

**SENATE  
STATE OF MINNESOTA  
NINETY-FIRST SESSION**

**S.F. No. 4113**

(SENATE AUTHORS: KLEIN)

DATE  
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OFFICIAL STATUS  
Introduction and first reading  
Referred to Human Services Reform Finance and Policy

1.1 A bill for an act

1.2 relating to human services; adjusting the eligibility requirements for children's

1.3 mental health respite grants; modifying provisions regarding home and

1.4 community-based services; authorizing the correction of housing support payments;

1.5 defining "qualified professional" for purposes of applying for general assistance

1.6 and housing support; amending Minnesota Statutes 2018, sections 245D.04,

1.7 subdivision 3; 245D.071, subdivision 3; 245F.02, subdivisions 7, 14; 245F.06,

1.8 subdivision 2; 245F.12, subdivisions 2, 3; 245G.02, subdivision 2; 245G.09,

1.9 subdivision 1; 256B.0652, subdivision 10; 256B.0941, subdivisions 1, 3;

1.10 256B.0949, subdivisions 2, 5, 6, 9, 13, 14, 15, 16; 256D.02, subdivision 17; 256I.03,

1.11 subdivisions 3, 14; 256I.05, subdivisions 1c, 1n, 8; 256I.06, subdivision 2, by

1.12 adding a subdivision; 256J.08, subdivision 73a; 256P.01, by adding a subdivision;

1.13 Minnesota Statutes 2019 Supplement, sections 245.4889, subdivision 1; 254A.03,

1.14 subdivision 3; 254B.05, subdivision 1; 256I.04, subdivision 2b; repealing Minnesota

1.15 Statutes 2018, section 245F.02, subdivision 20.

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

1.17 Section 1. Minnesota Statutes 2019 Supplement, section 245.4889, subdivision 1, is

1.18 amended to read:

1.19 Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to

1.20 make grants from available appropriations to assist:

- 1.21 (1) counties;
- 1.22 (2) Indian tribes;
- 1.23 (3) children's collaboratives under section 124D.23 or 245.493; or
- 1.24 (4) mental health service providers.

1.25 (b) The following services are eligible for grants under this section:

- 2.1 (1) services to children with emotional disturbances as defined in section 245.4871,  
2.2 subdivision 15, and their families;
- 2.3 (2) transition services under section 245.4875, subdivision 8, for young adults under  
2.4 age 21 and their families;
- 2.5 (3) respite care services for children with emotional disturbances or severe emotional  
2.6 disturbances who are at risk of out-of-home placement. A child is not required to have case  
2.7 management services to receive respite care services;
- 2.8 (4) children's mental health crisis services;
- 2.9 (5) mental health services for people from cultural and ethnic minorities;
- 2.10 (6) children's mental health screening and follow-up diagnostic assessment and treatment;
- 2.11 (7) services to promote and develop the capacity of providers to use evidence-based  
2.12 practices in providing children's mental health services;
- 2.13 (8) school-linked mental health services under section 245.4901;
- 2.14 (9) building evidence-based mental health intervention capacity for children birth to age  
2.15 five;
- 2.16 (10) suicide prevention and counseling services that use text messaging statewide;
- 2.17 (11) mental health first aid training;
- 2.18 (12) training for parents, collaborative partners, and mental health providers on the  
2.19 impact of adverse childhood experiences and trauma and development of an interactive  
2.20 website to share information and strategies to promote resilience and prevent trauma;
- 2.21 (13) transition age services to develop or expand mental health treatment and supports  
2.22 for adolescents and young adults 26 years of age or younger;
- 2.23 (14) early childhood mental health consultation;
- 2.24 (15) evidence-based interventions for youth at risk of developing or experiencing a first  
2.25 episode of psychosis, and a public awareness campaign on the signs and symptoms of  
2.26 psychosis;
- 2.27 (16) psychiatric consultation for primary care practitioners; and
- 2.28 (17) providers to begin operations and meet program requirements when establishing a  
2.29 new children's mental health program. These may be start-up grants.

3.1 (c) Services under paragraph (b) must be designed to help each child to function and  
3.2 remain with the child's family in the community and delivered consistent with the child's  
3.3 treatment plan. Transition services to eligible young adults under this paragraph must be  
3.4 designed to foster independent living in the community.

3.5 (d) As a condition of receiving grant funds, a grantee shall obtain all available third-party  
3.6 reimbursement sources, if applicable.

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

3.8 Sec. 2. Minnesota Statutes 2018, section 245D.04, subdivision 3, is amended to read:

3.9 Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the  
3.10 right to:

3.11 (1) have personal, financial, service, health, and medical information kept private, and  
3.12 be advised of disclosure of this information by the license holder;

3.13 (2) access records and recorded information about the person in accordance with  
3.14 applicable state and federal law, regulation, or rule;

3.15 (3) be free from maltreatment;

3.16 (4) be free from restraint, time out, seclusion, restrictive intervention, or other prohibited  
3.17 procedure identified in section 245D.06, subdivision 5, or successor provisions, except for:

3.18 (i) emergency use of manual restraint to protect the person from imminent danger to self  
3.19 or others according to the requirements in section 245D.061 or successor provisions; or (ii)  
3.20 the use of safety interventions as part of a positive support transition plan under section  
3.21 245D.06, subdivision 8, or successor provisions;

3.22 (5) receive services in a clean and safe environment when the license holder is the owner,  
3.23 lessor, or tenant of the service site;

3.24 (6) be treated with courtesy and respect and receive respectful treatment of the person's  
3.25 property;

3.26 (7) reasonable observance of cultural and ethnic practice and religion;

3.27 (8) be free from bias and harassment regarding race, gender, age, disability, spirituality,  
3.28 and sexual orientation;

3.29 (9) be informed of and use the license holder's grievance policy and procedures, including  
3.30 knowing how to contact persons responsible for addressing problems and to appeal under  
3.31 section 256.045;

4.1 (10) know the name, telephone number, and the website, e-mail, and street addresses of  
4.2 protection and advocacy services, including the appropriate state-appointed ombudsman,  
4.3 and a brief description of how to file a complaint with these offices;

4.4 (11) assert these rights personally, or have them asserted by the person's family,  
4.5 authorized representative, or legal representative, without retaliation;

4.6 (12) give or withhold written informed consent to participate in any research or  
4.7 experimental treatment;

4.8 (13) associate with other persons of the person's choice, in the community;

4.9 (14) personal privacy, including the right to use the lock on the person's bedroom or unit  
4.10 door;

4.11 (15) engage in chosen activities; and

4.12 (16) access to the person's personal possessions at any time, including financial resources.

4.13 (b) For a person residing in a residential site licensed according to chapter 245A, or  
4.14 where the license holder is the owner, lessor, or tenant of the residential service site,  
4.15 protection-related rights also include the right to:

4.16 (1) have daily, private access to and use of a non-coin-operated telephone for local calls  
4.17 and long-distance calls made collect or paid for by the person;

4.18 (2) receive and send, without interference, uncensored, unopened mail or electronic  
4.19 correspondence or communication;

4.20 (3) have use of and free access to common areas in the residence and the freedom to  
4.21 come and go from the residence at will;

4.22 (4) choose the person's visitors and time of visits and have privacy for visits with the  
4.23 person's spouse, next of kin, legal counsel, religious adviser, or others, in accordance with  
4.24 section 363A.09 of the Human Rights Act, including privacy in the person's bedroom;

4.25 (5) have access to three nutritionally balanced meals and nutritious snacks between  
4.26 meals each day;

4.27 (6) have freedom and support to access food and potable water at any time;

4.28 (7) have the freedom to furnish and decorate the person's bedroom or living unit;

4.29 (8) a setting that is clean and free from accumulation of dirt, grease, garbage, peeling  
4.30 paint, mold, vermin, and insects;

4.31 (9) a setting that is free from hazards that threaten the person's health or safety; and

5.1 (10) a setting that meets the definition of a dwelling unit within a residential occupancy  
5.2 as defined in the State Fire Code.

5.3 (c) Restriction of a person's rights under paragraph (a), clauses (13) to (16), or paragraph  
5.4 (b) is allowed only if determined necessary to ensure the health, safety, and well-being of  
5.5 the person. Any restriction of those rights must be documented in the person's coordinated  
5.6 service and support plan or coordinated service and support plan addendum. The restriction  
5.7 must be implemented in the least restrictive alternative manner necessary to protect the  
5.8 person and provide support to reduce or eliminate the need for the restriction in the most  
5.9 integrated setting and inclusive manner. The documentation must include the following  
5.10 information:

5.11 (1) the justification for the restriction based on an assessment of the person's vulnerability  
5.12 related to exercising the right without restriction;

5.13 (2) the objective measures set as conditions for ending the restriction;

5.14 (3) a schedule for reviewing the need for the restriction based on the conditions for  
5.15 ending the restriction to occur semiannually from the date of initial approval, at a minimum,  
5.16 or more frequently if requested by the person, the person's legal representative, if any, and  
5.17 case manager; and

5.18 (4) signed and dated approval for the restriction from the person, or the person's legal  
5.19 representative, if any. A restriction may be implemented only when the required approval  
5.20 has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the  
5.21 right must be immediately and fully restored.

