

(7) Compliance with the terms of any sentence imposed for violation of clause (5) before conviction under clause (6) shall be an absolute defense.

Approved May 28, 1987

CHAPTER 299—S.F.No. 593

An act relating to human services; clarifying statutes relating to the preadmission screening program; clarifying chemical dependency consolidated fund administration procedures; amending Minnesota Statutes 1986, sections 246.51; 246.511; 254B.01, subdivision 5; 254B.02, subdivisions 1, 2, 3, and 5; 254B.03, subdivisions 1, 2, 3, 4, and 5; 254B.04; 254B.05; 254B.06, subdivision 1; 254B.08; 254B.09, subdivisions 3, 5, and 7; and 256B.091, subdivisions 2, 3, 4, 6, and 8; repealing Minnesota Statutes 1986, section 256.968.

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

Section 1. Minnesota Statutes 1986, section 246.51, is amended to read:

246.51 PAYMENT FOR CARE AND TREATMENT; DETERMINATION.

Subdivision 1. **PROCEDURES.** The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the patient is able to pay. If the patient is unable to pay the full cost of care the commissioner shall make a determination as to the ability of the relatives to pay. The patient or relatives or both shall provide the commissioner documents and proofs necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the patient or relatives, both, liable for the full cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a patient at a regional treatment center after the patient has reached the age of 18 years. The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care unless appealed from as provided in section 246.55. All money received, except for chemical dependency receipts, shall be paid to the state treasurer and placed in the general fund of the state and a separate account kept of it. Except for services provided under chapter 254B, responsibility under this section shall not apply to those relatives having gross earnings of less than \$11,000 per year.

Subd. 2. **RULES.** The commissioner shall adopt, pursuant to the administrative procedure act, rules establishing uniform standards for determination of patient liability and relative, guardian or conservator responsibility for care provided at state hospitals. The standards may differ for mental illness, chemical dependency, or mental retardation. The standards established in rules adopted under chapter 254B shall determine the amount of patient and relative responsibility when a portion of the patient's cost of care has been paid under chapter 254B. These rules shall have the force and effect of law.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1986, section 246.511, is amended to read:

246.511 RELATIVE RESPONSIBILITY.

~~In no case, shall~~ Except for chemical dependency services paid for with funds provided under chapter 254B, a patient's or resident's relatives shall not, pursuant to the commissioner's authority under section 246.51, be ordered to pay more than ten percent of the cost of care, unless they reside outside the state. Parents of children in state hospitals shall have their responsibility to pay determined according to section 252.27, subdivision 2, or in rules adopted under chapter 254B if the cost of care is paid under chapter 254B. The commissioner may accept voluntary payments in excess of ten percent. The commissioner may require full payment of the full per capita cost of care in state hospitals for patients or residents whose parent, parents, spouse, guardian or conservator do not reside in Minnesota.

Sec. 3. Minnesota Statutes 1986, section 254B.01, subdivision 5, is amended to read:

Subd. 5. **LOCAL AGENCY.** "Local agency" means the agency designated by a board of county commissioners, a county welfare board, or a human services board to make placements and submit state invoices according to Laws 1986, chapter 394, sections 8 to 20.

Sec. 4. Minnesota Statutes 1986, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. **CHEMICAL DEPENDENCY TREATMENT ALLOCATION.** The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. For the fiscal year beginning July 1, 1987, funds shall be transferred to operate the vendor payment, invoice processing, and collections system for one year. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation. Twelve percent of the remaining money must be reserved for treatment of American Indians by eligible vendors under section 254B.05. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

(a) The county non-Indian and over age 14 per capita-months of eligibility for aid to families with dependent children, general assistance, and medical assistance is divided by the total state non-Indian and over age 14 per capita-months of eligibility to determine the caseload factor for each county.

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(b) The average median family income for the previous three years for the state is divided by the average median family income for the previous three years for each county to determine the income factor.

(c) The non-Indian and over age 14 population of the county is multiplied by the sum of the income factor and the caseload factor to determine the adjusted population.

