SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 3694

(SENATE AUTHORS: ABELER, Hoffman and Relph)

DATE	D-PG	OFFICIAL STATUS
02/27/2020	5028	Introduction and first reading Referred to Human Services Reform Finance and Policy
04/14/2020	5607	Author added Relph
04/23/2020	5822a	Comm report: To pass as amended and re-refer to Finance Joint rule 2.03, referred to Rules and Administration
04/30/2020	6071	Comm report: Adopt previous comm report Jt. rule 2.03 suspended

1.1 A bill for an act

1.2 relating to human services; restoring a requirement for notice to lead agencies
1.3 when MnCHOICES assessments are required for personal care assistance services;
1.4 establishing emergency retention grants for certain disability services providers;
1.5 temporarily prohibiting TEFRA parental fees; temporarily increasing the personal
1.6 care assistance service limit; temporarily increasing rates for direct support services;
1.7 temporarily increasing rates for certain services provided under the home and
1.8 community-based services waivers; temporarily increasing rates for certain
1.9 nonemergency medical transportation services; appropriating money; amending
1.10 Minnesota Statutes 2019 Supplement, section 256B.0911, subdivision 3a.

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

1.12 Section 1. Minnesota Statutes 2019 Supplement, section 256B.0911, subdivision 3a, is
1.13 amended to read:

1.14 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services
1.15 planning, or other assistance intended to support community-based living, including persons
1.16 who need assessment in order to determine waiver or alternative care program eligibility,
1.17 must be visited by a long-term care consultation team within 20 calendar days after the date
1.18 on which an assessment was requested or recommended. Upon statewide implementation
1.19 of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person
1.20 requesting personal care assistance services. The commissioner shall provide at least a
1.21 90-day notice to lead agencies prior to the effective date of this requirement. Face-to-face
1.22 assessments must be conducted according to paragraphs (b) to (i).

1.23 (b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified
1.24 assessors to conduct the assessment. For a person with complex health care needs, a public
1.25 health or registered nurse from the team must be consulted.

2.1 (c) The MnCHOICES assessment provided by the commissioner to lead agencies must
2.2 be used to complete a comprehensive, conversation-based, person-centered assessment.
2.3 The assessment must include the health, psychological, functional, environmental, and
2.4 social needs of the individual necessary to develop a community support plan that meets
2.5 the individual's needs and preferences.

2.6 (d) The assessment must be conducted in a face-to-face conversational interview with
2.7 the person being assessed. The person's legal representative must provide input during the
2.8 assessment process and may do so remotely if requested. At the request of the person, other
2.9 individuals may participate in the assessment to provide information on the needs, strengths,
2.10 and preferences of the person necessary to develop a community support plan that ensures
2.11 the person's health and safety. Except for legal representatives or family members invited
2.12 by the person, persons participating in the assessment may not be a provider of service or
2.13 have any financial interest in the provision of services. For persons who are to be assessed
2.14 for elderly waiver customized living or adult day services under chapter 256S, with the
2.15 permission of the person being assessed or the person's designated or legal representative,
2.16 the client's current or proposed provider of services may submit a copy of the provider's
2.17 nursing assessment or written report outlining its recommendations regarding the client's
2.18 care needs. The person conducting the assessment must notify the provider of the date by
2.19 which this information is to be submitted. This information shall be provided to the person
2.20 conducting the assessment prior to the assessment. For a person who is to be assessed for
2.21 waiver services under section 256B.092 or 256B.49, with the permission of the person being
2.22 assessed or the person's designated legal representative, the person's current provider of
2.23 services may submit a written report outlining recommendations regarding the person's care
2.24 needs the person completed in consultation with someone who is known to the person and
2.25 has interaction with the person on a regular basis. The provider must submit the report at
2.26 least 60 days before the end of the person's current service agreement. The certified assessor
2.27 must consider the content of the submitted report prior to finalizing the person's assessment
2.28 or reassessment.

2.29 (e) The certified assessor and the individual responsible for developing the coordinated
2.30 service and support plan must complete the community support plan and the coordinated
2.31 service and support plan no more than 60 calendar days from the assessment visit. The
2.32 person or the person's legal representative must be provided with a written community
2.33 support plan within the timelines established by the commissioner, regardless of whether
2.34 the person is eligible for Minnesota health care programs.

