk of harm to the participant or another; and

160.1 (8) a report of alleged or suspected child or vulnerable adult maltreatment under  
 160.2 section 626.556 or 626.557.

160.3 Subd. 12b. CFSS agency-provider requirements; notice regarding termination  
 160.4 of services. (a) An agency-provider must provide written notice when it intends to  
 160.5 terminate services with a participant at least ten calendar days before the proposed service  
 160.6 termination is to become effective, except in cases where:

160.7 (1) the participant engages in conduct that significantly alters the terms of the CFSS  
 160.8 service delivery plan with the agency-provider;

160.9 (2) the participant or other persons at the setting where services are being provided  
 160.10 engage in conduct that creates an imminent risk of harm to the support worker or other  
 160.11 agency-provider staff; or

160.12 (3) an emergency or a significant change in the participant's condition occurs within  
 160.13 a 24-hour period that results in the participant's service needs exceeding the participant's  
 160.14 identified needs in the current CFSS service delivery plan so that the agency-provider  
 160.15 cannot safely meet the participant's needs.

160.16 (b) When a participant initiates a request to terminate CFSS services with the  
 160.17 agency-provider, the agency-provider must give the participant a written acknowledgement  
 160.18 of the participant's service termination request that includes the date the request was  
 160.19 received by the agency-provider and the requested date of termination.

160.20 (c) The agency-provider must participate in a coordinated transfer of the participant  
 160.21 to a new agency-provider to ensure continuity of care.

160.22 Subd. 13. Budget model. (a) Under the budget model participants may exercise  
 160.23 responsibility and control over the services and supports described and budgeted within  
 160.24 the CFSS service delivery plan. Participants must use services specified in subdivision  
 160.25 13a provided by an FMS contractor as defined in subdivision 2, paragraph (m) provider.  
 160.26 Under this model, participants may use their approved service budget allocation to:

160.27 (1) directly employ support workers, and pay wages, federal and state payroll taxes,  
 160.28 and premiums for workers' compensation, liability, and health insurance coverage; and

160.29 (2) obtain supports and goods as defined in subdivision 7.

160.30 (b) Participants who are unable to fulfill any of the functions listed in paragraph (a)  
 160.31 may authorize a legal representative or participant's representative to do so on their behalf.

160.32 (c) The commissioner shall disenroll or exclude participants from the budget model  
 160.33 and transfer them to the agency-provider model under, but not limited to, the following  
 160.34 circumstances:



161.1 (1) when a participant has been restricted by the Minnesota restricted recipient  
 161.2 program, in which case the participant may be excluded for a specified time period under  
 161.3 Minnesota Rules, parts 9505.2160 to 9505.2245;

161.4 (2) when a participant exits the budget model during the participant's service plan  
 161.5 year. Upon transfer, the participant shall not access the budget model for the remainder of  
 161.6 that service plan year; or

161.7 (3) when the department determines that the participant or participant's representative  
 161.8 or legal representative ~~cannot manage participant~~ is unable to fulfill the responsibilities  
 161.9 under the budget model, as specified in subdivision 14. ~~The commissioner must develop~~  
 161.10 ~~policies for determining if a participant is unable to manage responsibilities under the~~  
 161.11 ~~budget model.~~

161.12 (d) A participant may appeal in writing to the department under section 256.045,  
 161.13 subdivision 3, to contest the department's decision under paragraph (c), clause (3), to  
 161.14 disenroll or exclude the participant from the budget model.

161.15 Subd. 13a. Financial management services. (a) Services provided by an FMS  
 161.16 contractor include but are not limited to: filing and payment of federal and state payroll  
 161.17 taxes on behalf of the participant; initiating criminal background checks; billing for  
 161.18 approved CFSS services with authorized funds; monitoring expenditures; accounting for  
 161.19 and disbursing CFSS funds; providing assistance in obtaining and filing for liability,  
 161.20 workers' compensation, and unemployment coverage; and providing participant instruction  
 161.21 and technical assistance to the participant in fulfilling employer-related requirements in  
 161.22 accordance with section 3504 of the Internal Revenue Code and related regulations and  
 161.23 interpretations, including Code of Federal Regulations, title 26, section 31.3504-1.

161.24 (e) ~~The FMS contractor shall not provide CFSS services and supports under the~~  
 161.25 ~~agency-provider service model.~~

161.26 (b) Agency-provider services shall not be provided by the FMS provider.

161.27 (f) (c) ~~The FMS contractor~~ provider shall provide service functions as determined by  
 161.28 the commissioner for budget model participants that include but are not limited to:

161.29 (1) assistance with the development of the detailed budget for expenditures portion  
 161.30 of the CFSS service delivery plan as requested by the consultation services provider  
 161.31 or participant;

161.32 (2) ~~billing and making payments for budget model expenditures;~~

161.33 (3) ~~assisting participants in fulfilling employer-related requirements according to~~  
 161.34 ~~section 3504 of the Internal Revenue Code and related regulations and interpretations,~~  
 161.35 ~~including Code of Federal Regulations, title 26, section 31.3504-1, which includes~~

162.1 ~~assistance with filing and paying payroll taxes, and obtaining worker compensation~~  
 162.2 ~~coverage;~~

162.3 ~~(4)~~ (2) data recording and reporting of participant spending;

162.4 ~~(5)~~ (3) other duties established ~~in the contract with~~ by the department, including  
 162.5 with respect to providing assistance to the participant, participant's representative, or  
 162.6 legal representative in performing ~~their~~ employer responsibilities regarding support  
 162.7 workers. The support worker shall not be considered the employee of the FMS ~~contractor~~  
 162.8 provider; and

162.9 ~~(6)~~ (4) billing, payment, and accounting of approved expenditures for goods for  
 162.10 ~~agency-provider participants.~~

162.11 (d) The FMS provider shall obtain an assurance statement from the participant  
 162.12 employer agreeing to follow state and federal regulations and CFSS policies regarding  
 162.13 employment of support workers.

162.14 ~~(g)~~ (e) The FMS ~~contractor~~ provider shall:

162.15 (1) not limit or restrict the participant's choice of service or support providers or  
 162.16 service delivery models consistent with any applicable state and federal requirements;

162.17 (2) provide the participant, consultation services provider, and the case manager  
 162.18 or care coordinator, if applicable, with a monthly written summary of the spending for  
 162.19 services and supports that were billed against the spending budget;

162.20 (3) be knowledgeable of state and federal employment regulations, including those  
 162.21 under the Fair Labor Standards Act of 1938, and comply with the requirements under  
 162.22 section 3504 of the Internal Revenue Code and related regulations and interpretations,  
 162.23 including Code of Federal Regulations, title 26, section 31.3504-1, regarding agency  
 162.24 employer tax liability for vendor ~~or fiscal employer~~ fiscal/employer agent, and any  
 162.25 requirements necessary to process employer and employee deductions, provide appropriate  
 162.26 and timely submission of employer tax liabilities, and maintain documentation to support  
 162.27 medical assistance claims;

162.28 (4) have current and adequate liability insurance and bonding and sufficient cash  
 162.29 flow as determined by the commissioner and have on staff or under contract a certified  
 162.30 public accountant or an individual with a baccalaureate degree in accounting;

162.31 (5) assume fiscal accountability for state funds designated for the program and be  
 162.32 held liable for any overpayments or violations of applicable statutes or rules, including but  
 162.33 not limited to the Minnesota False Claims Act, chapter 15C; and

162.34 (6) maintain documentation of receipts, invoices, and bills to track all services and  
 162.35 supports expenditures for any goods purchased and maintain time records of support  
 162.36 workers. The documentation and time records must be maintained for a minimum of

163.1 five years from the claim date and be available for audit or review upon request by the  
 163.2 commissioner. Claims submitted by the FMS ~~contractor~~ provider to the commissioner  
 163.3 for payment must correspond with services, amounts, and time periods as authorized in  
 163.4 the participant's service budget and service plan and must contain specific identifying  
 163.5 information as determined by the commissioner.

163.6 ~~(h)~~ (f) The commissioner of human services shall:

163.7 (1) establish rates and payment methodology for the FMS ~~contractor~~ provider;

163.8 (2) identify a process to ensure quality and performance standards for the FMS  
 163.9 ~~contractor~~ provider and ensure statewide access to FMS ~~contractors~~ providers; and

163.10 (3) establish a uniform protocol for delivering and administering CFSS services to  
 163.11 be used by eligible FMS ~~contractors~~ providers.

163.12 Subd. 14. **Participant's responsibilities under budget model.** ~~(a) A participant~~  
 163.13 ~~using the budget model must use an FMS contractor or vendor that is under contract with~~  
 163.14 ~~the department. Upon a determination of eligibility and completion of the assessment~~  
 163.15 ~~and community support plan, the participant shall choose a FMS contractor from a~~  
 163.16 ~~list of eligible vendors maintained by the department. The participant or participant's~~  
 163.17 ~~representative is responsible for:~~

163.18 (1) orienting support workers to individual needs and preferences and providing  
 163.19 direction during the delivery of services;

163.20 (2) tracking the services provided and all expenditures for goods or other supports;

163.21 (3) preparing, verifying, and submitting time sheets according to the requirements  
 163.22 in subdivision 15;

163.23 (4) reporting any problems resulting from the failure of the CFSS service delivery  
 163.24 plan to be implemented or the quality of services rendered by the support worker to the  
 163.25 agency-provider, consultation services provider, FMS provider, and case manager or care  
 163.26 coordinator if applicable;

163.27 (5) notifying the agency-provider or the FMS provider within ten days of any  
 163.28 changes in circumstances affecting the CFSS service delivery plan, including but not  
 163.29 limited to changes in the participant's place of residence or hospitalization; and

163.30 (6) under the agency-provider model, participating in the evaluation of CFSS  
 163.31 services and support workers according to subdivision 11a.