5.22 Sec. 3. Minnesota Statutes 2018, section 245D.071, subdivision 3, is amended to read:

5.23 Subd. 3. **Assessment and initial service planning.** (a) Within 15 days of service initiation  
5.24 the license holder must complete a preliminary coordinated service and support plan  
5.25 addendum based on the coordinated service and support plan.

5.26 (b) Within the scope of services, the license holder must, at a minimum, complete  
5.27 assessments in the following areas before the 45-day planning meeting:

5.28 (1) the person's ability to self-manage health and medical needs to maintain or improve  
5.29 physical, mental, and emotional well-being, including, when applicable, allergies, seizures,  
5.30 choking, special dietary needs, chronic medical conditions, self-administration of medication  
5.31 or treatment orders, preventative screening, and medical and dental appointments;

6.1 (2) the person's ability to self-manage personal safety to avoid injury or accident in the  
6.2 service setting, including, when applicable, risk of falling, mobility, regulating water  
6.3 temperature, community survival skills, water safety skills, and sensory disabilities; and

6.4 (3) the person's ability to self-manage symptoms or behavior that may otherwise result  
6.5 in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension  
6.6 or termination of services by the license holder, or other symptoms or behaviors that may  
6.7 jeopardize the health and welfare of the person or others.

6.8 Assessments must produce information about the person that describes the person's overall  
6.9 strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be  
6.10 based on the person's status within the last 12 months at the time of service initiation.

6.11 Assessments based on older information must be documented and justified. Assessments  
6.12 must be conducted annually at a minimum or within 30 days of a written request from the  
6.13 person or the person's legal representative or case manager. The results must be reviewed  
6.14 by the support team or expanded support team as part of a service plan review.

6.15 (c) Within 45 days of service initiation, the license holder must meet with the person,  
6.16 the person's legal representative, the case manager, and other members of the support team  
6.17 or expanded support team to determine the following based on information obtained from  
6.18 the assessments identified in paragraph (b), the person's identified needs in the coordinated  
6.19 service and support plan, and the requirements in subdivision 4 and section 245D.07,  
6.20 subdivision 1a:

6.21 (1) the scope of the services to be provided to support the person's daily needs and  
6.22 activities;

6.23 (2) the person's desired outcomes and the supports necessary to accomplish the person's  
6.24 desired outcomes;

6.25 (3) the person's preferences for how services and supports are provided, including how  
6.26 the provider will support the person to have control of the person's schedule;

6.27 (4) whether the current service setting is the most integrated setting available and  
6.28 appropriate for the person; ~~and~~

6.29 (5) opportunities to develop and maintain essential and life-enriching skills, abilities,  
6.30 strengths, interests, and preferences;

6.31 (6) opportunities for community access, participation, and inclusion in preferred  
6.32 community activities;

7.1 (7) opportunities to develop and strengthen personal relationships with other persons of  
 7.2 the person's choice in the community;

7.3 (8) opportunities to seek competitive employment and work at competitively paying  
 7.4 jobs in the community; and

7.5 ~~(5)~~ (9) how services must be coordinated across other providers licensed under this  
 7.6 chapter serving the person and members of the support team or expanded support team to  
 7.7 ensure continuity of care and coordination of services for the person.

7.8 (d) A discussion of how technology might be used to meet the person's desired outcomes  
 7.9 must be included in the 45-day planning meeting. The coordinated service and support plan  
 7.10 or support plan addendum must include a summary of this discussion. The summary must  
 7.11 include a statement regarding any decision that is made regarding the use of technology  
 7.12 and a description of any further research that needs to be completed before a decision  
 7.13 regarding the use of technology can be made. Nothing in this paragraph requires that the  
 7.14 coordinated service and support plan include the use of technology for the provision of  
 7.15 services.

7.16 Sec. 4. Minnesota Statutes 2018, section 245F.02, subdivision 7, is amended to read:

7.17 Subd. 7. **Clinically managed program.** "Clinically managed program" means a  
 7.18 residential setting with staff comprised of a medical director and a licensed practical nurse.  
 7.19 A licensed practical nurse must be on site 24 hours a day, seven days a week. A ~~qualified~~  
 7.20 ~~medical professional~~ licensed practitioner must be available by telephone or in person for  
 7.21 consultation 24 hours a day. Patients admitted to this level of service receive medical  
 7.22 observation, evaluation, and stabilization services during the detoxification process; access  
 7.23 to medications administered by trained, licensed staff to manage withdrawal; and a  
 7.24 comprehensive assessment pursuant to section ~~245G.05~~ 245F.06.

7.25 Sec. 5. Minnesota Statutes 2018, section 245F.02, subdivision 14, is amended to read:

7.26 Subd. 14. **Medically monitored program.** "Medically monitored program" means a  
 7.27 residential setting with staff that includes a registered nurse and a medical director. A  
 7.28 registered nurse must be on site 24 hours a day. A ~~medical director~~ licensed practitioner  
 7.29 must be ~~on-site~~ available seven days a week, and patients must have the ability to be seen  
 7.30 by a ~~medical director~~ licensed practitioner within 24 hours. Patients admitted to this level  
 7.31 of service receive medical observation, evaluation, and stabilization services during the  
 7.32 detoxification process; medications administered by trained, licensed staff to manage

8.1 withdrawal; and a comprehensive assessment pursuant to ~~Minnesota Rules, part 9530.6422~~  
8.2 section 245F.06.

8.3 Sec. 6. Minnesota Statutes 2018, section 245F.06, subdivision 2, is amended to read:

8.4 Subd. 2. **Comprehensive assessment and assessment summary.** (a) Prior to a medically  
8.5 stable discharge, but not later than 72 hours following admission, a license holder must  
8.6 provide a comprehensive assessment and assessment summary according to sections  
8.7 245.4863, paragraph (a), and 245G.05, for each patient who has a positive screening for a  
8.8 substance use disorder. If a patient's medical condition prevents a comprehensive assessment  
8.9 from being completed within 72 hours, the license holder must document why the assessment  
8.10 was not completed. The comprehensive assessment must include documentation of the  
8.11 appropriateness of an involuntary referral through the civil commitment process.

8.12 (b) If available to the program, a patient's previous comprehensive assessment may be  
8.13 used in the patient record. If a previously completed comprehensive assessment is used, its  
8.14 contents must be reviewed to ensure the assessment is accurate and current and complies  
8.15 with the requirements of this chapter. The review must be completed by a staff person  
8.16 qualified according to section 245G.11, subdivision 5. The license holder must document  
8.17 that the review was completed and that the previously completed assessment is accurate  
8.18 and current, or the license holder must complete an updated or new assessment.

8.19 Sec. 7. Minnesota Statutes 2018, section 245F.12, subdivision 2, is amended to read:

8.20 Subd. 2. **Services provided at clinically managed programs.** In addition to the services  
8.21 listed in subdivision 1, clinically managed programs must:

8.22 (1) have a licensed practical nurse on site 24 hours a day and a medical director;

8.23 (2) provide an initial health assessment conducted by a nurse upon admission;

8.24 (3) provide daily on-site medical evaluation by a nurse;

8.25 (4) have a registered nurse available by telephone or in person for consultation 24 hours  
8.26 a day;

8.27 (5) have a ~~qualified medical professional~~ licensed practitioner available by telephone  
8.28 or in person for consultation 24 hours a day; and

8.29 (6) have appropriately licensed staff available to administer medications according to  
8.30 prescriber-approved orders.



9.1 Sec. 8. Minnesota Statutes 2018, section 245F.12, subdivision 3, is amended to read:

9.2 Subd. 3. **Services provided at medically monitored programs.** In addition to the  
9.3 services listed in subdivision 1, medically monitored programs must have a registered nurse  
9.4 on site 24 hours a day and a medical director. Medically monitored programs must provide  
9.5 intensive inpatient withdrawal management services which must include:

9.6 (1) an initial health assessment conducted by a registered nurse upon admission;

9.7 (2) the availability of a medical evaluation and consultation with a registered nurse 24  
9.8 hours a day;

9.9 (3) the availability of a ~~qualified medical professional~~ licensed practitioner by telephone  
9.10 or in person for consultation 24 hours a day;

9.11 (4) the ability to be seen within 24 hours or sooner by a ~~qualified medical professional~~  
9.12 licensed practitioner if the initial health assessment indicates the need to be seen;

9.13 (5) the availability of on-site monitoring of patient care seven days a week by a ~~qualified~~  
9.14 ~~medical professional~~ licensed practitioner; and

9.15 (6) appropriately licensed staff available to administer medications according to  
9.16 prescriber-approved orders.