3.1 (f) For a person being assessed for elderly waiver services under chapter 256S, a provider
3.2 who submitted information under paragraph (d) shall receive the final written community
3.3 support plan when available and the Residential Services Workbook.

3.4 (g) The written community support plan must include:

3.5 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

3.6 (2) the individual's options and choices to meet identified needs, including all available
3.7 options for case management services and providers, including service provided in a
3.8 non-disability-specific setting;

3.9 (3) identification of health and safety risks and how those risks will be addressed,
3.10 including personal risk management strategies;

3.11 (4) referral information; and

3.12 (5) informal caregiver supports, if applicable.

3.13 For a person determined eligible for state plan home care under subdivision 1a, paragraph
3.14 (b), clause (1), the person or person's representative must also receive a copy of the home
3.15 care service plan developed by the certified assessor.

3.16 (h) A person may request assistance in identifying community supports without
3.17 participating in a complete assessment. Upon a request for assistance identifying community
3.18 support, the person must be transferred or referred to long-term care options counseling
3.19 services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for
3.20 telephone assistance and follow up.

3.21 (i) The person has the right to make the final decision between institutional placement
3.22 and community placement after the recommendations have been provided, except as provided
3.23 in section 256.975, subdivision 7a, paragraph (d).

3.24 (j) The lead agency must give the person receiving assessment or support planning, or
3.25 the person's legal representative, materials, and forms supplied by the commissioner
3.26 containing the following information:

3.27 (1) written recommendations for community-based services and consumer-directed
3.28 options;

3.29 (2) documentation that the most cost-effective alternatives available were offered to the
3.30 individual. For purposes of this clause, "cost-effective" means community services and
3.31 living arrangements that cost the same as or less than institutional care. For an individual
3.32 found to meet eligibility criteria for home and community-based service programs under

4.1 chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally
4.2 approved waiver plan for each program;

4.3 (3) the need for and purpose of preadmission screening conducted by long-term care
4.4 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects
4.5 nursing facility placement. If the individual selects nursing facility placement, the lead
4.6 agency shall forward information needed to complete the level of care determinations and
4.7 screening for developmental disability and mental illness collected during the assessment
4.8 to the long-term care options counselor using forms provided by the commissioner;

4.9 (4) the role of long-term care consultation assessment and support planning in eligibility
4.10 determination for waiver and alternative care programs, and state plan home care, case
4.11 management, and other services as defined in subdivision 1a, paragraphs (a), clause (6),
4.12 and (b);

4.13 (5) information about Minnesota health care programs;

4.14 (6) the person's freedom to accept or reject the recommendations of the team;

4.15 (7) the person's right to confidentiality under the Minnesota Government Data Practices
4.16 Act, chapter 13;

4.17 (8) the certified assessor's decision regarding the person's need for institutional level of
4.18 care as determined under criteria established in subdivision 4e and the certified assessor's
4.19 decision regarding eligibility for all services and programs as defined in subdivision 1a,
4.20 paragraphs (a), clause (6), and (b); and

4.21 (9) the person's right to appeal the certified assessor's decision regarding eligibility for
4.22 all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and
4.23 (8), and (b), and incorporating the decision regarding the need for institutional level of care
4.24 or the lead agency's final decisions regarding public programs eligibility according to section
4.25 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right
4.26 to the person and must visually point out where in the document the right to appeal is stated.

4.27 (k) Face-to-face assessment completed as part of eligibility determination for the
4.28 alternative care, elderly waiver, developmental disabilities, community access for disability
4.29 inclusion, community alternative care, and brain injury waiver programs under chapter 256S
4.30 and sections 256B.0913, 256B.092, and 256B.49 is valid to establish service eligibility for
4.31 no more than 60 calendar days after the date of assessment.

4.32 (l) The effective eligibility start date for programs in paragraph (k) can never be prior
4.33 to the date of assessment. If an assessment was completed more than 60 days before the

5.1 effective waiver or alternative care program eligibility start date, assessment and support
5.2 plan information must be updated and documented in the department's Medicaid Management
5.3 Information System (MMIS). Notwithstanding retroactive medical assistance coverage of
5.4 state plan services, the effective date of eligibility for programs included in paragraph (k)
5.5 cannot be prior to the date the most recent updated assessment is completed.