163.32 ~~(b) When the participant, participant's representative, or legal representative~~  
 163.33 ~~chooses to be the employer of the support worker, they are responsible for the hiring and~~  
 163.34 ~~supervision of the support worker, including but not limited to recruiting, interviewing,~~  
 163.35 ~~training, scheduling, and discharging the support worker consistent with federal and~~

164.1 ~~state laws and regulations.~~ For a participant using the budget model, the participant or  
164.2 participant's representative is responsible for:

164.3 (1) using an FMS provider that is enrolled with the department. Upon a  
164.4 determination of eligibility and completion of the assessment and coordinated service  
164.5 and support plan, the participant shall choose an FMS provider from a list of eligible  
164.6 providers maintained by the department;

164.7 (2) complying with policies and procedures of the FMS provider as required to meet  
164.8 state and federal regulations for CFSS and the employment of support workers;

164.9 (3) the hiring and supervision of the support worker, including but not limited  
164.10 to recruiting, interviewing, training, scheduling, and discharging the support worker  
164.11 consistent with federal and state laws and regulations;

164.12 (4) notifying the FMS provider of any changes in the employment status of each  
164.13 support worker;

164.14 (5) ensuring that support workers are competent to meet the participant's assessed  
164.15 needs and additional requirements as written in the CFSS service delivery plan;

164.16 (6) determining the competency of the support worker through evaluation within  
164.17 30 days of any support worker beginning to provide services and with any change in the  
164.18 participant's condition or modification to the CFSS service delivery plan;

164.19 (7) verifying and maintaining evidence of support worker competency, including  
164.20 documentation of the support worker's:

164.21 (i) education and experience relevant to the job responsibilities assigned to the  
164.22 support worker and the needs of the participant;

164.23 (ii) training received from sources other than the participant;

164.24 (iii) orientation and instruction to implement defined services and supports to meet  
164.25 participant needs and preferences as detailed in the CFSS service delivery plan; and

164.26 (iv) periodic written performance reviews completed by the participant at least  
164.27 annually based on the direct observation of the support worker's ability to perform the  
164.28 job functions;

164.29 (8) developing and communicating to each support worker a worker training and  
164.30 development plan to ensure the support worker is competent when:

164.31 (i) the support worker begins providing services;

164.32 (ii) there is any change in the participant's condition or modification to the CFSS  
164.33 service delivery plan; or

164.34 (iii) a performance review indicates that additional training is needed; and

164.35 (9) participating in the evaluation of CFSS services.

165.1 ~~(e) In addition to the employer responsibilities in paragraph (b), the participant,~~  
 165.2 ~~participant's representative, or legal representative is responsible for:~~

165.3 ~~(1) tracking the services provided and all expenditures for goods or other supports;~~

165.4 ~~(2) preparing and submitting time sheets, signed by both the participant and support~~  
 165.5 ~~worker, to the FMS contractor on a regular basis and in a timely manner according to~~  
 165.6 ~~the FMS contractor's procedures;~~

165.7 ~~(3) notifying the FMS contractor within ten days of any changes in circumstances~~  
 165.8 ~~affecting the CFSS service plan or in the participant's place of residence including, but~~  
 165.9 ~~not limited to, any hospitalization of the participant or change in the participant's address,~~  
 165.10 ~~telephone number, or employment;~~

165.11 ~~(4) notifying the FMS contractor of any changes in the employment status of each~~  
 165.12 ~~participant support worker; and~~

165.13 ~~(5) reporting any problems resulting from the quality of services rendered by the~~  
 165.14 ~~support worker to the FMS contractor. If the participant is unable to resolve any problems~~  
 165.15 ~~resulting from the quality of service rendered by the support worker with the assistance of~~  
 165.16 ~~the FMS contractor, the participant shall report the situation to the department.~~

165.17 **Subd. 15. Documentation of support services provided; time sheets.** (a) Support  
 165.18 CFSS services provided to a participant by a support worker employed by either an  
 165.19 agency-provider or the participant acting as the employer must be documented daily by each  
 165.20 support worker, on a time sheet form approved by the commissioner. All documentation  
 165.21 may be Web-based, electronic, or paper documentation. The completed form must be  
 165.22 submitted on a regular basis to the provider or the participant and the FMS contractor  
 165.23 selected by the participant to provide assistance with meeting the participant's employer  
 165.24 obligations and kept in the participant's record. Time sheets may be created, submitted,  
 165.25 and maintained electronically. Time sheets must be submitted by the support worker to the:

165.26 (1) agency-provider when the participant is using the agency-provider model. The  
 165.27 agency-provider must maintain a record of the time sheet and provide a copy of the time  
 165.28 sheet to the participant; or

165.29 (2) participant and the participant's FMS provider when the participant is using  
 165.30 the budget model. The participant and the FMS provider must maintain a record of the  
 165.31 time sheet.

165.32 (b) The activity documentation on the time sheet must correspond to the written  
 165.33 service delivery plan and be reviewed by the agency-provider or the participant and the  
 165.34 FMS contractor when the participant is the employer of the support worker. participant's  
 165.35 assessed needs within the scope of CFSS covered services. The accuracy of the time  
 165.36 sheets must be verified by the:

166.1 (1) agency-provider when the participant is using the agency-provider model; or  
 166.2 (2) participant employer and the participant's FMS provider when the participant is  
 166.3 using the budget model.

166.4 (c) ~~The time sheet must be on a form approved by the commissioner documenting~~  
 166.5 document the time the support worker provides services to the participant. The following  
 166.6 criteria elements must be included in the time sheet:

166.7 (1) the support worker's full name of the support worker and individual provider  
 166.8 number;

166.9 (2) ~~agency-provider~~ the agency-provider's name and telephone numbers, if when  
 166.10 responsible for the CFSS service delivery services under the written service plan;

166.11 (3) the participant's full name of the participant;

166.12 (4) ~~consecutive~~ the dates within the pay period established by the agency-provider or  
 166.13 FMS provider, including month, day, and year, and arrival and departure times with a.m.  
 166.14 or p.m. notations for days worked within the established pay period;

166.15 (5) the covered services provided to the participant on each date of service;

166.16 ~~(5) signatures of~~ (6) a signature line for the participant or the participant's  
 166.17 representative and a statement that the participant's or participant's representative's  
 166.18 signature is verification of the time sheet's accuracy;

166.19 ~~(6)~~ (7) the personal signature of the support worker;

166.20 ~~(7)~~ (8) any shared care provided, if applicable;

166.21 ~~(8)~~ (9) a statement that it is a federal crime to provide false information on CFSS  
 166.22 billings for medical assistance payments; and

166.23 ~~(9)~~ (10) dates and location of participant stays in a hospital, care facility, or  
 166.24 incarceration occurring within the established pay period.

166.25 Subd. 16. **Support workers requirements.** (a) Support workers shall:

166.26 (1) enroll with the department as a support worker after a background study under  
 166.27 chapter 245C has been completed and the support worker has received a notice from  
 166.28 the commissioner that the support worker:

166.29 (i) ~~the support worker~~ is not disqualified under section 245C.14; or

166.30 (ii) is disqualified, but ~~the support worker~~ has received a set-aside of the  
 166.31 disqualification under section 245C.22;

166.32 (2) have the ability to effectively communicate with the participant or the  
 166.33 participant's representative;

166.34 (3) have the skills and ability to provide the services and supports according to the  
 166.35 participant's CFSS service delivery plan and respond appropriately to the participant's  
 166.36 needs;

167.1 ~~(4) not be a participant of CFSS, unless the support services provided by the support~~  
167.2 ~~worker differ from those provided to the support worker;~~

167.3 ~~(5)~~ (4) complete the basic standardized CFSS training as determined by the  
167.4 commissioner before completing enrollment. The training must be available in languages  
167.5 other than English and to those who need accommodations due to disabilities. CFSS  
167.6 support worker training must include successful completion of the following training  
167.7 components: basic first aid, vulnerable adult, child maltreatment, OSHA universal  
167.8 precautions, basic roles and responsibilities of support workers including information  
167.9 about basic body mechanics, emergency preparedness, orientation to positive behavioral  
167.10 practices, orientation to responding to a mental health crisis, fraud issues, time cards and  
167.11 documentation, and an overview of person-centered planning and self-direction. Upon  
167.12 completion of the training components, the support worker must pass the certification  
167.13 test to provide assistance to participants;

167.14 ~~(6)~~ (5) complete employer-directed training and orientation on the participant's  
167.15 individual needs; and

167.16 ~~(7)~~ (6) maintain the privacy and confidentiality of the participant; and

167.17 (7) not independently determine the medication dose or time for medications for  
167.18 the participant.

167.19 (b) The commissioner may deny or terminate a support worker's provider enrollment  
167.20 and provider number if the support worker:

167.21 ~~(1) lacks the skills, knowledge, or ability to adequately or safely perform the~~  
167.22 ~~required work~~ does not meet the requirements in paragraph (a);

167.23 (2) fails to provide the authorized services required by the ~~participant~~ employer;

167.24 (3) has been intoxicated by alcohol or drugs while providing authorized services to  
167.25 the participant or while in the participant's home;

167.26 (4) has manufactured or distributed drugs while providing authorized services to the  
167.27 participant or while in the participant's home; or

167.28 (5) has been excluded as a provider by the commissioner of human services, or by  
167.29 the United States Department of Health and Human Services, Office of Inspector General,  
167.30 from participation in Medicaid, Medicare, or any other federal health care program.

167.31 (c) A support worker may appeal in writing to the commissioner to contest the  
167.32 decision to terminate the support worker's provider enrollment and provider number.

167.33 (d) A support worker must not provide or be paid for more than 275 hours of  
167.34 CFSS per month, regardless of the number of participants the support worker serves or  
167.35 the number of agency-providers or participant employers by which the support worker

168.1 is employed. The department shall not disallow the number of hours per day a support  
 168.2 worker works unless it violates other law.

