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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 446

01/28/2019 Authored by Franson, Scott, Runbeck, Koznick, Haley and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; modifying temporary immediate license suspensions;
1.3 requiring eligibility verification; establishing penalties for certain theft offenses;
1.4 requiring a report; amending Minnesota Statutes 2018, sections 245A.07,
1.5 subdivision 2; 256.98, subdivision 8, by adding a subdivision; proposing coding
1.6 for new law in Minnesota Statutes, chapter 256.

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

1.8 Section 1. Minnesota Statutes 2018, section 245A.07, subdivision 2, is amended to read:

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

1.11 (1) the license holder's actions or failure to comply with applicable law or rule, or the
1.12 actions of other individuals or conditions in the program, pose an imminent risk of harm to
1.13 the health, safety, or rights of persons served by the program; ~~or~~

1.14 (2) while the program continues to operate pending an appeal of an order of revocation,
1.15 the commissioner identifies one or more subsequent violations of law or rule which may
1.16 adversely affect the health or safety of persons served by the program; or

1.17 (3) a child care license holder fails to comply with the child care assistance fraud
1.18 investigation requirements under chapter 245E.

1.19 (b) No state funds shall be made available or be expended by any agency or department
1.20 of state, county, or municipal government for use by a license holder regulated under this
1.21 chapter while a license is under immediate suspension. A notice stating the reasons for the
1.22 immediate suspension and informing the license holder of the right to an expedited hearing
1.23 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612, must be delivered

2.1 by personal service to the address shown on the application or the last known address of
2.2 the license holder. The license holder may appeal an order immediately suspending a license.
2.3 The appeal of an order immediately suspending a license must be made in writing by certified
2.4 mail or personal service. If mailed, the appeal must be postmarked and sent to the
2.5 commissioner within five calendar days after the license holder receives notice that the
2.6 license has been immediately suspended. If a request is made by personal service, it must
2.7 be received by the commissioner within five calendar days after the license holder received
2.8 the order. A license holder and any controlling individual shall discontinue operation of the
2.9 program upon receipt of the commissioner's order to immediately suspend the license.

2.10 Sec. 2. [256.0113] ELIGIBILITY VERIFICATION.

2.11 Subdivision 1. Verification required; vendor contract. (a) The commissioner shall
2.12 ensure that medical assistance, MinnesotaCare, child care assistance programs under chapter
2.13 119B, and Supplemental Nutrition Assistance Program (SNAP) eligibility determinations
2.14 through the MNsure information technology system and through other agency eligibility
2.15 determination systems include the computerized verification of income, residency, identity,
2.16 and, when applicable, assets and compliance with SNAP work requirements.

2.17 (b) The commissioner shall contract with a vendor to verify the eligibility of all enrollees
2.18 of medical assistance, MinnesotaCare, child care assistance programs, and SNAP during a
2.19 specified audit period. This contract shall be exempt from sections 16C.08, subdivision 2,
2.20 clause (1); 16C.09, paragraph (a), clause (1); 43A.047, paragraph (a); and any other law to
2.21 the contrary.

2.22 (c) The contract must require the vendor to comply with enrollee data privacy
2.23 requirements and to use encryption to safeguard enrollee identity. The contract must also
2.24 provide penalties for vendor noncompliance.

2.25 (d) The contract must include a revenue-sharing agreement, under which vendor
2.26 compensation is limited to a portion of any savings to the state resulting from the vendor's
2.27 implementation of eligibility verification initiatives under this section.

2.28 (e) The commissioner shall use existing resources to fund any agency administrative
2.29 and technology-related costs incurred as a result of implementing this section.

2.30 (f) All state savings resulting from implementation of the vendor contract under this
2.31 section, minus any payments to the vendor made under the terms of the revenue sharing
2.32 agreement, shall be deposited into the health care access fund.

3.1 Subd. 2. **Verification process; vendor duties.** (a) The verification process implemented
3.2 by the vendor must include but is not limited to data matches of the name, date of birth,
3.3 address, and Social Security number of each medical assistance, MinnesotaCare, child care
3.4 assistance programs, and SNAP enrollee against relevant information in federal and state
3.5 data sources, including the federal data hub established under the Affordable Care Act. In
3.6 designing the verification process, the vendor, to the extent feasible, shall incorporate
3.7 procedures that are compatible and coordinated with, and build upon or improve, existing
3.8 procedures used by the MNsure information technology system and other agency eligibility
3.9 determination systems.