5.6 (m) If an eligibility update is completed within 90 days of the previous face-to-face
5.7 assessment and documented in the department's Medicaid Management Information System
5.8 (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date
5.9 of the previous face-to-face assessment when all other eligibility requirements are met.

5.10 (n) At the time of reassessment, the certified assessor shall assess each person receiving
5.11 waiver services currently residing in a community residential setting, or licensed adult foster
5.12 care home that is not the primary residence of the license holder, or in which the license
5.13 holder is not the primary caregiver, to determine if that person would prefer to be served in
5.14 a community-living setting as defined in section 256B.49, subdivision 23. The certified
5.15 assessor shall offer the person, through a person-centered planning process, the option to
5.16 receive alternative housing and service options.

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

5.18 Sec. 2. **TEFRA PARENTAL CONTRIBUTION PAYMENTS PROHIBITED DURING**
5.19 **COVID-19 PEACETIME EMERGENCY.**

5.20 The Department of Human Services and local agencies shall not require parental
5.21 contribution payments under Minnesota Statutes, section 252.27, subdivision 2a, during the
5.22 peacetime emergency declared by the governor in an executive order that relates to the
5.23 infectious disease known as COVID-19. Parental contribution payments collected after
5.24 March 13, 2020, shall be refunded. Parental contribution payments may resume the first
5.25 full month following expiration of the peacetime emergency. The amount of the parental
5.26 contribution shall be redetermined according to Minnesota Statutes, section 252.27,
5.27 subdivision 2a, for households that reported a reduction in income of greater than ten percent
5.28 during the peacetime emergency.

5.29 **EFFECTIVE DATE.** This section is effective the day following final enactment, and
5.30 expires 30 days after the peacetime emergency declared by the governor in an executive
5.31 order that relates to the infectious disease known as COVID-19 is terminated or rescinded
5.32 by proper authority.

6.1 Sec. 3. **TEMPORARY SUSPENSION OF MONTHLY LIMIT ON HOURS WORKED**
6.2 **BY PERSONAL CARE ASSISTANTS.**

6.3 Notwithstanding Minnesota Statutes, section 256B.0659, subdivision 11, paragraph (a),
6.4 clause (10), during a peacetime emergency declared by the governor under Minnesota
6.5 Statutes, section 12.31, subdivision 2, for an outbreak of COVID-19, a personal care assistant
6.6 may provide and be paid for 310 hours per month of personal care assistance services. This
6.7 section expires January 31, 2021, or 60 days after the peacetime emergency declared by the
6.8 governor under Minnesota Statutes, section 12.31, subdivision 2, for an outbreak of
6.9 COVID-19, is terminated or rescinded by proper authority, whichever is earlier.

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

6.11 Sec. 4. **APPROPRIATION; NONEMERGENCY MEDICAL TRANSPORTATION**
6.12 **TEMPORARY RATE INCREASE.**

6.13 Subdivision 1. **Appropriation.** $....... is appropriated in fiscal year 2020 from the general
6.14 fund to the commissioner of human services for temporary nonemergency medical
6.15 transportation rate increases for all modes of transportation except client reimbursement;
6.16 volunteer transport; and unassisted transport provided by public transit. This is a onetime
6.17 appropriation and is available until the expiration of this section.

6.18 Subd. 2. **Temporary rates.** Notwithstanding Minnesota Statutes, section 256B.0625,
6.19 subdivision 17, paragraph (m), clauses (3) to (7), the temporary medical assistance
6.20 reimbursement rates for nonemergency medical transportation services that are payable by
6.21 or on behalf of the commissioner for nonemergency medical transportation services are:

6.22 (1) $16.50 for the base rate and $1.95 per mile for unassisted transport when provided
6.23 by a nonemergency medical transportation provider;

6.24 (2) $19.50 for the base rate and $1.95 per mile for assisted transport;

6.25 (3) $27 for the base rate and $2.33 per mile for lift-equipped/ramp transport;

6.26 (4) $112.50 for the base rate and $3.60 per mile for protected transport; and

6.27 (5) $90 for the base rate and $3.60 per mile for stretcher transport, and $13.50 per trip
6.28 for an additional attendant if deemed medically necessary.

6.29 These temporary rates shall remain in effect until the expiration of this section.

6.30 Subd. 3. **Capitation rates and directed payments.** (a) To implement the temporary
6.31 rate increase under this section, managed care plans and county-based purchasing plans
6.32 shall increase rates as described in subdivision 2.