168.3 Subd. 16a. **Exception to support worker requirements for continuity of services.**

168.4 The support worker for a participant may be allowed to enroll with a different CFSS  
 168.5 agency-provider or FMS ~~contractor~~ provider upon initiation, rather than completion, of a  
 168.6 new background study according to chapter 245C, if the following conditions are met:

168.7 (1) the commissioner determines that the support worker's change in enrollment or  
 168.8 affiliation is needed to ensure continuity of services and protect the health and safety  
 168.9 of the participant;

168.10 (2) the chosen agency-provider or FMS ~~contractor~~ provider has been continuously  
 168.11 enrolled as a CFSS agency-provider or FMS ~~contractor~~ provider for at least two years or  
 168.12 since the inception of the CFSS program, whichever is shorter;

168.13 (3) the participant served by the support worker chooses to transfer to the CFSS  
 168.14 agency-provider or the FMS ~~contractor~~ provider to which the support worker is transferring;

168.15 (4) the support worker has been continuously enrolled with the former CFSS  
 168.16 agency-provider or FMS ~~contractor~~ provider since the support worker's last background  
 168.17 study was completed; and

168.18 (5) the support worker continues to meet requirements of subdivision 16, excluding  
 168.19 paragraph (a), clause (1).

168.20 Subd. 17. **Consultation services ~~description and duties.~~** ~~(a) Consultation services~~  
 168.21 ~~means providing assistance to the participant in making informed choices regarding~~  
 168.22 ~~CFSS services in general, and self-directed tasks in particular, and in developing a~~  
 168.23 ~~person-centered service delivery plan to achieve quality service outcomes.~~

168.24 ~~(b) Consultation services is a required service that may include but is not limited to~~  
 168.25 ~~that includes:~~

168.26 (1) entering into a written agreement with the participant, participant's representative,  
 168.27 or legal representative that includes but is not limited to the details of services, service  
 168.28 delivery methods, dates of services, and contact information;

168.29 ~~(+)~~ (2) providing an initial and annual orientation to CFSS information and policies,  
 168.30 including selecting a service model;

168.31 (3) assisting with accessing FMS providers or agency-providers;

168.32 ~~(2)~~ (4) providing assistance with the development, implementation, management,  
 168.33 documentation, and evaluation of the person-centered CFSS service delivery plan;

168.34 ~~(3) consultation on recruiting, selecting, training, managing, directing, evaluating,~~  
 168.35 ~~and supervising support workers;~~



169.1 ~~(4) reviewing the use of and access to informal and community supports, goods, or~~  
 169.2 ~~resources;~~

169.3 (5) approving the CFSS service delivery plan for a participant without a case  
 169.4 manager or care coordinator who is responsible for authorizing services;

169.5 (6) maintaining documentation of the approved CFSS service delivery plan;

169.6 (7) distributing copies of the final CFSS service delivery plan to the participant and  
 169.7 to the agency-provider or FMS provider, case manager or care coordinator, and other  
 169.8 designated parties;

169.9 ~~(5) assistance with fulfilling~~ (8) assisting to fulfill responsibilities and requirements of  
 169.10 CFSS, including modifying CFSS service delivery plans and changing service models; and

169.11 ~~(6) assistance with accessing FMS contractors or agency-providers.~~

169.12 ~~(e) Duties of a consultation services provider shall include but are not limited to:~~

169.13 ~~(1) review and finalization of the CFSS service delivery plan by the consultation~~  
 169.14 ~~services provider organization;~~

169.15 ~~(2) distribution of copies of the final service delivery plan to the participant and~~  
 169.16 ~~to the agency-provider or FMS contractor, case manager/care coordinator, and other~~  
 169.17 ~~designated parties;~~

169.18 (9) if requested, providing consultation or recruiting, selecting, training, managing,  
 169.19 directing, supervising, and evaluating support workers;

169.20 ~~(3) an evaluation of~~ (10) evaluating services upon receiving information from an  
 169.21 FMS ~~contractor~~ provider indicating spending or participant employer concerns;

169.22 (11) reviewing the use of and access to informal and community supports, goods, or  
 169.23 resources;

169.24 ~~(4)~~ (12) a semiannual review of services if the participant does not have a case  
 169.25 ~~manager/care~~ manager or care coordinator and when the support worker is a paid parent of  
 169.26 a minor participant or the participant's spouse;

169.27 ~~(5) collection~~ (13) collecting and reporting of data as required by the department; and

169.28 ~~(6)~~ (14) providing the participant with a copy of the service-related rights participant  
 169.29 protections under subdivision 20 at the start of consultation services;;

169.30 (15) providing assistance to resolve issues of noncompliance with the requirements  
 169.31 of CFSS;

169.32 (16) providing recommendations to the commissioner for changes to services when  
 169.33 support to participants to resolve issues of noncompliance have been unsuccessful; and

169.34 (17) other duties as assigned by the commissioner.

169.35 Subd. 17a. **Consultation services provider qualifications and requirements.**

169.36 ~~The commissioner shall develop the qualifications and requirements for providers of~~

170.1 ~~consultation services under subdivision 17.~~ These Consultation services providers must  
 170.2 ~~satisfy at least~~ meet the following qualifications and requirements:

170.3 (1) meet the requirements under subdivision 10, paragraph (a) excluding clauses  
 170.4 (4) and (5);

170.5 ~~(1)~~ (2) are under contract with the department;

170.6 ~~(2)~~ (3) are not the FMS contractor as defined in subdivision 2, paragraph (m)  
 170.7 provider, the lead agency, or the CFSS or home and community-based services waiver  
 170.8 vendor or agency-provider or vendor to the participant, or a lead agency;

170.9 ~~(3)~~ (4) meet the service standards as established by the commissioner;

170.10 ~~(4)~~ (5) employ lead professional staff with a minimum of three years of experience  
 170.11 in providing services such as support planning, support broker, case management or care  
 170.12 coordination, or consultation services and consumer education to participants using a  
 170.13 self-directed program using FMS under medical assistance;

170.14 ~~(5) are knowledgeable about CFSS roles and responsibilities including those of the~~  
 170.15 ~~certified assessor, FMS contractor, agency-provider, and case manager/care coordinator;~~

170.16 (6) comply with medical assistance provider requirements;

170.17 (7) understand the CFSS program and its policies;

170.18 (8) are knowledgeable about self-directed principles and the application of the  
 170.19 person-centered planning process;

170.20 (9) have general knowledge of the FMS contractor provider duties and participant  
 170.21 employment the vendor fiscal/employer agent model, including all applicable federal,  
 170.22 state, and local laws and regulations regarding tax, labor, employment, and liability and  
 170.23 workers' compensation coverage for household workers; and

170.24 (10) have all employees, including lead professional staff, staff in management  
 170.25 and supervisory positions, and owners of the agency who are active in the day-to-day  
 170.26 management and operations of the agency, complete training as specified in the contract  
 170.27 with the department.

170.28 Subd. 18. **Service unit and budget allocation requirements and limits.** (a) For the  
 170.29 agency-provider model, services ~~will be~~ are authorized in units of service. The total service  
 170.30 unit amount must be established based upon the assessed need for CFSS services, and must  
 170.31 not exceed the maximum number of units available as determined under subdivision 8.

170.32 (b) For the budget model, the service budget allocation allowed for services and  
 170.33 supports is defined in subdivision 8, paragraph (g).

170.34 Subd. 18a. **Worker training and development services.** (a) The commissioner  
 170.35 shall develop the scope of tasks and functions, service standards, and service limits for  
 170.36 worker training and development services.

171.1 (b) Worker training and development ~~services~~ costs are in addition to the participant's  
171.2 assessed service units or service budget. Services provided according to this subdivision  
171.3 must:

171.4 (1) help support workers obtain and expand the skills and knowledge necessary  
171.5 to ensure competency in providing quality services as needed and defined in the  
171.6 participant's CFSS service delivery plan; and evaluate the support worker as required  
171.7 under subdivisions 11b and 14;

171.8 (2) be provided or arranged for by the agency-provider under subdivision 11, or  
171.9 purchased by the participant employer under the budget model ~~under~~ as identified in  
171.10 subdivision 13; and

171.11 (3) be described in the participant's CFSS service delivery plan and documented in  
171.12 the participant's file.

171.13 (c) Services covered under worker training and development shall include:

171.14 (1) support worker training on the participant's individual assessed needs;  
171.15 and condition, or both, provided individually or in a group setting by a skilled and  
171.16 knowledgeable trainer beyond any training the participant or participant's representative  
171.17 provides;

171.18 (2) tuition for professional classes and workshops for the participant's support  
171.19 workers that relate to the participant's assessed needs; and condition, or both; and

171.20 (3) direct observation, monitoring, coaching, and documentation of support worker  
171.21 job skills and tasks, beyond any training the participant or participant's representative  
171.22 provides, including supervision of health-related tasks or behavioral supports that is  
171.23 conducted by an appropriate professional based on the participant's assessed needs.

171.24 These services must be provided ~~within 14 days of~~ at the start of services or the start of  
171.25 a new support worker except as provided in paragraph (d) and must be specified in the  
171.26 participant's CFSS service delivery plan; and

171.27 (4) ~~reporting service and support concerns to the appropriate provider~~ the  
171.28 activities to evaluate CFSS services and ensure support worker competency described in  
171.29 subdivisions 11a and 11b.

171.30 (d) The services in paragraph (c), clause (3), are not required to be provided for a  
171.31 new support worker providing services for a participant due to staffing failures, unless the  
171.32 support worker is expected to provide ongoing backup staffing coverage.

171.33 (e) Worker training and development services shall not include:

171.34 (1) general agency training, worker orientation, or training on CFSS self-directed  
171.35 models;

171.36 (2) payment for preparation or development time for the trainer or presenter;

- 172.1 (3) payment of the support worker's salary or compensation during the training;
- 172.2 (4) training or supervision provided by the participant, the participant's support
- 172.3 worker, or the participant's informal supports, including the participant's representative; or
- 172.4 (5) services in excess of 96 units per annual service ~~authorization~~ agreement, unless
- 172.5 approved by the department.