3.10 (b) The vendor, upon preliminary determination that an enrollee is eligible or ineligible,
3.11 shall notify the commissioner. Within 20 business days of notification, the commissioner
3.12 shall accept the preliminary determination or reject the preliminary determination with a
3.13 stated reason. The commissioner shall retain final authority over eligibility determinations.
3.14 The vendor shall keep a record of all preliminary determinations of ineligibility submitted
3.15 to the commissioner.

3.16 (c) The vendor shall recommend to the commissioner an eligibility verification process
3.17 that allows ongoing verification of enrollee eligibility under the MNsure information
3.18 technology system and other agency eligibility determination systems.

3.19 (d) An eligibility verification vendor contract shall be awarded for an initial one-year
3.20 period beginning January 1, 2020. The commissioner shall renew the contract for up to
3.21 three additional one-year periods and require additional eligibility verification audits if the
3.22 commissioner or the legislative auditor determines that the MNsure information technology
3.23 system and other agency eligibility determination systems cannot effectively verify the
3.24 eligibility of medical assistance, MinnesotaCare, child care assistance programs under
3.25 chapter 119B, and SNAP enrollees.

3.26 Sec. 3. Minnesota Statutes 2018, section 256.98, is amended by adding a subdivision to
3.27 read:

3.28 Subd. 1a. **Unauthorized transfer.** A person who violates subdivision 1 with the intent
3.29 to transfer any payments or other benefits to an individual or organization in a foreign
3.30 country whose residents are subject to travel restrictions under federal law or executive
3.31 order based on information sharing practices that have been determined to be inadequate is
3.32 guilty of a crime and may be sentenced as follows:

4.1 (1) to imprisonment for not more than 25 years or to payment of a fine of not more than
4.2 \$125,000, or both if the value of the payments or benefits wrongfully obtained exceeds
4.3 \$35,000;

4.4 (2) to imprisonment for not more than 15 years or to payment of a fine of not more than
4.5 \$75,000, or both if the value of the payments or benefits wrongfully obtained is more than
4.6 \$5,000 but not more than \$35,000;

4.7 (3) to imprisonment for not more than ten years or to payment of a fine of not more than
4.8 \$50,000, or both if the value of the payments or benefits wrongfully obtained is more than
4.9 \$1,000 but not more than \$5,000;

4.10 (4) to imprisonment for not more than five years or to payment of a fine of not more
4.11 than \$15,000, or both if the value of the payments or benefits wrongfully obtained is more
4.12 than \$500 but not more than \$1,000; and

4.13 (5) to imprisonment for not more than two years or to payment of a fine of not more
4.14 than \$5,000, or both if the value of the payments or benefits wrongfully obtained is \$500
4.15 or less.

4.16 **EFFECTIVE DATE.** This section is effective August 1, 2019 and applies to offenses
4.17 committed on or after that date.

4.18 Sec. 4. Minnesota Statutes 2018, section 256.98, subdivision 8, is amended to read:

4.19 Subd. 8. **Disqualification from program.** (a) Any person found to be guilty of
4.20 wrongfully obtaining assistance by a federal or state court or by an administrative hearing
4.21 determination, or waiver thereof, through a disqualification consent agreement, or as part
4.22 of any approved diversion plan under section 401.065, or any court-ordered stay which
4.23 carries with it any probationary or other conditions, in the Minnesota family investment
4.24 program and any affiliated program to include the diversionary work program and the work
4.25 participation cash benefit program, the food stamp or food support program, the general
4.26 assistance program, housing support under chapter 256I, or the Minnesota supplemental
4.27 aid program shall be disqualified from that program. In addition, any person disqualified
4.28 from the Minnesota family investment program shall also be disqualified from the food
4.29 stamp or food support program. The needs of that individual shall not be taken into
4.30 consideration in determining the grant level for that assistance unit:

4.31 (1) for one year after the first offense;

4.32 (2) for two years after the second offense; and

5.1 (3) permanently after the third or subsequent offense, or for a violation of subdivision
5.2 1a.