7.1 (b) In combination with contract amendments instructing plans to increase reimbursement
7.2 rates for nonemergency medical transportation services, the commissioner shall adjust
7.3 capitation rates paid to managed care plans and county-based purchasing plans as needed
7.4 to maintain plans' expected medical loss ratios.

7.5 (c) Contracts between managed care plans and providers and between county-based
7.6 purchasing plans and providers must allow recovery of payments from providers if federal
7.7 approval for the provisions of this subdivision is not received and the commissioner reduces
7.8 capitation payments as a result. Payment recoveries must not exceed the amount equal to
7.9 any decrease in rates that results from this paragraph.

7.10 Subd. 4. **Expiration.** This section expires January 31, 2021, or 60 days after the peacetime
7.11 emergency declared by the governor in an executive order that relates to the infectious
7.12 disease known as COVID-19 is terminated or rescinded by proper authority, whichever is
7.13 earlier.

7.14 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
7.15 of human services shall notify the revisor of statutes when approval is obtained.

7.16 Sec. 5. **APPROPRIATION; COVID-19-RELATED EMERGENCY RETENTION**
7.17 **GRANTS FOR DISABILITY SERVICES.**

7.18 Subdivision 1. **Appropriation.** $25,000,000 is appropriated in fiscal year 2020 from
7.19 the general fund to the commissioner of human services for emergency retention grants to
7.20 providers of eligible disability services to help ensure the continuity of the disability services
7.21 infrastructure and prevent its failure during or following the COVID-19 pandemic. This is
7.22 a onetime appropriation and is available until the expiration of subdivision 3.

7.23 Subd. 2. **Eligible services.** Providers of the following services are eligible for emergency
7.24 retention grants under this section:

7.25 (1) adult day services, day training and habilitation, day support services, prevocational
7.26 services, and structured day services provided by the home and community-based waiver
7.27 programs under Minnesota Statutes, sections 256B.092 and 256B.49, and Minnesota Statutes,
7.28 chapter 256S;

7.29 (2) employment exploration services, employment development services, and employment
7.30 support services provided by the home and community-based waiver programs under
7.31 Minnesota Statutes, sections 256B.092 and 256B.49;

7.32 (3) children's therapeutic supports and services under Minnesota Statutes, section
7.33 256B.0943;

8.1 (4) early intensive developmental and behavioral intervention under Minnesota Statutes,
8.2 section 256B.0949; and

8.3 (5) nonemergency medical transportation services under Minnesota Statutes, section
8.4 256B.0625, subdivision 17, except for nonemergency medical transportation provided by
8.5 public transit or not-for-hire vehicles.

8.6 Subd. 3. **Emergency retention grants.** The commissioner may make emergency retention
8.7 grants to providers of eligible services. The commissioner shall determine the number of
8.8 grants issued and the amount.

8.9 Subd. 4. **Application.** (a) The commissioner shall develop an application form and
8.10 application process for emergency retention grants under this section. An applicant must
8.11 provide the following information in the application:

8.12 (1) eligibility for existing COVID-19-related emergency funding, including state and
8.13 federal small business loans;

8.14 (2) the provider's total revenue from medical assistance for eligible services provided
8.15 during January 2020;

8.16 (3) how the applicant anticipates using the grant within the allowable uses;

8.17 (4) the requested grant amount;

8.18 (5) an explanation of how the grant will allow the applicant to maintain the continuity
8.19 of the disability services infrastructure and prevent its failure during or following the
8.20 COVID-19 pandemic; and

8.21 (6) other information deemed necessary by the commissioner to evaluate grant
8.22 applications.

8.23 (b) If applications for grants exceed the available appropriations, the commissioner shall
8.24 give priority to grant applications from providers who are ineligible for existing
8.25 COVID-19-related funding or whose services cannot be delivered according to the temporary
8.26 service delivery standards developed by the commissioner under subdivision 10.

8.27 Subd. 5. **Allowable uses of funds.** The commissioner may issue grants to a provider of
8.28 eligible services for fixed costs associated with maintaining the provider's capacity to provide
8.29 services to its clients following the COVID-19 pandemic.

8.30 Subd. 6. **Payments for services provided.** Providers may continue to bill for services
8.31 provided while this section is effective, including for services provided according to the
8.32 temporary service delivery standards developed by the commissioner under subdivision 10.