(d) \$15,000 shall be allocated to each county.

(e) The remaining funds shall be allocated proportional to the county adjusted population.

Sec. 5. Minnesota Statutes 1986, section 254B.02, subdivision 2, is amended to read:

Subd. 2. **COUNTY ADJUSTMENT; MAXIMUM ALLOCATION.** The commissioner shall determine the state money used by each county in fiscal year 1986, using all state data sources. If available records do not provide specific chemical dependency expenditures for every county, the commissioner shall determine the amount of state money using estimates based on available data. In state fiscal year 1988, a county must not be allocated more than 150 percent of the state money spent by or on behalf of the county in fiscal year 1986 for chemical dependency treatment services eligible for payment under section 254B.05, but not including expenditures made for persons eligible for placement under section 254B.09, subdivision 6. The allocation maximums must be increased by 25 percent each year. After fiscal year 1992, there must be no allocation maximum. The commissioner shall reallocate the excess over the maximum to counties allocated less than the fiscal year 1986 state money, using the following process:

(a) The allocation is divided by ~~1985~~ 1986 state expenditures to determine percentage of prior expenditure, and counties are ranked by percentage of prior expenditure less expenditures for persons eligible for placement under section 254B.09, subdivision 6.

(b) The allocation of the lowest ranked county is raised to the same percentage of prior expenditure as the second lowest ranked county. The allocation of these two counties is then raised to the percentage of prior expenditures of the third lowest ranked county.

(c) The operations under paragraph (b) are repeated with each county by ranking until the money in excess of the allocation maximum has been allocated.

Sec. 6. Minnesota Statutes 1986, section 254B.02, subdivision 3, is amended to read:

Subd. 3. **RESERVE ACCOUNT.** The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency

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services from local money. The commissioner shall establish the base level for fiscal year 1988 as the amount of local money used for eligible services in calendar year 1986. In later years, the base level must be increased in the same proportion as state appropriations to implement Laws 1986, chapter 394, sections 8 to 20, are increased. The base level must ~~not~~ be decreased if ~~appropriations are the fund balance from which allocations are made under section 254B.02, subdivision 1,~~ is decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2.

Sec. 7. Minnesota Statutes 1986, section 254B.02, subdivision 5, is amended to read:

Subd. 5. **ADMINISTRATIVE ADJUSTMENT.** The commissioner may make payments to local agencies from money allocated under this section to support administrative activities under sections 254B.03 and 254B.04. The administrative payment must not exceed five percent of the first \$50,000, four percent of the next \$50,000, and three percent of the remaining ~~county allocation and must not be paid if the level of expenditures indicates that the allocation for the year will be exhausted by payments for services from the allocation.~~ Twenty-five percent of the administrative allowance shall be advanced at the beginning of each year ~~and remaining payments must be made under this section at the end of each quarter from any unspent allocation for that year quarter,~~ based on the payments for services made in the most recent quarter for which data is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the administrative allowance for any succeeding quarter.

Sec. 8. Minnesota Statutes 1986, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. **LOCAL AGENCY DUTIES.** (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.01 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the com-

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missioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

Sec. 9. Minnesota Statutes 1986, section 254B.03, subdivision 2, is amended to read:

Subd. 2. **CHEMICAL DEPENDENCY SERVICES.** (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification that, if located outside of federally recognized tribal lands, would be required to be licensed by the commissioner as a ~~residential or nonresidential chemical dependency treatment or rehabilitation~~ program under sections 245.781 to 245.812, and services other than detoxification provided in another state that would be required to be licensed as a chemical dependency program if the program were in the state. Out of state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide chemical dependency treatment. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245.791. Except for chemical dependency transitional rehabilitation programs, vendors receiving payments from the chemical dependency fund must not require copayment from a recipient of benefits for services provided under this subdivision.