9.17 Sec. 9. Minnesota Statutes 2018, section 245G.02, subdivision 2, is amended to read:

9.18 Subd. 2. **Exemption from license requirement.** This chapter does not apply to a county  
9.19 or recovery community organization that is providing a service for which the county or  
9.20 recovery community organization is an eligible vendor under section 254B.05. This chapter  
9.21 does not apply to an organization whose primary functions are information, referral,  
9.22 diagnosis, case management, and assessment for the purposes of client placement, education,  
9.23 support group services, or self-help programs. This chapter does not apply to the activities  
9.24 of a licensed professional in private practice. An individual referred to a licensed  
9.25 nonresidential substance use disorder treatment program after a positive screen for alcohol  
9.26 or substance misuse when receiving the initial set of substance use disorder services allowable  
9.27 under section 254A.03, subdivision 3, paragraph (c), is exempt from sections 245G.05;  
9.28 245G.06, subdivisions 1, 2, and 4; 245G.07, subdivisions 1, paragraph (a), clauses (2) to  
9.29 (4), and 2, clauses (1) to (7); and 245G.17.

10.1 Sec. 10. Minnesota Statutes 2018, section 245G.09, subdivision 1, is amended to read:

10.2 Subdivision 1. **Client records required.** (a) A license holder must maintain a file of  
10.3 current and accurate client records on the premises where the treatment service is provided  
10.4 or coordinated. For services provided off site, client records must be available at the program  
10.5 and adhere to the same clinical and administrative policies and procedures as services  
10.6 provided on site. The content and format of client records must be uniform and entries in  
10.7 each record must be signed and dated by the staff member making the entry. Client records  
10.8 must be protected against loss, tampering, or unauthorized disclosure according to section  
10.9 254A.09, chapter 13, and Code of Federal Regulations, title 42, chapter 1, part 2, subpart  
10.10 B, sections 2.1 to 2.67, and title 45, parts 160 to 164.

10.11 (b) The program must have a policy and procedure that identifies how the program will  
10.12 track and record client attendance at treatment activities, including the date, duration, and  
10.13 nature of each treatment service provided to the client.

10.14 (c) The program must identify in the client record designation of an individual who is  
10.15 receiving services under section 254A.03, subdivision 3, including the start date and end  
10.16 date of services eligible under section 254A.03, subdivision 3. The requirements of sections  
10.17 245G.05 and 245G.06 become effective upon the end date identified.

10.18 Sec. 11. Minnesota Statutes 2019 Supplement, section 254A.03, subdivision 3, is amended  
10.19 to read:

10.20 Subd. 3. **Rules for substance use disorder care.** (a) The commissioner of human  
10.21 services shall establish by rule criteria to be used in determining the appropriate level of  
10.22 chemical dependency care for each recipient of public assistance seeking treatment for  
10.23 substance misuse or substance use disorder. Upon federal approval of a comprehensive  
10.24 assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding  
10.25 the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, an eligible vendor of  
10.26 comprehensive assessments under section 254B.05 may determine and approve the  
10.27 appropriate level of substance use disorder treatment for a recipient of public assistance.  
10.28 The process for determining an individual's financial eligibility for the consolidated chemical  
10.29 dependency treatment fund or determining an individual's enrollment in or eligibility for a  
10.30 publicly subsidized health plan is not affected by the individual's choice to access a  
10.31 comprehensive assessment for placement.

10.32 (b) The commissioner shall develop and implement a utilization review process for  
10.33 publicly funded treatment placements to monitor and review the clinical appropriateness  
10.34 and timeliness of all publicly funded placements in treatment.

11.1 (c) If a screen result is positive for alcohol or substance misuse, a brief screening for  
11.2 alcohol or substance use disorder that is provided to a recipient of public assistance within  
11.3 a primary care clinic, hospital, or other medical setting or school setting establishes medical  
11.4 necessity and approval for an initial set of substance use disorder services identified in  
11.5 section 254B.05, subdivision 5. The initial set of services approved for a recipient whose  
11.6 screen result is positive may include any combination of up to four hours of individual or  
11.7 group substance use disorder treatment, two hours of substance use disorder treatment  
11.8 coordination, or two hours of substance use disorder peer support services provided by a  
11.9 qualified individual according to chapter 245G. A recipient must obtain an assessment  
11.10 pursuant to paragraph (a) to be approved for additional treatment services. Minnesota Rules,  
11.11 parts 9530.6600 to 9530.6655, and a comprehensive assessment pursuant to section 245G.05  
11.12 are not applicable to the initial set of services allowed under this subdivision. A positive  
11.13 screen result establishes eligibility for the initial set of services allowed under this  
11.14 subdivision.

11.15 Sec. 12. Minnesota Statutes 2019 Supplement, section 254B.05, subdivision 1, is amended  
11.16 to read:

11.17 Subdivision 1. **Licensure required.** (a) Programs licensed by the commissioner are  
11.18 eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors,  
11.19 notwithstanding the provisions of section 245A.03. American Indian programs that provide  
11.20 substance use disorder treatment, extended care, transitional residence, or outpatient treatment  
11.21 services, and are licensed by tribal government are eligible vendors.

11.22 (b) A licensed professional in private practice as defined in section 245G.01, subdivision  
11.23 17, who meets the requirements of section 245G.11, subdivisions 1 and 4, is an eligible  
11.24 vendor of a comprehensive assessment and assessment summary provided according to  
11.25 section 245G.05, and treatment services provided according to sections 245G.06 and  
11.26 245G.07, subdivision 1, paragraphs (a), clauses (1) to (4), and (b); and subdivision 2.

11.27 (c) A county is an eligible vendor for a comprehensive assessment and assessment  
11.28 summary when provided by an individual who meets the staffing credentials of section  
11.29 245G.11, subdivisions 1 and 5, and completed according to the requirements of section  
11.30 245G.05. A county is an eligible vendor of care coordination services when provided by an  
11.31 individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 7, and  
11.32 provided according to the requirements of section 245G.07, subdivision 1, paragraph (a),  
11.33 clause (5).

12.1 (d) A recovery community organization that meets certification requirements identified  
12.2 by the commissioner is an eligible vendor of peer support services.

12.3 (e) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to  
12.4 9530.6590, are not eligible vendors. Programs that are not licensed as a residential or  
12.5 nonresidential substance use disorder treatment or withdrawal management program by the  
12.6 commissioner or by tribal government or do not meet the requirements of subdivisions 1a  
12.7 and 1b are not eligible vendors.

12.8 Sec. 13. Minnesota Statutes 2018, section 256B.0652, subdivision 10, is amended to read:

12.9 Subd. 10. **Authorization for foster care setting.** (a) Home care services provided in  
12.10 an adult or child foster care setting must receive authorization by the commissioner according  
12.11 to the limits established in subdivision 11.

12.12 (b) The commissioner may not authorize:

12.13 (1) home care services that are the responsibility of the foster care provider under the  
12.14 terms of the foster care placement agreement, ~~difficulty of care rate as of January 1, 2010~~  
12.15 assessment under sections 256N.24 and 260C.4411, and administrative rules;

12.16 (2) personal care assistance services when the foster care license holder is also the  
12.17 personal care provider or personal care assistant, unless the foster home is the licensed  
12.18 provider's primary residence as defined in section 256B.0625, subdivision 19a; or

12.19 (3) personal care assistant and home care nursing services when the licensed capacity  
12.20 is greater than ~~four~~ six, unless all conditions for a variance under section 245A.04,  
12.21 subdivision 9a, are satisfied for a sibling, as defined in section 260C.007, subdivision 32.