9.1 Subd. 7. **Condition of accepting emergency retention grants.** As a condition of
9.2 accepting emergency retention grants under this section, a provider of eligible services must
9.3 agree in writing to:

9.4 (1) cooperate with the commissioner of human services to deliver services according to
9.5 the temporary service delivery standards developed by the commissioner under subdivision
9.6 10;

9.7 (2) notify the commissioner of human services of any additional federal, state, or
9.8 philanthropic COVID-19-related funding, including other COVID-19-related state or federal
9.9 grants or small business loans;

9.10 (3) repay emergency retention grants as required by subdivision 8 from any
9.11 COVID-19-related federal, state, or philanthropic funding, excluding the unforgiven portion
9.12 of any COVID-19-related loans;

9.13 (4) acknowledge that emergency retention grants may be subject to recoupment if a state
9.14 audit determines that the provider received additional emergency funding; and

9.15 (5) acknowledge that emergency retention grants may be subject to recoupment if a state
9.16 audit determines that inappropriate billing or duplicate payments for services occurred or
9.17 that the provider used awarded funds for purposes not authorized under this section.

9.18 Subd. 8. **Assistance from other source.** If a provider receives any additional
9.19 COVID-19-related federal, state, or philanthropic funding, the provider must notify the
9.20 commissioner of human services of the amount received. From the additional
9.21 COVID-19-related federal, state, or philanthropic funds received, excluding the unforgiven
9.22 portion of any COVID-19-related loans, the provider must reimburse the commissioner for
9.23 the grants the provider received under this section in an amount equal to either the amount
9.24 of the grant received or the aggregate amount of the additional emergency federal, state, or
9.25 philanthropic COVID-19-related funding received, minus the unforgiven portion of any
9.26 COVID-19-related loans, whichever is less. The state share of all money paid to the
9.27 commissioner under this subdivision must be deposited in the general fund.

9.28 Subd. 9. **Recoupment.** If the commissioner determines that the provider received
9.29 additional COVID-19-related federal, state, or philanthropic funding and failed to reimburse
9.30 the commissioner as required under subdivision 8, or that the provider used awarded funds
9.31 for purposes not authorized under this section, the commissioner shall treat any amount not
9.32 reimbursed as required under subdivision 6 and any amount used for a purpose not authorized
9.33 under subdivision 5 as an overpayment and recover the overpayment under Minnesota
9.34 Statutes, section 256B.0641.

10.1 Subd. 10. **Temporary alternative service standards.** The commissioner of human
10.2 services shall modify existing service delivery standards related to the scope and service
10.3 delivery location for services identified in subdivision 2 to promote service provision during
10.4 the time that subdivision 3 is effective.

10.5 Subd. 11. **Federal waivers.** The commissioner of human services shall seek approval
10.6 of all appropriate federal waivers, waiver plan amendments, and state plan amendments to
10.7 maximize federal financial participation in both emergency retention grants made under
10.8 this section and reimbursement rates for services provided according to the alternative
10.9 service delivery standards developed by the commissioner under subdivision 10.

10.10 Subd. 12. **Expiration.** Subdivision 3 expires January 31, 2021, or 60 days after the
10.11 peacetime emergency declared by the governor in an executive order that relates to the
10.12 infectious disease known as COVID-19 is terminated or rescinded by proper authority,
10.13 whichever occurs earlier.

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

10.15 Sec. 6. **APPROPRIATION; PERSONAL CARE ASSISTANCE TEMPORARY**
10.16 **RATE INCREASE.**

10.17 Subdivision 1. **Definitions.** For the purposes of this section, the following terms have
10.18 the meanings given.

10.19 (a) "Commissioner" means the commissioner of human services.

10.20 (b) "Covered program" has the meaning given in Minnesota Statutes, section 256B.0711,
10.21 paragraph (b).

10.22 (c) "Direct support professional" means an individual employed to personally provide
10.23 personal care assistance services covered by medical assistance under Minnesota Statutes,
10.24 section 256B.0625, subdivisions 19a and 19c; or to personally provide medical assistance
10.25 services covered under Minnesota Statutes, sections 256B.0913, 256B.092, 256B.49, or
10.26 Minnesota Statutes, chapter 256S. Direct support professional does not include managerial
10.27 or administrative staff who do not personally provide the services described in this paragraph.