(b) A county may, from its own resources, provide chemical dependency services for which state payments are not made. A county may elect to use the same invoice procedures and obtain the same state payment services as are used for chemical dependency services for which state payments are made under this section if county payments are made to the state in advance of state payments to vendors. When a county uses the state system for payment, the commissioner shall make monthly billings to the county using the most recent available information to determine the anticipated services for which payments will be made in the coming month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

(c) The commissioner shall coordinate chemical dependency services and determine whether there is a need for any proposed expansion of chemical dependency treatment services. The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the expansion of existing program capacity. The commissioner shall consider the provider's capacity to obtain clients from outside the state based on plans, agreements, and previous utilization history, when determining the need for new treatment services.

Sec. 10. Minnesota Statutes 1986, section 254B.03, subdivision 3, is amended to read:

Subd. 3. **LOCAL AGENCIES TO PAY STATE FOR COUNTY SHARE.**

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Local agencies shall submit invoices to the state on forms supplied by the commissioner and according to procedures established by the commissioner. Local agencies shall pay the state for the county share of the invoiced services. Payments shall be made at the beginning of each month for services provided in the previous month. The commissioner shall bill the county monthly for services, based on the most recent month for which expenditure information is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

Sec. 11. Minnesota Statutes 1986, section 254B.03, subdivision 4, is amended to read:

Subd. 4. **DIVISION OF COSTS.** The county shall, out of local money, ~~reimburse~~ pay the state for 15 percent of the cost of chemical dependency services ~~costs paid by the state under this section.~~ Counties may use the indigent hospitalization levy for treatment and hospital payments made under this section. Fifteen percent of any state collections from private or third-party pay, less 15 percent of the cost of payment and collections, must be distributed to the county that paid for a portion of the treatment under this section. If all funds allocated according to section 254B.02 are exhausted by a county and the county has met or exceeded the base level of expenditures under section 254B.02, subdivision 3, the county shall ~~reimburse~~ pay the state for 15 percent of the costs paid by the state under this section. The commissioner may refuse to pay state funds for services to persons not eligible under section 254B.04, subdivision 1, ~~if the commissioner determines that funds will otherwise not be available for persons who are entitled to chemical dependency fund services~~ the county financially responsible for the persons has exhausted its allocation.

Sec. 12. Minnesota Statutes 1986, section 254B.03, subdivision 5, is amended to read:

Subd. 5. **RULES; APPEAL.** The commissioner shall adopt rules as necessary to implement Laws 1986, chapter 394, sections 8 to 20. The commissioner shall ensure that the rules are effective on July 1, 1987. The commissioner shall establish an appeals process for use by ~~vendors or~~ recipients when services certified by the county are disputed. The commissioner shall adopt rules and standards for the appeal process to assure adequate redress for persons referred to inappropriate services.

Sec. 13. Minnesota Statutes 1986, section 254B.04, is amended to read:

254B.04 ELIGIBILITY FOR CHEMICAL DEPENDENCY FUND SERVICES.

Subdivision 1. **ELIGIBILITY.** Persons eligible for benefits under sections 256D.01 to 256D.21, or for federal benefits under Code of Federal Regulations, title 25, part 20, and persons eligible for federal health care benefits under section 256B.06 are entitled to chemical dependency fund services.

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Subd. 2. **AMOUNT OF CONTRIBUTION.** The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons whose income ~~and nonexempt property are~~ is greater than the standard of assistance under sections 256B.06 and 256D.01 to 256D.21. The commissioner may adopt an existing fee scale from another assistance program or from the state facilities by publication in the State Register. The commissioner shall establish a separate fee scale for recipients of chemical dependency transitional rehabilitation services that provides for the collection of fees for board and lodging expenses. The fee schedule shall ensure that employed persons are allowed the income disregards and savings accounts that are allowed residents of community mental illness facilities under section 256D.06, subdivisions 1 and 1b. The fee scale must not provide assistance to persons whose income is more than 115 percent of the state median income. Payments of liabilities under this section are medical expenses for purposes of determining spend-down under sections 256B.06 and 256D.01 to 256D.21.

Sec. 14. Minnesota Statutes 1986, section 254B.05, is amended to read:

254B.05 VENDOR ELIGIBILITY.