172.6 ~~Subd. 19. **Support system.** (a) The commissioner shall provide information,~~

172.7 ~~consultation, training, and assistance to ensure the participant is able to manage the~~

172.8 ~~services and supports and budgets, if applicable. This support shall include individual~~

172.9 ~~consultation on how to select and employ workers, manage responsibilities under CFSS,~~

172.10 ~~and evaluate personal outcomes.~~

172.11 ~~(b) The commissioner shall provide assistance with the development of risk~~

172.12 ~~management agreements.~~

172.13 Subd. 20. ~~Service-related rights~~ **Participant protections.** (a) All CFSS

172.14 participants have the protections identified in this subdivision.

172.15 ~~(a) (b) Participants or participant's representatives~~ must be provided with adequate

172.16 information, counseling, training, and assistance, as needed, to ensure that the participant

172.17 is able to choose and manage services, models, and budgets. This information must

172.18 be provided by the consultation services provider at the time of the initial or annual

172.19 orientation to CFSS, at the time of reassessment, or when requested by the participant or

172.20 participant's representative. This support shall include information regarding must explain:

- 172.21 (1) person-centered planning;
- 172.22 (2) the range and scope of ~~individual~~ participant choices, including the differences
- 172.23 between the agency-provider model and the budget model, available CFSS providers, and
- 172.24 other services available in the community to meet the participant's needs;
- 172.25 (3) the process for changing plans, services, and budgets;
- 172.26 ~~(4) the grievance process;~~
- 172.27 ~~(5) individual rights;~~
- 172.28 ~~(6) (4) identifying and assessing appropriate services; and~~
- 172.29 ~~(7) (5) risks to and responsibilities; and of the participant under the budget model.~~
- 172.30 ~~(8) risk management.~~

172.31 ~~(b) (c) The commissioner~~ consultation services provider must ensure that the

172.32 participant has a copy of the most recent community support plan and service delivery

172.33 plan chooses freely between the agency-provider model and the budget model and among

172.34 available agency-providers and that the participant may change agency-providers after

172.35 services have begun.

173.1 ~~(e)~~ (d) A participant who appeals a reduction in previously authorized CFSS services  
 173.2 may continue previously authorized services pending an appeal in accordance with section  
 173.3 256.045.

173.4 ~~(d)~~ (e) If the units of service or budget allocation for CFSS are reduced, denied, or  
 173.5 terminated, the commissioner must provide notice of the reasons for the reduction in the  
 173.6 participant's notice of denial, termination, or reduction.

173.7 ~~(e)~~ (f) If all or part of a CFSS service delivery plan is denied approval by the  
 173.8 consultation services provider, the ~~commissioner~~ consultation services provider must  
 173.9 provide a notice that describes the basis of the denial.

173.10 Subd. 20a. **Notice of participant rights from an agency-provider.** A participant  
 173.11 receiving CFSS from an agency-provider has the rights identified in this subdivision and  
 173.12 in subdivisions 20b and 20c. The agency-provider must:

173.13 (1) within five working days of service initiation and annually thereafter, provide  
 173.14 each participant or participant's representative with a written notice that identifies the  
 173.15 service recipient rights in subdivisions 20b and 20c, and an explanation of those rights;

173.16 (2) make reasonable accommodations to provide this information in other formats or  
 173.17 languages as needed to facilitate understanding of the rights by the participant and the  
 173.18 participant's legal representative, if any;

173.19 (3) maintain documentation of the receipt of a copy and an explanation of the rights  
 173.20 by the participant or participant's representative; and

173.21 (4) ensure the exercise and protection of the participant's rights in the services  
 173.22 provided by the agency-provider and as authorized in the CFSS service delivery plan.

173.23 Subd. 20b. **Service-related rights under an agency-provider.** A participant  
 173.24 receiving CFSS from an agency-provider has service-related rights to:

173.25 (1) participate in and approve the initial development and ongoing modification and  
 173.26 evaluation of CFSS services provided to the participant;

173.27 (2) refuse or terminate services and be informed of the consequences of refusing  
 173.28 or terminating services;

173.29 (3) before services are initiated, be told the limits to the services available from the  
 173.30 agency-provider, including the agency-provider's knowledge, skill, and ability to meet the  
 173.31 participant's needs identified in the CFSS service delivery plan;

173.32 (4) a coordinated transfer of services when there will be a change in the  
 173.33 agency-provider;

173.34 (5) before services are initiated, be told what the agency-provider charges for the  
 173.35 services;

174.1 (6) before services are initiated, be told to what extent payment may be expected  
 174.2 from health insurance, public programs, or other sources, if known; and what charges the  
 174.3 participant may be responsible for paying;

174.4 (7) receive services from an individual who is competent and trained, who has  
 174.5 professional certification or licensure, as required, and who meets additional qualifications  
 174.6 identified in the participant's CFSS service delivery plan;

174.7 (8) have the participant's preferences for support workers identified and documented,  
 174.8 and have those preferences met when possible; and

174.9 (9) before services are initiated, be told the choices that are available from the  
 174.10 agency-provider for meeting the participant's assessed needs identified in the CFSS service  
 174.11 delivery plan, including but not limited to which support worker staff will be providing  
 174.12 services and the proposed frequency and schedule of visits.

174.13 Subd. 20c. **Protection-related rights under an agency-provider or through an**  
 174.14 **FMS provider.** A participant receiving CFSS from an agency-provider or through an  
 174.15 FMS provider has protection-related rights to:

174.16 (1) access records and recorded information about the participant in accordance with  
 174.17 applicable state and federal law, regulation, or rule;

174.18 (2) know how to contact an individual associated with the agency-provider or FMS  
 174.19 provider who is responsible for handling problems, know the agency-provider's or FMS  
 174.20 provider's policies and procedures for resolving grievances, and have the agency-provider  
 174.21 or FMS provider investigate and attempt to resolve the grievance or complaint;

174.22 (3) know the name, telephone number, and address of the state or county agency,  
 174.23 the Office of the Ombudsman for Long-Term Care, and the state protection and advocacy  
 174.24 service to contact for additional information or assistance;

174.25 (4) have personal, financial, and medical information kept private, and be advised  
 174.26 of disclosure of this information by the agency-provider or FMS provider and the  
 174.27 agency-provider's or FMS provider's policies and procedures regarding data privacy;

174.28 (5) be treated with courtesy and respect, and have the participant's property treated  
 174.29 with respect;

174.30 (6) be free from maltreatment; and

174.31 (7) assert these rights personally, or have them asserted by the participant's  
 174.32 representative or by anyone authorized by the participant to act on behalf of the participant,  
 174.33 without retaliation.

174.34 **Subd. 21. Development and Implementation Council.** The commissioner shall  
 174.35 establish a Development and Implementation Council of which the majority of members  
 174.36 are individuals participants with disabilities, elderly individuals participants, and their

175.1 representatives. The commissioner shall consult and collaborate with the council when  
175.2 developing and implementing this section for at least the first five years of operation. The  
175.3 commissioner, ~~in consultation with the council, shall provide recommendations on how to~~  
175.4 ~~improve the quality and integrity of CFSS, reduce the paper documentation required in~~  
175.5 ~~subdivisions 10, 12, and 15, make use of electronic means of documentation and online~~  
175.6 ~~reporting in order to reduce administrative costs, and improve training to the legislative~~  
175.7 ~~chairs of the health and human services policy and finance committees by February 1, 2014.~~

175.8 Subd. 22. **Quality assurance and risk management system.** (a) The commissioner  
175.9 shall establish quality assurance and risk management measures for use in developing and  
175.10 implementing CFSS, including those that:

175.11 (1) recognize the roles and responsibilities of those involved in obtaining CFSS; and

175.12 (2) ensure the appropriateness of such plans and budgets based upon a recipient's  
175.13 resources and capabilities.

175.14 Risk management measures must include background studies and backup and emergency  
175.15 plans, including disaster planning.

175.16 (b) The commissioner shall provide ongoing technical assistance and resource and  
175.17 educational materials for CFSS participants.

175.18 (c) The commissioner shall develop performance assessment measures, such as a  
175.19 participant's satisfaction with the services and supports, and ongoing monitoring of health  
175.20 and well-being shall be identified and data reporting requirements in consultation with  
175.21 the council established in subdivision 21.

175.22 ~~(d) Data reporting requirements will be developed in consultation with the council~~  
175.23 ~~established in subdivision 21.~~

175.24 Subd. 23. **Commissioner's access.** (a) When the commissioner is investigating a  
175.25 possible overpayment of Medicaid funds, the commissioner must be given immediate  
175.26 access without prior notice to the agency-provider, consultation services provider, or  
175.27 FMS contractor's provider's office during regular business hours and to documentation  
175.28 and records related to services provided and submission of claims for services provided.  
175.29 Denying the commissioner access to records is cause for immediate suspension of  
175.30 payment and terminating the agency-provider's enrollment or FMS provider's enrollment  
175.31 according to section 256B.064 or terminating the FMS contract consultation services  
175.32 provider contract.

175.33 (b) The commissioner has the authority to request proof of compliance with laws,  
175.34 rules, and policies from agency-providers, consultation services providers, FMS providers,  
175.35 and participants.

176.1 (c) When relevant to an investigation conducted by the commissioner, the  
176.2 commissioner must be given access to the business office, documents, and records of the  
176.3 agency-provider, consultation services provider, or FMS provider, including records  
176.4 maintained in electronic format; participants served by the program; and staff during  
176.5 regular business hours. The commissioner must be given access without prior notice and  
176.6 as often as the commissioner considers necessary if the commissioner is investigating an  
176.7 alleged violation of applicable laws or rules. The commissioner may request and shall  
176.8 receive assistance from lead agencies and other state, county, and municipal agencies  
176.9 and departments. The commissioner's access includes being allowed to photocopy,  
176.10 photograph, and make audio and video recordings at the commissioner's expense.

176.11 Subd. 23a. **Sanctions; information for participants upon termination of services.**

176.12 (a) The commissioner may withhold payment from the provider or suspend or terminate  
176.13 the provider enrollment number if the provider fails to comply fully with applicable laws  
176.14 or rules. The provider has the right to appeal the decision of the commissioner under  
176.15 section 256B.064.