10.28 (d) "Direct support services" has the meaning given in Minnesota Statutes, section
10.29 256B.0711, paragraph (c).

10.30 Subd. 2. **Temporary rates for direct support services.** (a) To respond to the infectious
10.31 disease known as COVID-19, the commissioner must temporarily increase rates and enhanced

11.1 rates by 15 percent for direct support services provided under a covered program or under
11.2 Minnesota Statutes, section 256B.0659, while this section is effective.

11.3 (b) Providers that receive a rate increase under this section must use at least 80 percent
11.4 of the additional revenue to increase wages and salaries for personal care assistants, and
11.5 any corresponding increase in the employer's share of FICA taxes, Medicare taxes, state
11.6 and federal unemployment taxes, and workers' compensation premiums; and any remainder
11.7 of the additional revenue for activities and items necessary to support compliance with
11.8 Centers for Disease Control and Prevention guidance on sanitation and personal protective
11.9 equipment.

11.10 Subd. 3. **Capitation rates and directed payments.** (a) To implement the temporary
11.11 rate increase under this section, managed care plans and county-based purchasing plans
11.12 shall increase rates and enhanced rates by 15 percent for the direct support services.

11.13 (b) In combination with contract amendments instructing plans to increase reimbursement
11.14 rates for direct support services, the commissioner shall adjust capitation rates paid to
11.15 managed care plans and county-based purchasing plans as needed to maintain managed
11.16 care plans' expected medical loss ratios.

11.17 (c) Contracts between managed care plans and providers and between county-based
11.18 purchasing plans and providers must allow recovery of payments from providers if federal
11.19 approval for the provisions of this subdivision is not received and the commissioner reduces
11.20 capitation payments as a result. Payment recoveries must not exceed the amount equal to
11.21 any decrease in rates that results from this paragraph.

11.22 Subd. 4. **Consumer-directed community support budgets.** Lead agencies shall
11.23 temporarily increase the budget for each recipient of consumer-directed community supports
11.24 to reflect a 15 percent rate increase for direct support services.

11.25 Subd. 5. **Consumer support grants; increased maximum allowable grant.** The
11.26 commissioner shall temporarily increase the maximum allowable monthly grant level for
11.27 each recipient of consumer support grants to reflect a 15 percent rate increase for direct
11.28 support services.

11.29 Subd. 6. **Distribution plans.** (a) A provider agency or individual provider that receives
11.30 a rate increase under subdivision 2 shall prepare, and upon request submit to the
11.31 commissioner, a distribution plan that specifies the anticipated amount and proposed uses
11.32 of the additional revenue the provider will receive under subdivision 2.

12.1 (b) By .... 2020, the provider must post the distribution plan for a period of at least six
12.2 weeks in an area of the provider's operation to which all direct support professionals have
12.3 access. The provider must post with the distribution plan instructions on how to file an
12.4 appeal with the commissioner if direct support professionals do not believe they have
12.5 received the wage increase specified in the distribution plan. The instructions must include
12.6 a mailing address, electronic address, and telephone number that the direct support
12.7 professional may use to contact the commissioner or the commissioner's representative.

12.8 Subd. 7. **Expiration.** This section expires January 31, 2021, or 60 days after the peacetime
12.9 emergency declared by the governor in an executive order that relates to the infectious
12.10 disease known as COVID-19 is terminated or rescinded by proper authority, whichever is
12.11 earlier.

12.12 Subd. 8. **Appropriation.** $....... is appropriated in fiscal year 2020 to the commissioner
12.13 of human services to implement the rate increase in this section. This is a onetime
12.14 appropriation and is available while this section is effective.

12.15 **EFFECTIVE DATE.** This section is effective the day following final enactment or
12.16 upon federal approval, whichever is later. The commissioner of human services shall notify
12.17 the revisor of statutes when federal approval is obtained.

12.18 Sec. 7. **APPROPRIATION; HOME AND COMMUNITY-BASED SERVICES**
12.19 **TEMPORARY RATE INCREASE.**

12.20 Subdivision 1. **Definitions.** For the purposes of this section, the following terms have
12.21 the meanings given.

12.22 (a) "Commissioner" means the commissioner of human services.