Subdivision 1. LICENSURE REQUIRED. Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245.791. American Indian programs that, if located outside of federally recognized tribal lands, would be required to be licensed to provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, are eligible vendors. Detoxification programs are not eligible vendors. Programs that, if located outside of federally recognized tribal lands, would not be licensed as a chemical dependency residential or nonresidential treatment program under sections 245.781 to 245.812 are not eligible vendors. To be eligible for payment under the Consolidated Chemical Dependency Treatment Fund, a vendor must participate in the Drug and Alcohol Abuse Normative Evaluation System or a comparable system approved by the commissioner.

Subd. 2. REGULATORY METHODS. (a) Where appropriate and feasible, the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

(1) expansion of the types and categories of licenses that may be granted;

(2) when the standards of an independent accreditation body have been shown to predict compliance with the rules, the commissioner shall consider compliance with the accreditation standards to be equivalent to partial compliance with the rules; and

(3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

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If the commissioner determines that the methods in clause (2) or (3) can be used in licensing a program, the commissioner may reduce any fee set under section 10 by up to 50 percent.

(b) The commissioner shall work with the commissioners of health, public safety, administration, and education in consolidating duplicative licensing and certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and education in conducting joint agency inspections of programs.

(c) The commissioner shall work with the commissioners of health, public safety, administration, and education in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

Subd. 3. FEE REDUCTIONS. If the commissioner determines that the methods in subdivision 2, clause (2) or (3), can be used in licensing a program, the commissioner shall reduce licensure fees by up to 50 percent. The commissioner may adopt rules to provide for the reduction of fees when a license holder substantially exceeds the basic standards for licensure.

Sec. 15. Minnesota Statutes 1986, section 254B.06, subdivision 1, is amended to read:

Subdivision 1. **STATE COLLECTIONS.** The commissioner is responsible for all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under Laws 1986, chapter 394, sections 8 to 20. The commissioner may collect all third-party payments for chemical dependency services provided under Laws 1986, chapter 394, sections 8 to 20, including private insurance and federal medicaid and medicare financial participation. The commissioner shall deposit in ~~the general fund~~ a dedicated account a percentage of collections to pay for the cost of operating the chemical dependency consolidated treatment fund invoice processing and vendor payment system, billing, and collections. The remaining receipts must be deposited in the chemical dependency fund.

Sec. 16. Minnesota Statutes 1986, section 254B.08, is amended to read:

254B.08 FEDERAL WAIVERS.

The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation for the provision of services to persons who need chemical dependency services. The commissioner may seek amendments to the waivers or apply for additional waivers to contain costs. The commissioner shall ensure that payment for the cost of providing chemical dependency services under the federal waiver plan does not exceed the

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cost of chemical dependency services that would have been provided without the waived services.

Notwithstanding sections 254B.04 and 256B.02, subdivision 8, clause (18), and rules adopted under section 254B.03, subdivision 5, persons eligible under section 256B.06 for medical assistance benefits shall not be eligible for services reimbursed through the consolidated chemical dependency fund, except for transitional rehabilitation, extended care programs, and culturally specific programs as defined by Minnesota Rules, part 9530.6605, subpart 13, until the federal Social Security Act, section 2108 (1915B), program waivers are secured. Until the necessary federal program waivers are secured, persons eligible for medical assistance benefits under section 256B.06 shall be eligible for chemical dependency treatment services under section 256B.02, subdivision 8.

Sec. 17. Minnesota Statutes 1986, section 254B.09, subdivision 3, is amended to read:

Subd. 3. **TRIBAL NONPARTICIPATION.** If a federally recognized tribal governing body has not entered into an agreement under subdivision 2 or cancels the agreement, money must be reallocated to the account established by subdivision 5 4.