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

12.23 Sec. 14. Minnesota Statutes 2018, section 256B.0941, subdivision 1, is amended to read:

12.24 Subdivision 1. **Eligibility.** (a) An individual who is eligible for mental health treatment  
12.25 services in a psychiatric residential treatment facility must meet all of the following criteria:

12.26 (1) before admission, services are determined to be medically necessary ~~by the state's~~  
12.27 ~~medical review agent~~ according to Code of Federal Regulations, title 42, section 441.152;

12.28 (2) is younger than 21 years of age at the time of admission. Services may continue until  
12.29 the individual meets criteria for discharge or reaches 22 years of age, whichever occurs  
12.30 first;

13.1 (3) has a mental health diagnosis as defined in the most recent edition of the Diagnostic  
13.2 and Statistical Manual for Mental Disorders, as well as clinical evidence of severe aggression,  
13.3 or a finding that the individual is a risk to self or others;

13.4 (4) has functional impairment and a history of difficulty in functioning safely and  
13.5 successfully in the community, school, home, or job; an inability to adequately care for  
13.6 one's physical needs; or caregivers, guardians, or family members are unable to safely fulfill  
13.7 the individual's needs;

13.8 (5) requires psychiatric residential treatment under the direction of a physician to improve  
13.9 the individual's condition or prevent further regression so that services will no longer be  
13.10 needed;

13.11 (6) utilized and exhausted other community-based mental health services, or clinical  
13.12 evidence indicates that such services cannot provide the level of care needed; and

13.13 (7) was referred for treatment in a psychiatric residential treatment facility by a qualified  
13.14 mental health professional licensed as defined in section 245.4871, subdivision 27, clauses  
13.15 (1) to (6).

13.16 (b) A mental health professional making a referral shall submit documentation to the  
13.17 state's medical review agent containing all information necessary to determine medical  
13.18 necessity, including a standard diagnostic assessment completed within 180 days of the  
13.19 individual's admission. Documentation shall include evidence of family participation in the  
13.20 individual's treatment planning and signed consent for services.

13.21 Sec. 15. Minnesota Statutes 2018, section 256B.0941, subdivision 3, is amended to read:

13.22 Subd. 3. **Per diem rate.** (a) The commissioner shall establish a statewide per diem rate  
13.23 for psychiatric residential treatment facility services for individuals 21 years of age or  
13.24 younger. The rate for a provider must not exceed the rate charged by that provider for the  
13.25 same service to other payers. Payment must not be made to more than one entity for each  
13.26 individual for services provided under this section on a given day. The commissioner shall  
13.27 set rates prospectively for the annual rate period. The commissioner shall require providers  
13.28 to submit annual cost reports on a uniform cost reporting form and shall use submitted cost  
13.29 reports to inform the rate-setting process. The cost reporting shall be done according to  
13.30 federal requirements for Medicare cost reports.

13.31 (b) The following are included in the rate:

13.32 (1) costs necessary for licensure and accreditation, meeting all staffing standards for  
13.33 participation, meeting all service standards for participation, meeting all requirements for

14.1 active treatment, maintaining medical records, conducting utilization review, meeting  
14.2 inspection of care, and discharge planning. The direct services costs must be determined  
14.3 using the actual cost of salaries, benefits, payroll taxes, and training of direct services staff  
14.4 and service-related transportation; and

14.5 (2) payment for room and board provided by facilities meeting all accreditation and  
14.6 licensing requirements for participation.

14.7 (c) A facility may submit a claim for payment outside of the per diem for professional  
14.8 services arranged by and provided at the facility by an appropriately licensed professional  
14.9 who is enrolled as a provider with Minnesota health care programs. Arranged services ~~must~~  
14.10 ~~be billed by the facility on a separate claim, and the facility shall be responsible for payment~~  
14.11 ~~to the provider~~ may be billed by either the facility or the licensed professional. These services  
14.12 must be included in the individual plan of care and are subject to prior authorization ~~by the~~  
14.13 ~~state's medical review agent.~~

14.14 (d) Medicaid shall reimburse for concurrent services as approved by the commissioner  
14.15 to support continuity of care and successful discharge from the facility. "Concurrent services"  
14.16 means services provided by another entity or provider while the individual is admitted to a  
14.17 psychiatric residential treatment facility. Payment for concurrent services may be limited  
14.18 and these services are subject to prior authorization by the state's medical review agent.  
14.19 Concurrent services may include targeted case management, assertive community treatment,  
14.20 clinical care consultation, team consultation, and treatment planning.

14.21 (e) Payment rates under this subdivision shall not include the costs of providing the  
14.22 following services:

14.23 (1) educational services;

14.24 (2) acute medical care or specialty services for other medical conditions;

14.25 (3) dental services; and

14.26 (4) pharmacy drug costs.

14.27 (f) For purposes of this section, "actual cost" means costs that are allowable, allocable,  
14.28 reasonable, and consistent with federal reimbursement requirements in Code of Federal  
14.29 Regulations, title 48, chapter 1, part 31, relating to for-profit entities, and the Office of  
14.30 Management and Budget Circular Number A-122, relating to nonprofit entities.

15.1 Sec. 16. Minnesota Statutes 2018, section 256B.0949, subdivision 2, is amended to read:

15.2 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this  
15.3 subdivision.

15.4 (b) "Agency" means the legal entity that is enrolled with Minnesota health care programs  
15.5 as a medical assistance provider according to Minnesota Rules, part 9505.0195, to provide  
15.6 EIDBI services and that has the legal responsibility to ensure that its employees or contractors  
15.7 carry out the responsibilities defined in this section. Agency includes a licensed individual  
15.8 professional who practices independently and acts as an agency.

15.9 (c) "Autism spectrum disorder or a related condition" or "ASD or a related condition"  
15.10 means either autism spectrum disorder (ASD) as defined in the current version of the  
15.11 Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found  
15.12 to be closely related to ASD, as identified under the current version of the DSM, and meets  
15.13 all of the following criteria:

15.14 (1) is severe and chronic;

15.15 (2) results in impairment of adaptive behavior and function similar to that of a person  
15.16 with ASD;

15.17 (3) requires treatment or services similar to those required for a person with ASD; and

15.18 (4) results in substantial functional limitations in three core developmental deficits of  
15.19 ASD: social or interpersonal interaction; functional communication, including nonverbal  
15.20 or social communication; and restrictive, or repetitive behaviors or hyperreactivity or  
15.21 hyporeactivity to sensory input; and may include deficits or a high level of support in one  
15.22 or more of the following domains:

15.23 (i) self-regulation;

15.24 (ii) self-care;

15.25 (iii) behavioral challenges;

15.26 (iv) expressive communication;

15.27 (v) receptive communication;

15.28 (vi) cognitive functioning; or

15.29 (vii) safety.

15.30 (d) "Person" means a person under 21 years of age.

16.1 (e) "Clinical supervision" means the overall responsibility for the control and direction  
16.2 of EIDBI service delivery, including individual treatment planning, staff supervision,  
16.3 individual treatment plan progress monitoring, and treatment review for each person. Clinical  
16.4 supervision is provided by a qualified supervising professional (QSP) who takes full  
16.5 professional responsibility for the service provided by each supervisee.

16.6 (f) "Commissioner" means the commissioner of human services, unless otherwise  
16.7 specified.

16.8 (g) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive  
16.9 evaluation of a person to determine medical necessity for EIDBI services based on the  
16.10 requirements in subdivision 5.

16.11 (h) "Department" means the Department of Human Services, unless otherwise specified.

16.12 (i) "Early intensive developmental and behavioral intervention benefit" or "EIDBI  
16.13 benefit" means a variety of individualized, intensive treatment modalities approved by the  
16.14 commissioner that are based in behavioral and developmental science consistent with best  
16.15 practices on effectiveness, including applied behavioral analysis.

16.16 (j) "Generalizable goals" means results or gains that are observed during a variety of  
16.17 activities over time with different people, such as providers, family members, other adults,  
16.18 and people, and in different environments including, but not limited to, clinics, homes,  
16.19 schools, and the community.

16.20 (k) "Incident" means when any of the following occur:

16.21 (1) an illness, accident, or injury that requires first aid treatment;

16.22 (2) a bump or blow to the head; or

16.23 (3) an unusual or unexpected event that jeopardizes the safety of a person or staff,  
16.24 including a person leaving the agency unattended.

16.25 (l) "Individual treatment plan" or "ITP" means the person-centered, individualized written  
16.26 plan of care that integrates and coordinates person and family information from the CMDE  
16.27 for a person who meets medical necessity for the EIDBI benefit. An individual treatment  
16.28 plan must meet the standards in subdivision 6.

16.29 (m) "Legal representative" means the parent of a child who is under 18 years of age, a  
16.30 court-appointed guardian, or other representative with legal authority to make decisions  
16.31 about service for a person. For the purpose of this subdivision, "other representative with



17.1 legal authority to make decisions" includes a health care agent or an attorney-in-fact  
 17.2 authorized through a health care directive or power of attorney.

17.3 (n) "Mental health professional" has the meaning given in section 245.4871, subdivision  
 17.4 27, clauses (1) to (6).