176.16 (b) Notwithstanding subdivision 13, paragraph (c), if a participant employer fails to  
176.17 comply fully with applicable laws or rules, the commissioner may disenroll the participant  
176.18 from the budget model. A participant may appeal in writing to the department under  
176.19 section 256.045, subdivision 3, to contest the department's decision to disenroll the  
176.20 participant from the budget model.

176.21 (c) Agency-providers of CFSS services or FMS providers must provide each  
176.22 participant with a copy of participant protections in subdivision 20c at least 30 days prior  
176.23 to terminating services to a participant, if the termination results from sanctions under  
176.24 this subdivision or section 256B.064, such as a payment withhold or a suspension or  
176.25 termination of the provider enrollment number. If a CFSS agency-provider or FMS  
176.26 provider determines it is unable to continue providing services to a participant because of  
176.27 an action under this subdivision or section 256B.064, the agency-provider or FMS provider  
176.28 must notify the participant, the participant's representative, and the commissioner 30 days  
176.29 prior to terminating services to the participant, and must assist the commissioner and lead  
176.30 agency in supporting the participant in transitioning to another CFSS agency-provider or  
176.31 FMS provider of the participant's choice.

176.32 (d) In the event the commissioner withholds payment from a CFSS agency-provider  
176.33 or FMS provider, or suspends or terminates a provider enrollment number of a CFSS  
176.34 agency-provider or FMS provider under this subdivision or section 256B.064, the  
176.35 commissioner may inform the Office of Ombudsman for Long-Term Care and the lead  
176.36 agencies for all participants with active service agreements with the agency-provider or



177.1 FMS provider. At the commissioner's request, the lead agencies must contact participants  
 177.2 to ensure that the participants are continuing to receive needed care, and that the  
 177.3 participants have been given free choice of agency-provider or FMS provider if they  
 177.4 transfer to another CFSS agency-provider or FMS provider. In addition, the commissioner  
 177.5 or the commissioner's delegate may directly notify participants who receive care from the  
 177.6 agency-provider or FMS provider that payments have been withheld or that the provider's  
 177.7 participation in medical assistance has been suspended or terminated, if the commissioner  
 177.8 determines that the notification is necessary to protect the welfare of the participants.

177.9 Subd. 24. **CFSS agency-providers and FMS providers; background studies.**

177.10 CFSS agency-providers and FMS providers enrolled to provide CFSS services under the  
 177.11 medical assistance program shall comply with the following:

177.12 (1) owners who have a five percent interest or more and all managing employees  
 177.13 are subject to a background study as provided in chapter 245C. This applies to currently  
 177.14 enrolled ~~CFSS agency-providers~~ providers and those agencies seeking enrollment as a  
 177.15 ~~CFSS agency-provider~~. "Managing employee" has the same meaning as given in Code  
 177.16 of Federal Regulations, title 42, section ~~455~~ 455.101. An organization is barred from  
 177.17 enrollment if:

177.18 (i) the organization has not initiated background studies on owners and managing  
 177.19 employees; or

177.20 (ii) the organization has initiated background studies on owners and managing  
 177.21 employees, but the commissioner has sent the organization a notice that an owner or  
 177.22 managing employee of the organization has been disqualified under section 245C.14, and  
 177.23 the owner or managing employee has not received a set-aside of the disqualification  
 177.24 under section 245C.22;

177.25 (2) a background study must be initiated and completed for all staff who will have  
 177.26 direct contact with the participant to provide worker training and development; and

177.27 (3) a background study must be initiated and completed for all support workers.

177.28 ~~Subd. 25. Commissioner recommendations required. In consultation with~~  
 177.29 ~~the Development and Implementation Council described in subdivision 21 and other~~  
 177.30 ~~stakeholders, the commissioner shall develop recommendations for revisions to~~  
 177.31 ~~subdivisions 12, 15, and 16 that promote self-direction in the following areas:~~

177.32 (1) ~~CFSS provider and support worker enrollment, qualification, and disqualification~~  
 177.33 ~~criteria;~~

177.34 (2) ~~documentation requirements that are consistent with state and federal~~  
 177.35 ~~requirements; and~~

178.1 ~~(3) provisions to maintain program integrity and assure fiscal accountability for~~  
178.2 ~~goods and services purchased through CFSS.~~

178.3 ~~The recommendations shall be provided to the chairs and ranking minority members~~  
178.4 ~~of the legislative committees and divisions with jurisdiction over health and human~~  
178.5 ~~services policy and finance by November 15, 2013.~~

178.6 Subd. 26. **Oversight plan.** In consultation with the Development and  
178.7 Implementation Council described in subdivision 21 and other stakeholders, the  
178.8 commissioner shall develop recommendations for the oversight of CFSS.

178.9 **EFFECTIVE DATE.** The amendments to this section are effective upon federal  
178.10 approval. The service will begin 90 days after federal approval. The commissioner of  
178.11 human services shall notify the revisor of statutes when this occurs.

178.12 Sec. 22. Minnesota Statutes 2014, section 626.557, subdivision 9a, is amended to read:

178.13 Subd. 9a. **Evaluation and referral of reports made to common entry point unit.**

178.14 (a) The common entry point must screen the reports of alleged or suspected maltreatment  
178.15 for immediate risk and make all necessary referrals as follows:

178.16 (1) if the common entry point determines that there is an immediate need for  
178.17 emergency adult protective services, the common entry point agency shall immediately  
178.18 notify the appropriate county agency;

178.19 (2) if the report contains suspected criminal activity against a vulnerable adult, the  
178.20 common entry point shall immediately notify the appropriate law enforcement agency;

178.21 (3) the common entry point shall refer all reports of alleged or suspected  
178.22 maltreatment to the appropriate lead investigative agency as soon as possible, but in any  
178.23 event no longer than two working days; ~~and~~

178.24 (4) if the report contains information about a suspicious death, the common entry  
178.25 point shall immediately notify the appropriate law enforcement agencies, the local  
178.26 medical examiner, and the ombudsman for mental health and developmental disabilities  
178.27 established under section 245.92. Law enforcement agencies shall coordinate with the  
178.28 local medical examiner and the ombudsman as provided by law; and

178.29 (5) for reports involving multiple locations or changing circumstances, the common  
178.30 entry point shall determine the county agency responsible for emergency adult protective  
178.31 services and the county responsible as the lead investigative agency, using referral  
178.32 guidelines established by the commissioner.

178.33 (b) If the lead investigative agency receiving a report believes the report was referred  
178.34 by the common entry point in error, the lead investigative agency shall immediately notify  
178.35 the common entry point of the error, including the basis for the lead investigative agency's

179.1 belief that the referral was made in error. The common entry point shall review the  
179.2 information submitted by the lead investigative agency and immediately refer the report to  
179.3 the appropriate lead investigative agency.

179.4 Sec. 23. Minnesota Statutes 2014, section 626.557, subdivision 9b, is amended to read:

179.5 Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct  
179.6 investigations of any incident in which there is reason to believe a crime has been  
179.7 committed. Law enforcement shall initiate a response immediately. If the common entry  
179.8 point notified a county agency for emergency adult protective services, law enforcement  
179.9 shall cooperate with that county agency when both agencies are involved and shall  
179.10 exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult  
179.11 protection shall initiate a response immediately. Each lead investigative agency shall  
179.12 complete the investigative process for reports within its jurisdiction. A lead investigative  
179.13 agency, county, adult protective agency, licensed facility, or law enforcement agency  
179.14 shall cooperate ~~in coordinating its investigation~~ with other agencies in the provision of  
179.15 protective services, coordinating its investigations, and may assist assisting another agency  
179.16 ~~upon request~~ within the limits of its resources and expertise and shall exchange data to the  
179.17 extent authorized in subdivision 12b, paragraph (g). The lead investigative agency shall  
179.18 obtain the results of any investigation conducted by law enforcement officials. The lead  
179.19 investigative agency has the right to enter facilities and inspect and copy records as part of  
179.20 investigations. The lead investigative agency has access to not public data, as defined in  
179.21 section 13.02, and medical records under sections 144.291 to 144.298, that are maintained  
179.22 by facilities to the extent necessary to conduct its investigation. Each lead investigative  
179.23 agency shall develop guidelines for prioritizing reports for investigation.

179.24 Sec. 24. Minnesota Statutes 2014, section 626.557, subdivision 10, is amended to read:

179.25 Subd. 10. **Duties of county social service agency.** (a) ~~Upon receipt of a report~~  
179.26 ~~from~~ When the common entry point staff refers a report to the county social service  
179.27 agency as the lead investigative agency or makes a referral to the county social service  
179.28 agency for emergency adult protective services, or when another lead investigative agency  
179.29 requests assistance from the county social service agency for adult protective services,  
179.30 the county social service agency shall immediately assess and offer emergency and  
179.31 continuing protective social services for purposes of preventing further maltreatment and  
179.32 for safeguarding the welfare of the maltreated vulnerable adult. The county shall use a  
179.33 standardized tool made available by the commissioner. The information entered by the  
179.34 county into the standardized tool must be accessible to the Department of Human Services.

180.1 In cases of suspected sexual abuse, the county social service agency shall immediately  
180.2 arrange for and make available to the vulnerable adult appropriate medical examination  
180.3 and treatment. When necessary in order to protect the vulnerable adult from further harm,  
180.4 the county social service agency shall seek authority to remove the vulnerable adult from  
180.5 the situation in which the maltreatment occurred. The county social service agency  
180.6 may also investigate to determine whether the conditions which resulted in the reported  
180.7 maltreatment place other vulnerable adults in jeopardy of being maltreated and offer  
180.8 protective social services that are called for by its determination.

180.9 (b) County social service agencies may enter facilities and inspect and copy records  
180.10 as part of an investigation. The county social service agency has access to not public  
180.11 data, as defined in section 13.02, and medical records under sections 144.291 to 144.298,  
180.12 that are maintained by facilities to the extent necessary to conduct its investigation. The  
180.13 inquiry is not limited to the written records of the facility, but may include every other  
180.14 available source of information.