Sec. 18. Minnesota Statutes 1986, section 254B.09, subdivision 5, is amended to read:

Subd. 5. **TRIBAL RESERVE ACCOUNT.** The commissioner shall reserve 7.5 percent of the American Indian chemical dependency account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2. An American Indian tribal governing body may receive not more than 30 percent of the reserve account in a year. Reserve payments shall be made only for persons entitled to services under section 254B.04, subdivision 1. Money must be allocated as invoices are received.

Sec. 19. Minnesota Statutes 1986, section 254B.09, subdivision 7, is amended to read:

Subd. 7. **NONRESERVATION INDIAN ACCOUNT.** Fifty percent of the American Indian chemical dependency allocation must be held in reserve by the commissioner in an account for treatment of Indians not residing on lands of a reservation receiving money under subdivision 4. This money must be used to pay for services certified by county invoice to have been provided to an American Indian eligible recipient. Money allocated under this subdivision may be used for payments on behalf of American Indian county residents only if, in addition to other placement standards, the county certifies that the placement was appropriate to the cultural orientation of the client. Any funds for treatment of nonreservation Indians remaining at the end of a fiscal year shall be reallocated under section 254B.02.

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Sec. 20. Minnesota Statutes 1986, section 256B.091, subdivision 2, is amended to read:

Subd. 2. **SCREENING TEAMS; ESTABLISHMENT.** Each county agency designated by the commissioner of human services to participate in the program shall contract with the local board of health organized under sections 145.911 to 145.922 or other public or nonprofit agency to establish a screening team to assess the health and social needs of all applicants prior to admission to a nursing home or a boarding care home licensed under section 144A.02 or sections 144.50 to 144.56, that is certified for medical assistance as a skilled nursing facility, intermediate care facility level I, or intermediate care facility level II. Each local screening team shall be composed of a public health nurse from the local public health nursing service and a social worker from the local community welfare agency. Each screening team shall have a physician available for consultation and shall utilize individuals' attending physicians' physical assessment forms, if any, in assessing needs. The individual's physician shall be included on the screening team if the physician chooses to participate. If a person who has been screened must be reassessed for purposes of assigning a case mix classification because admission to a nursing home occurs later than the time allowed by rule following the initial screening and assessment, the reassessment may be completed by the public health nurse member of the screening team. If the individual is being discharged from an acute care facility, a discharge planner from that facility may be present, at the facility's request, during the screening team's assessment of the individual and may participate in discussions but not in making the screening team's recommendations under subdivision 3, clause (e). If the assessment procedure or screening team recommendation results in a delay of the individual's discharge from the acute care facility, the facility shall not be denied medical assistance reimbursement or incur any other financial or regulatory penalty of the medical assistance program that would otherwise be caused by the individual's extended length of stay; 50 percent of the cost of this reimbursement or financial or regulatory penalty shall be paid by the state and 50 percent shall be paid by the county. Other personnel as deemed appropriate by the county agency may be included on the team. The county agency may contract with an acute care facility to have the facility's discharge planners perform the functions of a screening team with regard to individuals discharged from the facility and in those cases the discharge planners may participate in making recommendations under subdivision 3, clause (e). No member of a screening team shall have a direct or indirect financial or self-serving interest in a nursing home or noninstitutional referral such that it would not be possible for the member to consider each case objectively.

Individuals not eligible for medical assistance who are being transferred from a hospital to a nursing home or boarding care home may be screened by only one member of the screening team in consultation with the other member. The interagency board for quality assurance, with the participation of members of screening teams, shall identify other circumstances when it would be appropriate for only one member of a screening team to conduct the nursing home preadmission screenings. The committee shall report its recommendations to the legislature in January, 1987.

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Sec. 21. Minnesota Statutes 1986, section 256B.091, subdivision 3, is amended to read:

Subd. 3. **SCREENING TEAM; DUTIES.** Local screening teams shall seek cooperation from other public and private agencies in the community which offer services to the disabled and elderly. The responsibilities of the agency responsible for screening shall include:

(a) Provision of information and education to the general public regarding availability of the screening program;

(b) Acceptance of referrals from individuals, families, human service professionals and nursing home personnel of the community agencies;

(c) Assessment of health and social needs of referred individuals and identification of services needed to maintain these persons in the least restrictive environments;

(d) Identification of available noninstitutional services to meet the needs of individuals referred;

(e) Recommendations for individuals screened regarding:

(1) Nursing home or boarding care home admission; and

(2) Maintenance in the community with specific service plans and referrals and designation of a lead agency to implement each individual's plan of care;

(f) Provision of follow up services as needed; and

(g) Preparation of reports which may be required by the commissioner of human services.