17.5 (o) "Person-centered" means a service that both responds to the identified needs, interests,  
 17.6 values, preferences, and desired outcomes of the person or the person's legal representative  
 17.7 and respects the person's history, dignity, and cultural background and allows inclusion and  
 17.8 participation in the person's community.

17.9 (p) "Qualified EIDBI provider" means a person who is a QSP or a level I, level II, or  
 17.10 level III treatment provider.

17.11 Sec. 17. Minnesota Statutes 2018, section 256B.0949, subdivision 5, is amended to read:

17.12 Subd. 5. **Comprehensive multidisciplinary evaluation.** (a) A CMDE must be completed  
 17.13 to determine medical necessity of EIDBI services. For the commissioner to authorize EIDBI  
 17.14 services, the CMDE provider must submit the CMDE to the commissioner and the person  
 17.15 or the person's legal representative as determined by the commissioner. Information and  
 17.16 assessments must be performed, reviewed, and relied upon for the eligibility determination,  
 17.17 treatment and services recommendations, and treatment plan development for the person.

17.18 (b) The CMDE must:

17.19 (1) include an assessment of the person's developmental skills, functional behavior,  
 17.20 needs, and capacities based on direct observation of the person which must be administered  
 17.21 by a CMDE provider, include medical or assessment information from the person's physician  
 17.22 or advanced practice registered nurse, and may also include input from family members,  
 17.23 school personnel, child care providers, or other caregivers, as well as any medical or  
 17.24 assessment information from other licensed professionals such as rehabilitation or habilitation  
 17.25 therapists, licensed school personnel, or mental health professionals; and

17.26 (2) include and document the person's legal representative's or primary caregiver's  
 17.27 preferences for involvement in the person's treatment; and.

17.28 ~~(3) provide information about the range of current EIDBI treatment modalities recognized~~  
 17.29 ~~by the commissioner.~~

18.1 Sec. 18. Minnesota Statutes 2018, section 256B.0949, subdivision 6, is amended to read:

18.2 Subd. 6. **Individual treatment plan.** (a) The QSP, level I treatment provider, or level  
 18.3 II treatment provider who integrates and coordinates person and family information from  
 18.4 the CMDE and ITP progress monitoring process to develop the ITP must develop and  
 18.5 monitor the ITP.

18.6 (b) Each person's ITP must be:

18.7 (1) culturally and linguistically appropriate, as required under subdivision 3a,  
 18.8 individualized, and person-centered; and

18.9 (2) based on the diagnosis and CMDE information specified in subdivisions 4 and 5.

18.10 (c) The ITP must specify:

18.11 (1) the medically necessary treatment and service;

18.12 (2) the treatment ~~modality~~ method that ~~shall~~ must be used to meet the goals and objectives,  
 18.13 including:

18.14 (i) baseline measures and projected dates of accomplishment;

18.15 (ii) the frequency, intensity, location, and duration of each service provided;

18.16 (iii) the level of legal representative or primary caregiver training and counseling;

18.17 (iv) any change or modification to the physical and social environments necessary to  
 18.18 provide a service;

18.19 (v) significant changes in the person's condition or family circumstance;

18.20 ~~(vi) any specialized equipment or material required;~~

18.21 ~~(vii)~~ (vi) techniques that support and are consistent with the person's communication  
 18.22 mode and learning style;

18.23 ~~(viii)~~ (vii) the name of the QSP; and

18.24 ~~(ix)~~ (viii) progress monitoring results and goal mastery data; and

18.25 (3) the discharge criteria that ~~shall~~ must be used and a defined transition plan that meets  
 18.26 the requirement of paragraph (g).

18.27 (d) Implementation of the ITP must be supervised by a QSP.

18.28 (e) The ITP must be submitted to the commissioner and the person or the person's legal  
 18.29 representative for approval in a manner determined by the commissioner for this purpose.

19.1 (f) A service included in the ITP must meet all applicable requirements for medical  
19.2 necessity and coverage.

19.3 (g) To terminate service, the provider must send notice of termination to the person or  
19.4 the person's legal representative. The transition period begins when the person or the person's  
19.5 legal representative receives notice of termination from the EIDBI service and ends when  
19.6 the EIDBI service is terminated. Up to 30 days of continued service is allowed during the  
19.7 transition period. Services during the transition period shall be consistent with the ITP. The  
19.8 transition plan ~~shall~~ must include:

19.9 (1) protocols for changing service when medically necessary;

19.10 (2) how the transition will occur;

19.11 (3) the time allowed to make the transition; and

19.12 (4) a description of how the person or the person's legal representative will be informed  
19.13 of and involved in the transition.

19.14 Sec. 19. Minnesota Statutes 2018, section 256B.0949, subdivision 9, is amended to read:

19.15 Subd. 9. **Revision of treatment options.** ~~(a)~~ The commissioner may revise covered  
19.16 treatment ~~options~~ methods and practices as needed based on outcome data and other evidence.  
19.17 EIDBI treatment modalities approved by the department must:

19.18 (1) cause no harm to the person or the person's family;

19.19 (2) be individualized and person-centered;

19.20 (3) be developmentally appropriate and highly structured, with well-defined goals and  
19.21 objectives that provide a strategic direction for treatment;

19.22 (4) be based in recognized principles of developmental and behavioral science;

19.23 (5) utilize sound practices that are replicable across providers and maintain the fidelity  
19.24 of the ~~specific modality~~ treatment method;

19.25 (6) demonstrate an evidentiary basis;

19.26 (7) have goals and objectives that are measurable, achievable, and regularly evaluated  
19.27 and adjusted to ensure that adequate progress is being made;

19.28 (8) be provided intensively with a high staff-to-person ratio; and

20.1 (9) include participation by the person and the person's legal representative in decision  
 20.2 making, knowledge building and capacity building, and developing and implementing the  
 20.3 person's ITP.

20.4 ~~(b) Before revisions in department recognized treatment modalities become effective,~~  
 20.5 ~~the commissioner must provide public notice of the changes, the reasons for the change,~~  
 20.6 ~~and a 30-day public comment period to those who request notice through an electronic list~~  
 20.7 ~~accessible to the public on the department's website.~~

20.8 Sec. 20. Minnesota Statutes 2018, section 256B.0949, subdivision 13, is amended to read:

20.9 Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to (i) are  
 20.10 eligible for reimbursement by medical assistance under this section. Services must be  
 20.11 provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must  
 20.12 address the person's medically necessary treatment goals and must be targeted to develop,  
 20.13 enhance, or maintain the individual developmental skills of a person with ASD or a related  
 20.14 condition to improve functional communication, including nonverbal or social  
 20.15 communication, social or interpersonal interaction, restrictive or repetitive behaviors,  
 20.16 hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation,  
 20.17 cognition, learning and play, self-care, and safety.

20.18 (b) ~~EIDBI modalities include, but are not limited to:~~ treatment must be based in  
 20.19 developmental and behavioral evidence-based practices or practice-based evidence and  
 20.20 meet the requirements outlined in subdivision 9.

20.21 ~~(1) applied behavior analysis (ABA);~~

20.22 ~~(2) developmental individual-difference relationship-based model (DIR/Floortime);~~

20.23 ~~(3) early start Denver model (ESDM);~~

20.24 ~~(4) PLAY project; or~~

20.25 ~~(5) relationship development intervention (RDI).~~

20.26 ~~(c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b),~~  
 20.27 ~~clauses (1) to (5), as the primary modality for treatment as a covered service, or several~~  
 20.28 ~~EIDBI modalities in combination as the primary modality of treatment, as approved by the~~  
 20.29 ~~commissioner. An EIDBI provider that identifies and provides assurance of qualifications~~  
 20.30 ~~for a single specific treatment modality must document the required qualifications to meet~~  
 20.31 ~~fidelity to the specific model. Additional EIDBI modalities not listed in paragraph (b) may~~  
 20.32 ~~be covered upon approval by the commissioner.~~

21.1 (c) A qualified EIDBI provider is a person who identifies and provides assurance of  
 21.2 qualifications for professional licensure certification, or training in evidence-based treatment  
 21.3 methods, and who must document the required qualifications outlined in subdivision 15 in  
 21.4 a manner determined by the commissioner.

21.5 (d) CMDE is a comprehensive evaluation of the person's developmental status to  
 21.6 determine medical necessity for EIDBI services and meets the requirements of subdivision  
 21.7 5. The services must be provided by a qualified CMDE provider.