180.15 (c) When necessary in order to protect a vulnerable adult from serious harm, the  
180.16 county social service agency shall immediately intervene on behalf of that adult to help  
180.17 the family, vulnerable adult, or other interested person by seeking any of the following:

180.18 (1) a restraining order or a court order for removal of the perpetrator from the  
180.19 residence of the vulnerable adult pursuant to section 518B.01;

180.20 (2) the appointment of a guardian or conservator pursuant to sections 524.5-101 to  
180.21 524.5-502, or guardianship or conservatorship pursuant to chapter 252A;

180.22 (3) replacement of a guardian or conservator suspected of maltreatment and  
180.23 appointment of a suitable person as guardian or conservator, pursuant to sections  
180.24 524.5-101 to 524.5-502; or

180.25 (4) a referral to the prosecuting attorney for possible criminal prosecution of the  
180.26 perpetrator under chapter 609.

180.27 The expenses of legal intervention must be paid by the county in the case of indigent  
180.28 persons, under section 524.5-502 and chapter 563.

180.29 In proceedings under sections 524.5-101 to 524.5-502, if a suitable relative or  
180.30 other person is not available to petition for guardianship or conservatorship, a county  
180.31 employee shall present the petition with representation by the county attorney. The county  
180.32 shall contract with or arrange for a suitable person or organization to provide ongoing  
180.33 guardianship services. If the county presents evidence to the court exercising probate  
180.34 jurisdiction that it has made a diligent effort and no other suitable person can be found,  
180.35 a county employee may serve as guardian or conservator. The county shall not retaliate  
180.36 against the employee for any action taken on behalf of the ward or protected person even

181.1 if the action is adverse to the county's interest. Any person retaliated against in violation  
181.2 of this subdivision shall have a cause of action against the county and shall be entitled to  
181.3 reasonable attorney fees and costs of the action if the action is upheld by the court.

181.4 Sec. 25. Minnesota Statutes 2014, section 626.5572, subdivision 5, is amended to read:

181.5 Subd. 5. **Common entry point.** "Common entry point" means the entity ~~designated~~  
181.6 ~~by each county~~ responsible for receiving reports of alleged or suspected maltreatment of a  
181.7 vulnerable adult under section 626.557.

181.8 Sec. 26. Minnesota Statutes 2014, section 626.5572, subdivision 6, is amended to read:

181.9 Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be  
181.10 licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve  
181.11 adults under section 144A.02; a ~~residential or nonresidential~~ facility or service required to  
181.12 be licensed ~~to serve adults~~ under ~~sections 245A.01 to 245A.16~~ chapter 245A; a home care  
181.13 provider licensed or required to be licensed under section 144A.46; a hospice provider  
181.14 licensed under sections 144A.75 to 144A.755; or a person or organization that ~~exclusively~~  
181.15 offers, provides, or arranges for personal care assistance services under the medical  
181.16 assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651  
181.17 to 256B.0654, ~~and 256B.0659,~~ or 256B.85.

181.18 (b) For ~~home care providers and personal care attendants~~ services identified  
181.19 in paragraph (a) that are provided in the vulnerable adult's own home or in another  
181.20 unlicensed location, the term "facility" refers to the provider ~~or~~ person, or organization  
181.21 that ~~exclusively~~ offers, provides, or arranges for personal care services, and does not refer  
181.22 to the ~~client's~~ vulnerable adult's home or other location at which services are rendered.

181.23 Sec. 27. Minnesota Statutes 2014, section 626.5572, subdivision 21, is amended to read:

181.24 Subd. 21. **Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of  
181.25 age or older who:

181.26 (1) is a resident or inpatient of a facility;

181.27 (2) receives services ~~at or from a facility~~ required to be licensed ~~to serve adults~~ under  
181.28 ~~sections 245A.01 to 245A.15~~ chapter 245A, except that a person receiving outpatient  
181.29 services for treatment of chemical dependency or mental illness, or one who is served in the  
181.30 Minnesota sex offender program on a court-hold order for commitment, or is committed as  
181.31 a sexual psychopathic personality or as a sexually dangerous person under chapter 253B,  
181.32 is not considered a vulnerable adult unless the person meets the requirements of clause (4);

182.1 (3) receives services from a home care provider required to be licensed under section  
 182.2 144A.46; or from a person or organization that ~~exclusively~~ offers, provides, or arranges  
 182.3 for personal care assistance services under the medical assistance program as authorized  
 182.4 under ~~sections~~ section 256B.0625, subdivision 19a, 256B.0651, 256B.0653, 256B.0654,  
 182.5 ~~and 256B.0659~~, or 256B.85; or

182.6 (4) regardless of residence or whether any type of service is received, possesses a  
 182.7 physical or mental infirmity or other physical, mental, or emotional dysfunction:

182.8 (i) that impairs the individual's ability to provide adequately for the individual's  
 182.9 own care without assistance, including the provision of food, shelter, clothing, health  
 182.10 care, or supervision; and

182.11 (ii) because of the dysfunction or infirmity and the need for care or services, the  
 182.12 individual has an impaired ability to protect the individual's self from maltreatment.

182.13 (b) For purposes of this subdivision, "care or services" means care or services for the  
 182.14 health, safety, welfare, or maintenance of an individual.

182.15 Sec. 28. Laws 2013, chapter 108, article 7, section 58, is amended to read:

182.16 Sec. 58. **NURSING HOME LEVEL OF CARE REPORT.**

182.17 (a) The commissioner of human services shall report on the impact of the  
 182.18 modification to the nursing facility level of care to be implemented January 1, ~~2014~~ 2015,  
 182.19 including the following:

182.20 (1) the number of individuals who lose eligibility for home and community-based  
 182.21 services waivers under Minnesota Statutes, sections 256B.0915 and 256B.49, and  
 182.22 alternative care under Minnesota Statutes, section 256B.0913;

182.23 (2) the number of individuals who lose eligibility for medical assistance; and

182.24 (3) for individuals reported under clauses (1) and (2), and to the extent possible:

182.25 (i) their living situation before and after nursing facility level of care implementation;

182.26 and

182.27 (ii) the programs or services they received before and after nursing facility level of  
 182.28 care implementation, including, but not limited to, personal care assistant services and  
 182.29 essential community supports.

182.30 (b) The commissioner of human services shall report to the chairs and ranking  
 182.31 minority members of the legislative committees and divisions with jurisdiction over health  
 182.32 and human services policy and finance with the information required under paragraph

182.33 (a). A preliminary report shall be submitted on October 1, ~~2014~~ 2015, and a final report  
 182.34 shall be submitted February 15, ~~2015~~ 2016.

183.1 Sec. 29. **HOME AND COMMUNITY-BASED SETTINGS TRANSITION PLAN.**

183.2 Upon federal approval, the Department of Human Services must take initial steps to  
183.3 come into compliance with the home and community-based settings transition plan for the  
183.4 home and community-based services waiver authorized under Minnesota Statutes, sections  
183.5 256B.0915, 256B.092, and 256B.49. By January 15, 2016, and annually thereafter  
183.6 during the transition period ending on or before March 17, 2019, the commissioner of  
183.7 human services must report on this process to the chairs and ranking minority members  
183.8 of the policy and finance committees in the house of representatives and the senate with  
183.9 jurisdiction over health and human services for seniors and people with disabilities.

183.10 Sec. 30. **REVISOR'S INSTRUCTION.**

183.11 The revisor of statutes shall change the term "community alternatives for disabled  
183.12 individuals" to "community access for disability inclusion" wherever it appears in  
183.13 Minnesota Statutes, chapters 245D and 256B, and sections 144G.05; 256N.26, subdivision  
183.14 17; and 260C.4411, subdivision 2. The revisor shall also make related grammatical  
183.15 changes and changes in headnotes.

183.16 Sec. 31. **REPEALER.**

183.17 (a) Minnesota Statutes 2014, sections 245D.061, subdivision 3; and 256B.0911,  
183.18 subdivision 6a, are repealed.

183.19 (b) Minnesota Rules, parts 9555.7400; and 9555.7500, are repealed.

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ARTICLE 1	CHILDREN AND FAMILY SERVICES .....	Page.Ln 2.11
ARTICLE 2	CHEMICAL AND MENTAL HEALTH SERVICES .....	Page.Ln 34.5
ARTICLE 3	DIRECT CARE AND TREATMENT .....	Page.Ln 60.6
ARTICLE 4	OPERATIONS .....	Page.Ln 61.10
ARTICLE 5	HEALTH CARE .....	Page.Ln 109.16
ARTICLE 6	CONTINUING CARE .....	Page.Ln 111.23



**245D.061 EMERGENCY USE OF MANUAL RESTRAINTS.**

Subd. 3. **Restrictions when implementing emergency use of manual restraint.** (a) Emergency use of manual restraint procedures must not:

(1) be implemented with a child in a manner that constitutes sexual abuse, neglect, physical abuse, or mental injury, as defined in section 626.556, subdivision 2;

(2) be implemented with an adult in a manner that constitutes abuse or neglect as defined in section 626.5572, subdivisions 2 and 17;

(3) be implemented in a manner that violates a person's rights and protections identified in section 245D.04;

(4) restrict a person's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, or necessary clothing, or to any protection required by state licensing standards and federal regulations governing the program;

(5) deny the person visitation or ordinary contact with legal counsel, a legal representative, or next of kin;

(6) be used as a substitute for adequate staffing, for the convenience of staff, as punishment, or as a consequence if the person refuses to participate in the treatment or services provided by the program; or

(7) use prone restraint. For the purposes of this section, "prone restraint" means use of manual restraint that places a person in a face-down position. This does not include brief physical holding of a person who, during an emergency use of manual restraint, rolls into a prone position, and the person is restored to a standing, sitting, or side-lying position as quickly as possible. Applying back or chest pressure while a person is in the prone or supine position or face-up is prohibited.

**245E.07 MONETARY RECOVERY.**

Subd. 3. **Office of Inspector General recoveries.** Overpayment recoveries resulting from child care provider fraud investigations initiated by the department's Office of Inspector General's fraud investigations staff are excluded from the county recovery provision in section 119B.11, subdivision 3.