12.23 (b) "Direct support professional" means an individual employed to personally provide
12.24 medical assistance services covered under Minnesota Statutes, sections 256B.0913, 256B.092,
12.25 256B.49, or Minnesota Statutes, chapter 256S. Direct support professional does not include
12.26 managerial or administrative staff who do not personally provide the services described in
12.27 this paragraph.

12.28 Subd. 2. **Temporary rate increases.** (a) To respond to the infectious disease known as
12.29 COVID-19, while this section is effective, the commissioner must temporarily increase by
12.30 ten percent the rates for the following services provided by the home and community-based
12.31 waiver programs under Minnesota Statutes, sections 256B.0913, 256B.092, 256B.49, and
12.32 Minnesota Statutes, chapter 256S:

12.33 (1) 24-hour customized living;

13.1 (2) community residential services;

13.2 (3) customized living;

13.3 (4) family residential services;

13.4 (5) foster care services;

13.5 (6) integrated community supports;

13.6 (7) supportive living services;

13.7 (8) adult day services;

13.8 (9) day training and habilitation;

13.9 (10) day support services;

13.10 (11) prevocational services;

13.11 (12) structured day services;

13.12 (13) employment exploration services;

13.13 (14) employment development services; and

13.14 (15) employment support services.

13.15 (b) Providers that receive a rate increase under this section must use at least 80 percent
13.16 of the additional revenue to increase wages and salaries of direct support professionals, and
13.17 any corresponding increase in the employer's share of FICA taxes, Medicare taxes, state
13.18 and federal unemployment taxes, and workers' compensation premiums; and any remainder
13.19 of the additional revenue for activities and items necessary to support compliance with
13.20 Centers for Disease Control and Prevention guidance on sanitation and personal protective
13.21 equipment.

13.22 Subd. 3. **Capitation rates and directed payments.** (a) To implement the temporary
13.23 rate increase under this section, managed care plans and county-based purchasing plans
13.24 shall increase rates by ten percent for the services described in subdivision 2.

13.25 (b) In combination with contract amendments instructing plans to increase reimbursement
13.26 rates for the services described in subdivision 2, the commissioner shall adjust capitation
13.27 rates paid to managed care plans and county-based purchasing plans as needed to maintain
13.28 managed care plans' expected medical loss ratios.

13.29 (c) Contracts between managed care plans and providers and between county-based
13.30 purchasing plans and providers must allow recovery of payments from providers if federal

14.1 approval for the provisions of this subdivision is not received and the commissioner reduces
14.2 capitation payments as a result. Payment recoveries must not exceed the amount equal to
14.3 any decrease in rates that results from this paragraph.

14.4 Subd. 4. **Consumer support grants; increased maximum allowable grant.** The
14.5 commissioner shall temporarily increase the maximum allowable monthly grant levels for
14.6 each recipient of a consumer support grant to reflect the ten percent temporary rate increase
14.7 for those services described in subdivision 2 that are purchased with the grant.

14.8 Subd. 5. **Distribution plans.** (a) A provider that receives a rate increase under subdivision
14.9 2 shall prepare, and upon request submit to the commissioner, a distribution plan that
14.10 specifies the anticipated amount and proposed uses of the additional revenue the provider
14.11 will receive under subdivision 2.

14.12 (b) .... 2020, the provider must post the distribution plan for a period of at least six
14.13 weeks in an area of the provider's operation to which all direct support professionals have
14.14 access. The provider must post with the distribution plan instructions on how to file an
14.15 appeal with the commissioner if direct support professionals do not believe they have
14.16 received the wage increase specified in the distribution plan. The instructions must include
14.17 a mailing address, electronic address, and telephone number that the direct support
14.18 professional may use to contact the commissioner or the commissioner's representative.

14.19 Subd. 6. **Expiration.** This section expires January 31, 2021, or 60 days after the peacetime
14.20 emergency declared by the governor in an executive order that relates to the infectious
14.21 disease known as COVID-19 is terminated or rescinded by proper authority, whichever is
14.22 earlier.

14.23 Subd. 7. **Appropriation.** $....... is appropriated in fiscal year 2020 to the commissioner
14.24 of human services to implement the rate increase in this section. This is a onetime
14.25 appropriation and is available while this section is effective.

14.26 **EFFECTIVE DATE.** This section is effective the day following final enactment or
14.27 upon federal approval, whichever is later. The commissioner of human services shall notify
14.28 the revisor of statutes when federal approval is obtained.