21.8 (e) EIDBI intervention observation and direction is the clinical direction and oversight  
 21.9 of EIDBI services by the QSP, level I treatment provider, or level II treatment provider,  
 21.10 including developmental and behavioral techniques, progress measurement, data collection,  
 21.11 function of behaviors, and generalization of acquired skills for the direct benefit of a person.  
 21.12 EIDBI intervention observation and direction ~~informs any~~ requires modification of the  
 21.13 ~~methods~~ current treatment protocol to support the outcomes outlined in the ITP. ~~EIDBI~~  
 21.14 ~~intervention observation and direction provides a real-time response to EIDBI interventions~~  
 21.15 ~~to maximize the benefit to the person.~~

21.16 (f) Intervention is medically necessary direct treatment provided to a person with ASD  
 21.17 or a related condition as outlined in their ITP. All intervention services must be provided  
 21.18 under the direction of a QSP. Intervention may take place across multiple settings. The  
 21.19 frequency and intensity of intervention services are provided based on the number of  
 21.20 treatment goals, person and family or caregiver preferences, and other factors. Intervention  
 21.21 services may be provided individually or in a group. Intervention with a higher provider  
 21.22 ratio may occur when deemed medically necessary through the person's ITP.

21.23 (1) Individual intervention is treatment by protocol administered by a single qualified  
 21.24 EIDBI provider delivered face-to-face to one person.

21.25 (2) Group intervention is treatment by protocol provided by one or more qualified EIDBI  
 21.26 providers, delivered to at least two people who receive EIDBI services.

21.27 ~~(f)~~ (g) ITP development and ITP progress monitoring is development of the initial,  
 21.28 annual, and progress monitoring of an ITP. ITP development and ITP progress monitoring  
 21.29 documents, ~~provides~~ provide oversight and ongoing evaluation of a person's treatment and  
 21.30 progress on targeted goals and objectives; and ~~integrates~~ integrate and ~~coordinates~~ coordinate  
 21.31 the person's and the person's legal representative's information from the CMDE and ITP  
 21.32 progress monitoring. This service must be reviewed and completed by the QSP, and may  
 21.33 include input from a level I ~~treatment~~ provider or a level II ~~treatment~~ provider.

22.1 ~~(g)~~ (h) Family caregiver training and counseling is specialized training and education  
 22.2 for a family or primary caregiver to understand the person's developmental status and help  
 22.3 with the person's needs and development. This service must be provided by the QSP, level  
 22.4 I ~~treatment~~ provider, or level II ~~treatment~~ provider.

22.5 ~~(h)~~ (i) A coordinated care conference is a voluntary face-to-face meeting with the person  
 22.6 and the person's family to review the CMDE or ITP progress monitoring and to integrate  
 22.7 and coordinate services across providers and service-delivery systems to develop the ITP.  
 22.8 This service must be provided by the QSP and may include the CMDE provider or a level  
 22.9 I ~~treatment~~ provider or a level II ~~treatment~~ provider.

22.10 ~~(i)~~ (j) Travel time is allowable billing for traveling to and from the person's home, school,  
 22.11 a community setting, or place of service outside of an EIDBI center, clinic, or office from  
 22.12 a specified location to provide face-to-face EIDBI intervention, observation and direction,  
 22.13 or family caregiver training and counseling. The person's ITP must specify the reasons the  
 22.14 provider must travel to the person.

22.15 ~~(j)~~ (k) Medical assistance covers medically necessary EIDBI services and consultations  
 22.16 delivered by a licensed health care provider via telemedicine, as defined under section  
 22.17 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered  
 22.18 in person. ~~Medical assistance coverage is limited to three telemedicine services per person~~  
 22.19 ~~per calendar week.~~

22.20 Sec. 21. Minnesota Statutes 2018, section 256B.0949, subdivision 14, is amended to read:

22.21 Subd. 14. **Person's rights.** A person or the person's legal representative has the right to:

22.22 (1) protection as defined under the health care bill of rights under section 144.651;

22.23 (2) designate an advocate to be present in all aspects of the person's and person's family's  
 22.24 services at the request of the person or the person's legal representative;

22.25 (3) be informed of the agency policy on assigning staff to a person;

22.26 (4) be informed of the opportunity to observe the person while receiving services;

22.27 (5) be informed of services in a manner that respects and takes into consideration the  
 22.28 person's and the person's legal representative's culture, values, and preferences in accordance  
 22.29 with subdivision 3a;

22.30 (6) be free from seclusion and restraint, except for emergency use of manual restraint  
 22.31 in emergencies as defined in section 245D.02, subdivision 8a;

22.32 (7) be under the supervision of a responsible adult at all times;

23.1 (8) be notified by the agency within 24 hours if an incident occurs or the person is injured  
 23.2 while receiving services, including what occurred and how agency staff responded to the  
 23.3 incident;

23.4 (9) request a voluntary coordinated care conference; ~~and~~

23.5 (10) request a CMDE provider of the person's or the person's legal representative's  
 23.6 choice; and

23.7 (11) be free of all prohibitions as defined in Minnesota Rules, part 9544.0060.

23.8 Sec. 22. Minnesota Statutes 2018, section 256B.0949, subdivision 15, is amended to read:

23.9 Subd. 15. **EIDBI provider qualifications.** (a) A QSP must be employed by an agency  
 23.10 and be:

23.11 (1) a licensed mental health professional who has at least 2,000 hours of supervised  
 23.12 clinical experience or training in examining or treating people with ASD or a related condition  
 23.13 or equivalent documented coursework at the graduate level by an accredited university in  
 23.14 ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child  
 23.15 development; or

23.16 (2) a developmental or behavioral pediatrician who has at least 2,000 hours of supervised  
 23.17 clinical experience or training in examining or treating people with ASD or a related condition  
 23.18 or equivalent documented coursework at the graduate level by an accredited university in  
 23.19 the areas of ASD diagnostics, ASD developmental and behavioral treatment strategies, and  
 23.20 typical child development.

23.21 (b) A level I treatment provider must be employed by an agency and:

23.22 (1) have at least 2,000 hours of supervised clinical experience or training in examining  
 23.23 or treating people with ASD or a related condition or equivalent documented coursework  
 23.24 at the graduate level by an accredited university in ASD diagnostics, ASD developmental  
 23.25 and behavioral treatment strategies, and typical child development or an equivalent  
 23.26 combination of documented coursework or hours of experience; and

23.27 (2) have or be at least one of the following:

23.28 (i) a master's degree in behavioral health or child development or related fields including,  
 23.29 but not limited to, mental health, special education, social work, psychology, speech  
 23.30 pathology, or occupational therapy from an accredited college or university;

23.31 (ii) a bachelor's degree in a behavioral health, child development, or related field  
 23.32 including, but not limited to, mental health, special education, social work, psychology,

24.1 speech pathology, or occupational therapy, from an accredited college or university, and  
24.2 advanced certification in a treatment modality recognized by the department;

24.3 (iii) a board-certified behavior analyst; or

24.4 (iv) a board-certified assistant behavior analyst with 4,000 hours of supervised clinical  
24.5 experience that meets all registration, supervision, and continuing education requirements  
24.6 of the certification.

24.7 (c) A level II treatment provider must be employed by an agency and must be:

24.8 (1) a person who has a bachelor's degree from an accredited college or university in a  
24.9 behavioral or child development science or related field including, but not limited to, mental  
24.10 health, special education, social work, psychology, speech pathology, or occupational  
24.11 therapy; and ~~meet~~ meets at least one of the following:

24.12 (i) has at least 1,000 hours of supervised clinical experience or training in examining or  
24.13 treating people with ASD or a related condition or equivalent documented coursework at  
24.14 the graduate level by an accredited university in ASD diagnostics, ASD developmental and  
24.15 behavioral treatment strategies, and typical child development or a combination of  
24.16 coursework or hours of experience;

24.17 (ii) has certification as a board-certified assistant behavior analyst from the Behavior  
24.18 Analyst Certification Board;

24.19 (iii) is a registered behavior technician as defined by the Behavior Analyst Certification  
24.20 Board; or

24.21 (iv) is certified in one of the other treatment modalities recognized by the department;

24.22 or

24.23 (2) a person who has:

24.24 (i) an associate's degree in a behavioral or child development science or related field  
24.25 including, but not limited to, mental health, special education, social work, psychology,  
24.26 speech pathology, or occupational therapy from an accredited college or university; and

24.27 (ii) at least 2,000 hours of supervised clinical experience in delivering treatment to people  
24.28 with ASD or a related condition. Hours worked as a mental health behavioral aide or level  
24.29 III treatment provider may be included in the required hours of experience; or

24.30 (3) a person who has at least 4,000 hours of supervised clinical experience in delivering  
24.31 treatment to people with ASD or a related condition. Hours worked as a mental health



25.1 behavioral aide or level III treatment provider may be included in the required hours of  
 25.2 experience; or

25.3 (4) a person who is a graduate student in a behavioral science, child development science,  
 25.4 or related field and is receiving clinical supervision by a QSP affiliated with an agency to  
 25.5 meet the clinical training requirements for experience and training with people with ASD  
 25.6 or a related condition; or

25.7 (5) a person who is at least 18 years of age and who:

25.8 (i) is fluent in a non-English language;

25.9 (ii) completed the level III EIDBI training requirements; and

25.10 (iii) receives observation and direction from a QSP or level I treatment provider at least  
 25.11 once a week until the person meets 1,000 hours of supervised clinical experience.