**256B.0911 LONG-TERM CARE CONSULTATION SERVICES.**

Subd. 6a. **Withholding.** If any provider obligated to pay the long-term care consultation amount as described in subdivision 6 is more than two months delinquent in the timely payment of the monthly installment, the commissioner may withhold payments, penalties, and interest in accordance with the methods outlined in section 256.9657, subdivision 7a. Any amount withheld under this provision must be returned to the county to whom the delinquent payments were due.

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**9505.0175 DEFINITIONS.**

Subp. 32. **Performance agreement.** "Performance agreement" means a written agreement between the department and a provider that states the provider's contractual obligations for the sale and repair of medical equipment and medical supplies eligible for medical assistance payment. An example of a performance agreement is an agreement between the department and a provider of nondurable medical supplies or durable medical equipment as specified in part 9505.0310, subpart 3, items A and B.

**9505.0365 PROSTHETIC AND ORTHOTIC DEVICES.**

Subp. 2. **Eligible providers; medical supply agreement.** To be eligible for medical assistance payment, a supplier of a prosthetic or orthotic device must sign a performance agreement as defined in part 9505.0175, subpart 32.

**9505.1696 DEFINITIONS.**

Subp. 10. **EPSDT screening form.** "EPSDT screening form" means a form supplied by the department that contains the information required under part 9505.1709.

**9505.1709 EPSDT SCREENING FORM.**

A screening provider must complete and submit to the department an EPSDT screening form for each screening the provider completes. The form must report the findings of the screening and the provider's charge for services.

**9535.2000 SCOPE AND PURPOSE.**

Parts 9535.2000 to 9535.3000 apply to county boards that apply individually or jointly to the commissioner of human services for a grant under Minnesota Statutes, section 245.73. These grants are for eligible expenditures to be incurred by the county, by an eligible residential facility with which the county board contracts, or by a public or private organization or a combination of public and private organizations with which the eligible residential facility contracts.

**9535.2100 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 9535.2000 to 9535.3000 have the meanings given them in subparts 2 to 5.

Subp. 2. **Adult.** "Adult" means a person who is 18 years old or older.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of human services or a designated representative.

Subp. 4. **County board.** "County board" means the county board of commissioners or a designated representative.

Subp. 5. **Person who is mentally ill.** "Person who is mentally ill" means a person who has been diagnosed by a physician, a licensed psychologist, or a licensed consulting psychologist as having a condition:

A. which results in an inability to interpret the environment realistically and in impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation; or

B. which is listed in the code range 290, 293-302.9 or 306-314.9 of the International Classification of Diseases, (ICD-9-CM) issued by the National Center for Health Statistics (Ann Arbor, Michigan: Edwards Brothers, 1978) or in the corresponding code on Axes I, II, or III in the Diagnostic and Statistical Manual of Mental Disorders, (DSM-III) issued by the American Psychiatric Association (Washington, D.C., 1980).

**9535.2200 ALLOCATION OF GRANTS.**

Subpart 1. **Deadlines for applications.** The commissioner shall set the deadlines for grant applications made under Minnesota Statutes, section 245.73. The commissioner shall inform county boards of the deadlines. If the commissioner establishes more than one review cycle, the term "deadline for applications" as used in subpart 2, items C to E shall mean the deadline for the cycle in which application is made.

Subp. 2. **Priorities.** In response to applications and budgets that meet the requirements of parts 9535.2300 and 9535.2400, the commissioner shall allocate grants to county boards

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for specific eligible facilities. If the appropriation is not sufficient to fund all applications, the commissioner shall use the following order of descending priorities:

- A. facilities previously funded under Minnesota Statutes, section 245.73, unless otherwise indicated by law;
- B. facilities operating on July 1, 1980;
- C. facilities operating at the deadline for applications;
- D. new facilities opening after the deadline for applications and planning to provide a Category I program, as defined in parts 9520.0500 to 9520.0670;
- E. new facilities opening after the deadline for applications and planning to provide a Category II program, as defined in parts 9520.0500 to 9520.0670.

Subp. 3. **First consideration.** In each priority, for the biennium ending June 30, 1983, the commissioner shall give first consideration to facilities within the Rochester State Hospital catchment area counties of Dakota, Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, and Winona.

Subp. 4. **More than one facility in a priority.** If two or more eligible facilities fall within the same priority and if the appropriation is not sufficient to fund all facilities within that priority, the commissioner shall allocate grants for those facilities which he or she deems most appropriate within the statewide continuum of care for adults who are mentally ill.

Subp. 5. **Eligible facilities.** The commissioner shall limit grants to facilities that can show that they will:

- A. submit a completed application for a license under parts 9520.0500 to 9520.0690 within three months of the effective date of the grant award;
- B. attain at least a provisional license under parts 9520.0500 to 9520.0690 within six months of the effective date of the grant award; and
- C. maintain the license for the remainder of the grant period.

Subp. 6. **Approval of applications and budgets.** The commissioner shall base his or her approval of applications and budgets on the applications' and budgets' compliance with Minnesota Statutes, section 245.73 and parts 9535.2000 to 9535.3000 and on the availability of funds within the allocation priorities in subparts 2 to 4.

Subp. 7. **Compliance with other rules and laws.** To the extent that the county board, its contracting facilities, and subcontractors are also subject to other laws and rules, they shall also meet the standards of those laws and rules to be eligible for a grant under Minnesota Statutes, section 245.73.

### **9535.2300 APPLICATION CRITERIA.**

In order to qualify for a grant under Minnesota Statutes, section 245.73, the county board shall submit to the commissioner six completed copies of the application and budget. The county board shall complete a separately identifiable application for each facility for which a grant is requested. The application must at least:

- A. describe the persons to be served under the grant;
- B. state the measurable time-specified objectives to be accomplished with the grant (these objectives must comply with part 9535.2200, subpart 5);
- C. explain how the requirements of parts 9520.0500 to 9520.0670 will be complied with;
- D. explain how the proposed services will fit into the local continuum of care;
- E. name the proposed sites and providers to be used;
- F. explain how alternative service and funding resources, including public school community education programs, will be used to the maximum extent possible in meeting the requirements of parts 9520.0500 to 9520.0670;
- G. explain how the county board will determine the effectiveness of the services in helping adults who are mentally ill remain and function in their own communities; and
- H. briefly describe the evaluation results to date for facilities previously funded under Minnesota Statutes, section 245.73.

### **9535.2400 BUDGETS.**

Subpart 1. **Income and expenditures.** A budget must accompany each application for a grant under Minnesota Statutes, section 245.73 and must be completed on budget forms provided by the commissioner. For each facility for which a grant is requested a separate budget must

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be submitted showing the total projected income and expenditures for that facility. Except for depreciation, the budget must represent projected cash transactions by the county, the facility, and the subcontractors. Straight-line depreciation, calculated according to generally accepted accounting principles, may be included if the purchase of the item being depreciated is not included as an expenditure in the budget for the current period or for any other budget periods.

Subp. 2. **Separate expenditure categories.** Each budget must separate expenditures according to the following categories, as further defined in subparts 3 to 6:

- A. room and board and previously funded program costs;
- B. new program costs separated into new direct service costs and other new program costs; and
- C. other costs including program costs for residents who are not adult, not mentally ill, or not Minnesota residents.

Subp. 3. **Room and board costs.** Room and board costs must include the following costs:

- A. all directly identifiable costs of normal and special diet food preparation and service;
- B. all directly identifiable costs of linen, bedding, laundering, and laundry supplies;
- C. all directly identifiable costs of housekeeping, including cleaning and lavatory supplies;
- D. all directly identifiable costs for maintenance and operation of the building and grounds, including fuel, electricity, water, supplies, and parts and tools to repair and maintain equipment and facilities; and
- E. a reasonable allocation of salaries and other costs related to items A to D.

However, costs which are new since June 1, 1981, and which are required by parts 9520.0500 to 9520.0690 are other new program costs and are not room and board costs.

Subp. 4. **Previously funded program costs.** Previously funded program costs must include costs for any services provided before June 1, 1981, at least at the level of funding used for those services during May 1981.

Subp. 5. **New direct service costs.** Within the limits in part 9535.2600, subpart 1, new direct service costs are the only costs which may be paid with state funds under Minnesota Statutes, section 245.73. New direct service costs may include the following if the costs are required by parts 9520.0500 to 9520.0690 and if the costs are new since June 1, 1981:

- A. salaries and related expenses including payroll taxes, health insurance, retirement contributions, telephone, personal liability insurance, postage, recruitment, staff training, and in-state travel of personnel providing services directly to adult residents who are mentally ill. Support personnel are included to the extent they perform client related duties such as client record keeping, individual program planning, and on-site program supervision;
- B. consumable supplies used by the personnel described in item A in performing client related duties and by clients in carrying out program activities; and
- C. minor expenditures which are shown by the county board to be essential for the facility to meet requirements of parts 9520.0500 to 9520.0690, and which cannot be paid for from local matching funds.

Subp. 6. **Other new program costs.** Other new program costs must include all new program costs other than those already included in new direct service costs. These costs must include, but not be limited to, the costs of renovation, construction or rent of buildings, and purchase or lease of vehicles or equipment, if these costs are new since June 1, 1981, and are required by parts 9520.0500 to 9520.0690. These costs may be paid for with local matching funds, but may not be paid for with state funds provided under Minnesota Statutes, section 245.73.

Subp. 7. **Cost allocation.** The application shall include an explanation of the allocation of indirect costs to the various budget categories.

Subp. 8. **Elimination or reduction in funds by state or federal government.** If there has been a state or federal decision to reduce the previous level of funding for an existing program, expenditures which would otherwise be included under previously funded program costs may be included under new direct service costs or other new program costs. An application must include documentation of the elimination or reduction in funds by the state or federal government. If the previous funding was from a block grant type of funding source, the percentage reduction used for this exception must not exceed the average percentage reduction for all other services funded by the applicant county board from that funding source.

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Subp. 9. **Limits on dollar amounts for items.** The dollar amounts for the various items included in the budget must not exceed the prevailing cost of like items in the local county and the costs that prudent and cost-conscious management would pay for a given item or service.