5.3 The period of program disqualification shall begin on the date stipulated on the advance
5.4 notice of disqualification without possibility of postponement for administrative stay or
5.5 administrative hearing and shall continue through completion unless and until the findings
5.6 upon which the sanctions were imposed are reversed by a court of competent jurisdiction.
5.7 The period for which sanctions are imposed is not subject to review. The sanctions provided
5.8 under this subdivision are in addition to, and not in substitution for, any other sanctions that
5.9 may be provided for by law for the offense involved. A disqualification established through
5.10 hearing or waiver shall result in the disqualification period beginning immediately unless
5.11 the person has become otherwise ineligible for assistance. If the person is ineligible for
5.12 assistance, the disqualification period begins when the person again meets the eligibility
5.13 criteria of the program from which they were disqualified and makes application for that
5.14 program.

5.15 (b) A family receiving assistance through child care assistance programs under chapter
5.16 119B with a family member who is found to be guilty of wrongfully obtaining child care
5.17 assistance by a federal court, state court, or an administrative hearing determination or
5.18 waiver, through a disqualification consent agreement, as part of an approved diversion plan
5.19 under section 401.065, or a court-ordered stay with probationary or other conditions, is
5.20 disqualified from child care assistance programs. The disqualifications must be for periods
5.21 of one year and two years for the first and second offenses, respectively. Subsequent
5.22 violations must result in permanent disqualification. During the disqualification period,
5.23 disqualification from any child care program must extend to all child care programs and
5.24 must be immediately applied.

5.25 (c) A provider caring for children receiving assistance through child care assistance
5.26 programs under chapter 119B is disqualified from receiving payment for child care services
5.27 from the child care assistance program under chapter 119B when the provider is found to
5.28 have wrongfully obtained child care assistance by a federal court, state court, or an
5.29 administrative hearing determination or waiver under section 256.046, through a
5.30 disqualification consent agreement, as part of an approved diversion plan under section
5.31 401.065, or a court-ordered stay with probationary or other conditions. The disqualification
5.32 must be for a period of one year for the first offense and two years for the second offense.
5.33 Any subsequent violation must result in permanent disqualification. The disqualification
5.34 period must be imposed immediately after a determination is made under this paragraph.

6.1 During the disqualification period, the provider is disqualified from receiving payment from
6.2 any child care program under chapter 119B.

6.3 (d) Any person found to be guilty of wrongfully obtaining MinnesotaCare for adults
6.4 without children and upon federal approval, all categories of medical assistance and
6.5 remaining categories of MinnesotaCare, except for children through age 18, by a federal or
6.6 state court or by an administrative hearing determination, or waiver thereof, through a
6.7 disqualification consent agreement, or as part of any approved diversion plan under section
6.8 401.065, or any court-ordered stay which carries with it any probationary or other conditions,
6.9 is disqualified from that program. The period of disqualification is one year after the first
6.10 offense, two years after the second offense, and permanently after the third or subsequent
6.11 offense. The period of program disqualification shall begin on the date stipulated on the
6.12 advance notice of disqualification without possibility of postponement for administrative
6.13 stay or administrative hearing and shall continue through completion unless and until the
6.14 findings upon which the sanctions were imposed are reversed by a court of competent
6.15 jurisdiction. The period for which sanctions are imposed is not subject to review. The
6.16 sanctions provided under this subdivision are in addition to, and not in substitution for, any
6.17 other sanctions that may be provided for by law for the offense involved.

6.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

6.19 **Sec. 5. DIRECTION TO COMMISSIONER; REQUIRING ELIGIBILITY**
6.20 **VERIFICATION AUDIT REPORT.**

6.21 The commissioner and the vendor, following the conclusion of the initial contract period,
6.22 shall jointly submit an eligibility verification audit report to the chairs and ranking minority
6.23 members of the legislative committees with jurisdiction over health and human services
6.24 policy and finance. The report shall include but is not limited to information in the form of
6.25 unidentified summary data on preliminary determinations of eligibility or ineligibility
6.26 communicated by the vendor, the actions taken on those preliminary determinations by the
6.27 commissioner, and the commissioner's reasons for rejecting preliminary determinations by
6.28 the vendor. The report must also include the recommendations for ongoing verification of
6.29 enrollee eligibility required under Minnesota Statutes, section 256.0113, subdivision 2,
6.30 paragraph (c).