25.12 (d) A level III treatment provider must be employed by an agency, have completed the  
 25.13 level III training requirement, be at least 18 years of age, and have at least one of the  
 25.14 following:

25.15 (1) a high school diploma or commissioner of education-selected high school equivalency  
 25.16 certification;

25.17 (2) fluency in a non-English language; ~~or~~

25.18 (3) one year of experience as a primary personal care assistant, community health worker,  
 25.19 waiver service provider, or special education assistant to a person with ASD or a related  
 25.20 condition within the previous five years; or

25.21 (4) completion of all required EIDBI training within six months of employment.

25.22 Sec. 23. Minnesota Statutes 2018, section 256B.0949, subdivision 16, is amended to read:

25.23 Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section  
 25.24 must:

25.25 (1) enroll as a medical assistance Minnesota health care program provider according to  
 25.26 Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all  
 25.27 applicable provider standards and requirements;

25.28 (2) demonstrate compliance with federal and state laws for EIDBI service;

25.29 (3) verify and maintain records of a service provided to the person or the person's legal  
 25.30 representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;

26.1 (4) demonstrate that while enrolled or seeking enrollment as a Minnesota health care  
26.2 program provider the agency did not have a lead agency contract or provider agreement  
26.3 discontinued because of a conviction of fraud; or did not have an owner, board member, or  
26.4 manager fail a state or federal criminal background check or appear on the list of excluded  
26.5 individuals or entities maintained by the federal Department of Human Services Office of  
26.6 Inspector General;

26.7 (5) have established business practices including written policies and procedures, internal  
26.8 controls, and a system that demonstrates the organization's ability to deliver quality EIDBI  
26.9 services;

26.10 (6) have an office located in Minnesota or a border state;

26.11 (7) conduct a criminal background check on an individual who has direct contact with  
26.12 the person or the person's legal representative;

26.13 (8) report maltreatment according to sections 626.556 and 626.557;

26.14 (9) comply with any data requests consistent with the Minnesota Government Data  
26.15 Practices Act, sections 256B.064 and 256B.27;

26.16 (10) provide training for all agency staff on the requirements and responsibilities listed  
26.17 in the Maltreatment of Minors Act, section 626.556, and the Vulnerable Adult Protection  
26.18 Act, section 626.557, including mandated and voluntary reporting, nonretaliation, and the  
26.19 agency's policy for all staff on how to report suspected abuse and neglect;

26.20 (11) have a written policy to resolve issues collaboratively with the person and the  
26.21 person's legal representative when possible. The policy must include a timeline for when  
26.22 the person and the person's legal representative will be notified about issues that arise in  
26.23 the provision of services;

26.24 (12) provide the person's legal representative with prompt notification if the person is  
26.25 injured while being served by the agency. An incident report must be completed by the  
26.26 agency staff member in charge of the person. A copy of all incident and injury reports must  
26.27 remain on file at the agency for at least five years from the report of the incident; and

26.28 (13) before starting a service, provide the person or the person's legal representative a  
26.29 description of the treatment modality that the person shall receive, including the staffing  
26.30 certification levels and training of the staff who shall provide a treatment.

26.31 (b) When delivering the ITP, and annually thereafter, an agency must provide the person  
26.32 or the person's legal representative with:

27.1 (1) a written copy and a verbal explanation of the person's or person's legal  
27.2 representative's rights and the agency's responsibilities;

27.3 (2) documentation in the person's file the date that the person or the person's legal  
27.4 representative received a copy and explanation of the person's or person's legal  
27.5 representative's rights and the agency's responsibilities; and

27.6 (3) reasonable accommodations to provide the information in another format or language  
27.7 as needed to facilitate understanding of the person's or person's legal representative's rights  
27.8 and the agency's responsibilities.

27.9 Sec. 24. Minnesota Statutes 2018, section 256D.02, subdivision 17, is amended to read:

27.10 Subd. 17. **Professional certification.** "Professional certification" means a statement  
27.11 about a person's illness, injury, or incapacity that is signed by a "qualified professional" as  
27.12 defined in section ~~256J.08, subdivision 73a~~ 256P.01, subdivision 6a.

27.13 Sec. 25. Minnesota Statutes 2018, section 256I.03, subdivision 3, is amended to read:

27.14 Subd. 3. **Housing support.** "Housing support" means ~~a group living situation~~ assistance  
27.15 that provides at a minimum room and board to ~~unrelated~~ persons who meet the eligibility  
27.16 requirements of section 256I.04. To receive payment for ~~a group residence rate~~ housing  
27.17 support, the residence must meet the requirements under section 256I.04, subdivisions 2a  
27.18 to 2f.

27.19 Sec. 26. Minnesota Statutes 2018, section 256I.03, subdivision 14, is amended to read:

27.20 Subd. 14. **Qualified professional.** "Qualified professional" means an individual as  
27.21 defined in section ~~256J.08, subdivision 73a~~, ~~or~~ 245G.11, subdivision 3, 4, or 5, or 256P.01,  
27.22 subdivision 6a; or an individual approved by the director of human services or a designee  
27.23 of the director.

27.24 Sec. 27. Minnesota Statutes 2019 Supplement, section 256I.04, subdivision 2b, is amended  
27.25 to read:

27.26 Subd. 2b. **Housing support agreements.** (a) Agreements between agencies and providers  
27.27 of housing support must be in writing on a form developed and approved by the commissioner  
27.28 and must specify the name and address under which the establishment subject to the  
27.29 agreement does business and under which the establishment, or service provider, if different  
27.30 from the ~~group residential housing~~ establishment, is licensed by the Department of Health  
27.31 or the Department of Human Services; the specific license or registration from the

28.1 Department of Health or the Department of Human Services held by the provider and the  
28.2 number of beds subject to that license; the address of the location or locations at which  
28.3 ~~group residential~~ housing support is provided under this agreement; the per diem and monthly  
28.4 rates that are to be paid from housing support funds for each eligible resident at each location;  
28.5 the number of beds at each location which are subject to the agreement; whether the license  
28.6 holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code;  
28.7 and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06  
28.8 and subject to any changes to those sections.

28.9 (b) Providers are required to verify the following minimum requirements in the  
28.10 agreement:

28.11 (1) current license or registration, including authorization if managing or monitoring  
28.12 medications;

28.13 (2) all staff who have direct contact with recipients meet the staff qualifications;

28.14 (3) the provision of housing support;

28.15 (4) the provision of supplementary services, if applicable;

28.16 (5) reports of adverse events, including recipient death or serious injury;

28.17 (6) submission of residency requirements that could result in recipient eviction; and

28.18 (7) confirmation that the provider will not limit or restrict the number of hours an  
28.19 applicant or recipient chooses to be employed, as specified in subdivision 5.

28.20 (c) Agreements may be terminated with or without cause by the commissioner, the  
28.21 agency, or the provider with two calendar months prior notice. The commissioner may  
28.22 immediately terminate an agreement under subdivision 2d.

28.23 Sec. 28. Minnesota Statutes 2018, section 256I.05, subdivision 1c, is amended to read:

28.24 Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for housing  
28.25 support above those in effect on June 30, 1993, except as provided in paragraphs (a) to (f).

28.26 (a) An agency may increase the rates for room and board to the MSA equivalent rate  
28.27 for those settings whose current rate is below the MSA equivalent rate.

28.28 (b) An agency may increase the rates for residents in adult foster care whose difficulty  
28.29 of care has increased. The total housing support rate for these residents must not exceed the  
28.30 maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase

29.1 difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding  
 29.2 by home and community-based waiver programs under title XIX of the Social Security Act.

29.3 (c) The room and board rates will be increased each year when the MSA equivalent rate  
 29.4 is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less  
 29.5 the amount of the increase in the medical assistance personal needs allowance under section  
 29.6 256B.35.

29.7 (d) When housing support pays for an individual's room and board, or other costs  
 29.8 necessary to provide room and board, the rate payable to the residence must continue for  
 29.9 up to 18 calendar days per incident that the person is temporarily absent from the residence,  
 29.10 not to exceed 60 days in a calendar year, if the absence or absences ~~have received the prior~~  
 29.11 ~~approval of~~ are reported in advance to the county agency's social service staff. Prior approval  
 29.12 Advance reporting is not required for emergency absences due to crisis, illness, or injury.