Subp. 10. **Time frame for budget.** The budget shall relate to a time period set by the county board within the time limits set by the appropriation.

Subp. 11. **Client-days.** The budget shall include the projected number of client-days of service per facility and the projected cost per client per day.

#### **9535.2500 LINES OF ACCOUNTABILITY AND FLOW OF FUNDS.**

Subpart 1. **Payments to county board.** The county board shall be the primary local entity responsible to the commissioner for use of all funds paid to it under Minnesota Statutes, section 245.73. The commissioner shall pay funds under Minnesota Statutes, section 245.73 solely to county boards submitting an application and budget approved under part 9535.2200, subpart 5. Payments shall be in the form of an initial advance, with subsequent quarterly payments contingent upon receipt of a completed quarterly financial report from the county board on forms provided by the commissioner. If actual expenditures by the county, its contracting facilities, and subcontractors are less than provided in the approved budget, the commissioner shall reduce the quarterly payments so that the grant remains within the limits in part 9535.2600, subpart 1.

Subp. 2. **Local review of applications.** If a county board elects to apply for a grant under Minnesota Statutes, section 245.73, then before submission of the application and budget to the commissioner, the county board shall determine which facilities shall be included in the application and budget, and shall review and approve the completed application and budget.

Subp. 3. **Payment to residential facility.** Payment from the county board to the residential facility must be based on a contract between the county board and the facility. If this contract and the requirements of parts 9535.2000 to 9535.3000 are complied with, the county board shall, except as provided in subpart 6, item B, pay to the facility all funds received by the county board for that facility. The county board shall determine the method of payment to the facility.

Subp. 4. **County board and facility contract.** The contract between the county board and the facility must specify how the county board will monitor the facility's compliance with parts 9535.2000 to 9535.3000 and how the county board and the facility will monitor the subcontractors' compliance with parts 9535.2000 to 9535.3000.

Subp. 5. **Joint applications for grant.** If two or more county boards apply jointly for a grant, they shall designate a host county board that will carry out the responsibilities in subparts 1, 3, and 4. The assignment of these responsibilities must be agreed to in a contract between the host county board and the other counties.

Subp. 6. **Other service providers.** If funds under Minnesota Statutes, section 245.73 are to be used by a service provider other than the contracting facility in subpart 3, then:

A. the amount and planned use of those funds must be identified in the application and budget for the facility whose residents will receive the service; and

B. payments to the service provider must be based on a subcontract between the facility and the service provider. This subcontract must include an agreement by the service provider to comply with parts 9535.2000 to 9535.3000. If the county board and the facility agree, payments may be made directly from the county board to the service provider.

#### **9535.2600 STATE AND LOCAL SHARES.**

Subpart 1. **Amount of grant.** After approval of an application and budget, the commissioner shall award a grant equal to the lesser of 75 percent of the new program costs as defined in part 9535.2400, subpart 2, item B; or the new direct service costs, as defined in part 9535.2400, subpart 5.

Subp. 2. **Varying percentages of funds for more than one facility.** A county board that applies for a grant for more than one facility may request varying percentages of state and local funds for each facility. The commissioner shall approve the request if the total request for all facilities for that county complies with subpart 1 and if state funds are used only for new direct service costs.

Subp. 3. **Amounts specified for each facility.** The commissioner's award shall specify the amounts awarded for each facility.

Subp. 4. **Other income.** If the county board, the facility, or the subcontractor receives any income other than county funds as a reimbursement for costs also funded through state or local matching funds under Minnesota Statutes, section 245.73, then:

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A. except as provided in item C, the commissioner shall consider this income to be applied first to the local share;

B. if the income exceeds the local share of the approved new program costs, the commissioner shall reduce the state grant by whatever amount the income exceeds the local share; and

C. if the income is from state grants under parts 9535.0200 to 9535.1600, the commissioner shall reduce the state grant under Minnesota Statutes, section 245.73. The amount of the reduction shall equal the amount by which the other state grants are paying for costs which are also funded by state or local matching funds under Minnesota Statutes, section 245.73.

**9535.2700 REPORTING AND MAINTENANCE OF RECORDS.**

Subpart 1. **Purpose.** The county board, its contracting facilities, and subcontractors shall maintain records to document compliance with parts 9535.2000 to 9535.3000 and with the objectives in the approved application.

Subp. 2. **Reporting forms.** The county board shall use forms provided by the commissioner to report the use of funds under Minnesota Statutes, section 245.73, including the number and kinds of persons served, the cost of providing each service, results achieved, and other data deemed necessary by the commissioner. Wherever possible the commissioner shall use the same data which is required for reporting under parts 9520.0500 to 9520.0690. The commissioner shall use these reports and the evaluation from the county board to develop the report to the legislature required by Minnesota Statutes, section 245.73.

Subp. 3. **Financial records.** The county board, its contracting facilities, and subcontractors shall maintain financial records, using generally accepted accounting principles, in a way so that expenditures can be easily compared with the approved budget, that all sources of income can be readily identified, and that documentation is available for all expenditures.

Subp. 4. **Availability for audit inspection.** The county board, its contracting facilities, and subcontractors shall make available for audit inspection all records required by parts 9535.2000 to 9535.3000, upon request by the commissioner.

Subp. 5. **Minimum retention period.** Unless an audit in process requires a longer retention period, the county board, its contracting facilities, and subcontractors shall use the following schedule in retaining a copy of all records required by parts 9535.2000 to 9535.3000:

- A. summary reports relating to the facility, at least ten years;
- B. records of specific payments made and income received, at least ten years; and
- C. all other records, at least four years.

**9535.2800 REVISION PROCEDURES FOR APPROVED BUDGETS AND OBJECTIVES.**

Subpart 1. **Definitions.** The terms "approved new program costs" and "approved objectives," as used in subparts 2, item A, and 3, mean those new program costs and objectives contained in an application for a grant approved by the commissioner under part 9535.2200, subpart 6.

Subp. 2. **Budget revision.** After a grant award is made and as long as state funds are used for eligible expenditures under parts 9535.2000 to 9535.3000, budget revisions, including transfers between approved facilities within a county, may be made under the following conditions:

A. Revisions totaling up to ten percent of a facility's approved new program costs may be made with county board approval only. Revisions totaling in excess of that amount require both county board and commissioner's approval.

B. All requests for budget revision approval must include the reason for the revision and a statement as to how the revision will affect program objectives.

Subp. 3. **Revision of objectives.** Approved objectives may be revised under the following conditions:

A. When a facility becomes aware that it will not be able to attain or maintain licensure as required by part 9535.2200, subpart 5, it shall immediately notify the county board and the commissioner. The facility and the county board shall either:

- (1) immediately repay to the commissioner the remainder of the grant; or
- (2) obtain approval from the commissioner to meet the required objectives at a later date.

B. The commissioner shall grant the approval required under item A, subitem 2 if, in the commissioner's judgment:

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(1) the failure to meet the required objectives is due to circumstances beyond the control of the facility and the county board; and

(2) the facility submits a realistic, time-specified plan which includes revised objectives to attain licensure under parts 9520.0500 to 9520.0690 as soon as possible, but no later than 12 months from the effective date of the grant award.

C. The facility shall request county board and commissioner's approval at least 20 days prior to: a change in licensed capacity, a move to another location, or a major change in programming, such as a change in the target population or a shift from internal to external provision of services.

D. The facility shall consult with the commissioner prior to hiring or changing the program director, to assure compliance with the qualifications in parts 9520.0500 to 9520.0690.

E. The facility shall notify the county board and the commissioner prior to a change in ownership.

F. The facility may revise objectives other than those relating to items in subpart 3, items A to C without the commissioner's approval, as long as the revised objectives do not conflict with parts 9535.2000 to 9535.3000.

Subp. 4. **Delegation of county board approval.** The county board may delegate its approval of budget and objective revisions if the delegation is specified in the county board minutes.

Subp. 5. **Commissioner's approval.** The commissioner shall not grant approval for revisions unless the revisions are consistent with parts 9535.2000 to 9535.3000.

**9535.2900 TERMINATION OR RETURN OF GRANT.**

Subpart 1. **Funds not needed.** If the commissioner determines that funds are not needed to implement the approved application, and if the county board agrees the funds are not needed, then the county board shall return the unneeded portion of the grant immediately.

Subp. 2. **Funds not properly used.** If the commissioner determines that funds are not being used according to the approved application and budget, all or part of the grant may be terminated upon 30 days notice to the affected county board with a copy to the affected facility. The commissioner may require repayment of any funds not used according to the approved application and budget. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14, shall be provided before the grant is terminated or is required to be repaid. The 30-day period shall begin upon the county board's receipt of the commissioner's notice by certified mail.

Subp. 3. **Use of returned funds.** The commissioner may use the funds returned under subpart 1 or 2 to make new awards for other applications and budgets approved under part 9535.2200, subpart 6.

Subp. 4. **Delayed payments.** If the commissioner's grant award letter states that a grant payment is contingent upon compliance with specific conditions required by parts 9535.2000 to 9535.3000; and if the affected county board, its contracting facilities, or subcontractors fail to meet the conditions, the commissioner may delay the grant payment until the conditions are met or until the conditions are revised through the process in part 9535.2800. The commissioner shall not delay the payment longer than three months unless he or she first issues a grant termination notice pursuant to subpart 2. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing provided in subpart 2.

**9535.3000 SEVERABILITY.**

If a paragraph or clause of a rule is declared void, the paragraph or clause is severable without effect to the other paragraphs or clauses in the rule.

**9555.7400 EMERGENCY PROTECTIVE SERVICES.**

The local social services agency shall offer emergency and continuing protective social services for purposes of preventing further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult.

**9555.7500 CLASSIFICATION OF COMPLAINTS.**

Within 90 days of receiving the initial complaint, the local social services agency shall assess, make a finding, and classify all complaints as either substantiated, false, or inconclusive.

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At the conclusion of the assessment, the alleged victim of maltreatment and the alleged perpetrator shall be notified in writing as to whether the complaint was substantiated, false, or inconclusive.