29.13 (e) For facilities meeting substantial change criteria within the prior year. Substantial  
 29.14 change criteria exists if the establishment experiences a 25 percent increase or decrease in  
 29.15 the total number of its beds, if the net cost of capital additions or improvements is in excess  
 29.16 of 15 percent of the current market value of the residence, or if the residence physically  
 29.17 moves, or changes its licensure, and incurs a resulting increase in operation and property  
 29.18 costs.

29.19 (f) Until June 30, 1994, an agency may increase by up to five percent the total rate paid  
 29.20 for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who  
 29.21 reside in residences that are licensed by the commissioner of health as a boarding care home,  
 29.22 but are not certified for the purposes of the medical assistance program. However, an increase  
 29.23 under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical  
 29.24 assistance reimbursement rate for nursing home resident class A, in the geographic grouping  
 29.25 in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to  
 29.26 9549.0058.

29.27 Sec. 29. Minnesota Statutes 2018, section 256I.05, subdivision 1n, is amended to read:

29.28 Subd. 1n. **Supplemental rate; Mahnomen County.** Notwithstanding the provisions of  
 29.29 this section, for the rate period July 1, 2010, to June 30, 2011, a county agency shall negotiate  
 29.30 a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed  
 29.31 \$753 per month or the existing rate, including any legislative authorized inflationary  
 29.32 adjustments, for a ~~group residential~~ housing support provider located in Mahnomen County  
 29.33 that operates a 28-bed facility providing 24-hour care to individuals who are homeless,  
 29.34 disabled, chemically dependent, mentally ill, or chronically homeless.

30.1 Sec. 30. Minnesota Statutes 2018, section 256I.05, subdivision 8, is amended to read:

30.2 Subd. 8. **State participation.** For a ~~resident of a group residence~~ person who is eligible  
30.3 under section 256I.04, subdivision 1, paragraph (b), state participation in the ~~group residential~~  
30.4 housing support payment is determined according to section 256D.03, subdivision 2. For  
30.5 a ~~resident of a group residence~~ person who is eligible under section 256I.04, subdivision 1,  
30.6 paragraph (a), state participation in the ~~group residential~~ housing support rate is determined  
30.7 according to section 256D.36.

30.8 Sec. 31. Minnesota Statutes 2018, section 256I.06, subdivision 2, is amended to read:

30.9 Subd. 2. **Time of payment.** A county agency may make payments in advance for an  
30.10 individual whose stay is expected to last beyond the calendar month for which the payment  
30.11 is made. Housing support payments made by a county agency on behalf of an individual  
30.12 who is not expected to remain in the ~~group residence~~ establishment beyond the month for  
30.13 which payment is made must be made subsequent to the individual's departure from the  
30.14 residence.

30.15 Sec. 32. Minnesota Statutes 2018, section 256I.06, is amended by adding a subdivision  
30.16 to read:

30.17 Subd. 10. **Correction of overpayments and underpayments.** The agency shall make  
30.18 an adjustment to housing support payments issued to individuals consistent with requirements  
30.19 of federal law and regulation and state law and rule and shall issue or recover benefits as  
30.20 appropriate. A recipient or former recipient is not responsible for overpayments due to  
30.21 agency error, unless the amount of the overpayment is large enough that a reasonable person  
30.22 would know it is an error.

30.23 Sec. 33. Minnesota Statutes 2018, section 256J.08, subdivision 73a, is amended to read:

30.24 Subd. 73a. **Qualified professional.** "Qualified professional" means an individual as  
30.25 defined in section 256P.01, subdivision 6a. (a) For physical illness, injury, or incapacity, a  
30.26 "qualified professional" means a licensed physician, a physician assistant, a nurse practitioner,  
30.27 or a licensed chiropractor.

30.28 (b) For developmental disability and intelligence testing, a "qualified professional"  
30.29 means an individual qualified by training and experience to administer the tests necessary  
30.30 to make determinations, such as tests of intellectual functioning, assessments of adaptive  
30.31 behavior, adaptive skills, and developmental functioning. These professionals include

31.1 ~~licensed psychologists, certified school psychologists, or certified psychometrists working~~  
 31.2 ~~under the supervision of a licensed psychologist.~~

31.3 ~~(c) For learning disabilities, a "qualified professional" means a licensed psychologist or~~  
 31.4 ~~school psychologist with experience determining learning disabilities.~~

31.5 ~~(d) For mental health, a "qualified professional" means a licensed physician or a qualified~~  
 31.6 ~~mental health professional. A "qualified mental health professional" means:~~

31.7 ~~(1) for children, in psychiatric nursing, a registered nurse who is licensed under sections~~  
 31.8 ~~148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent~~  
 31.9 ~~psychiatric or mental health nursing by a national nurse certification organization or who~~  
 31.10 ~~has a master's degree in nursing or one of the behavioral sciences or related fields from an~~  
 31.11 ~~accredited college or university or its equivalent, with at least 4,000 hours of post-master's~~  
 31.12 ~~supervised experience in the delivery of clinical services in the treatment of mental illness;~~

31.13 ~~(2) for adults, in psychiatric nursing, a registered nurse who is licensed under sections~~  
 31.14 ~~148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and~~  
 31.15 ~~mental health nursing by a national nurse certification organization or who has a master's~~  
 31.16 ~~degree in nursing or one of the behavioral sciences or related fields from an accredited~~  
 31.17 ~~college or university or its equivalent, with at least 4,000 hours of post-master's supervised~~  
 31.18 ~~experience in the delivery of clinical services in the treatment of mental illness;~~

31.19 ~~(3) in clinical social work, a person licensed as an independent clinical social worker~~  
 31.20 ~~under chapter 148D, or a person with a master's degree in social work from an accredited~~  
 31.21 ~~college or university, with at least 4,000 hours of post-master's supervised experience in~~  
 31.22 ~~the delivery of clinical services in the treatment of mental illness;~~

31.23 ~~(4) in psychology, an individual licensed by the Board of Psychology under sections~~  
 31.24 ~~148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis~~  
 31.25 ~~and treatment of mental illness;~~

31.26 ~~(5) in psychiatry, a physician licensed under chapter 147 and certified by the American~~  
 31.27 ~~Board of Psychiatry and Neurology or eligible for board certification in psychiatry;~~

31.28 ~~(6) in marriage and family therapy, the mental health professional must be a marriage~~  
 31.29 ~~and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of~~  
 31.30 ~~post-master's supervised experience in the delivery of clinical services in the treatment of~~  
 31.31 ~~mental illness; and~~

31.32 ~~(7) in licensed professional clinical counseling, the mental health professional shall be~~  
 31.33 ~~a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours~~

32.1 ~~of post-master's supervised experience in the delivery of clinical services in the treatment~~  
32.2 ~~of mental illness.~~

32.3 Sec. 34. Minnesota Statutes 2018, section 256P.01, is amended by adding a subdivision  
32.4 to read:

32.5 Subd. 6a. **Qualified professional.** (a) For physical illness, injury, or incapacity, a  
32.6 "qualified professional" means a licensed physician, physician assistant, nurse practitioner,  
32.7 physical therapist, occupational therapist, or licensed chiropractor.

32.8 (b) For developmental disability, learning disability, and intelligence testing, a "qualified  
32.9 professional" means a licensed physician, physician assistant, nurse practitioner, licensed  
32.10 independent clinical social worker, licensed psychologist, certified school psychologist, or  
32.11 certified psychometrist working under the supervision of a licensed psychologist.

32.12 (c) For mental health, a "qualified professional" means a licensed physician, physician  
32.13 assistant, nurse practitioner, or qualified mental health professional under section 245.462,  
32.14 subdivision 18, clauses (1) to (6).

32.15 (d) For substance use disorder, a "qualified professional" means an individual as defined  
32.16 in section 245G.11, subdivision 3, 4, or 5.

32.17 Sec. 35. **REPEALER.**

32.18 Minnesota Statutes 2018, section 245F.02, subdivision 20, is repealed.



APPENDIX  
Repealed Minnesota Statutes: 20-7407

**245F.02 DEFINITIONS.**

Subd. 20. **Qualified medical professional.** "Qualified medical professional" means an individual licensed in Minnesota as a doctor of osteopathic medicine or physician, or an individual licensed in Minnesota as an advanced practice registered nurse by the Board of Nursing and certified to practice as a clinical nurse specialist or nurse practitioner by a national nurse organization acceptable to the board.