Sec. 22. Minnesota Statutes 1986, section 256B.091, subdivision 4, is amended to read:

Subd. 4. **SCREENING OF PERSONS.** Prior to nursing home or boarding care home admission, screening teams shall assess the needs of all applicants, except (1) patients transferred from other certified nursing homes or boarding care homes; (2) patients who, having entered acute care facilities from nursing homes or boarding care homes, are returning to a nursing home or boarding care home; (3) persons entering a facility described in section 256B.431, subdivision 4, paragraph (c); (4) individuals not eligible for medical assistance whose length of stay is expected to be 30 days or less based on a physician's certification, if the facility notifies the screening team upon admission and provides an update to the screening team on the 30th day after admission; (5) individuals who have a contractual right to have their nursing home care paid for indefinitely by the veteran's administration; or (6) persons entering a facility conducted by and for the adherents of a recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual

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means, through prayer alone, for healing. The cost for screening applicants who are receiving medical assistance must be paid by the medical assistance program. The total screening cost for each county for applicants who are not eligible for medical assistance must be paid monthly by nursing homes and boarding care homes participating in the medical assistance program in the county. The monthly amount to be paid by each nursing home and boarding care home must be determined by dividing the county's estimate of the total annual cost of screenings allowed by the commissioner in the county for the following rate year by 12 to determine the monthly cost estimate and allocating the monthly cost estimate to each nursing home and boarding care home based on the number of licensed beds in the nursing home or boarding care home. The monthly cost estimate for each nursing home or boarding care home must be submitted to the nursing home or boarding care home and the state by the county no later than February 15 of each year for inclusion in the nursing home's or boarding care home's payment rate on the following rate year. The commissioner shall include the reported annual estimated cost of screenings for each nursing home or boarding care home as an operating cost of that nursing home in accordance with section 256B.431, subdivision 2b, clause (g). For all individuals regardless of payment source, if delay-of-screening timelines are not met because a county is late in screening an individual who meets the delay-of-screening criteria, the county is solely responsible for paying the ~~nursing home rate for the resident days that exceed the delay-of-screening timelines until the screening is completed~~ cost of the preadmission screening. Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

Sec. 23. Minnesota Statutes 1986, section 256B.091, subdivision 6, is amended to read:

Subd. 6. **REIMBURSEMENT.** The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local screening teams. Reimbursement shall not be provided for any recipient placed in a nursing home in opposition to the screening team's recommendation after January 1, 1981; provided, however, the commissioner shall not deny reimbursement for (1) an individual admitted to a nursing home or boarding care home who is assessed to need long-term supportive services if long-term supportive services other than nursing home care are not available in that community; (2) any eligible individual placed in the nursing home or boarding care home pending an appeal of the preadmission screening team's decision; (3) any eligible individual placed in the nursing home or boarding care home by a physician in an emergency situation and where the screening team has not made a decision within five working days of its initial contact; or (4) any medical assistance recipient when, after full discussion of all appropriate alternatives including those that are expected to be less costly than ~~nursing home care in a nursing home or boarding care home~~, the individual or the individual's legal representative insists on nursing home or boarding care home placement. The screening team shall provide documentation that the most cost effective alternatives available were offered to this individual or the individual's legal representative.

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Sec. 24. Minnesota Statutes 1986, section 256B.091, subdivision 8, is amended to read:

Subd. 8. **ALTERNATIVE CARE GRANTS.** The commissioner shall provide grants to counties participating in the program to pay costs of providing alternative care to individuals screened under subdivision 4 and nursing home or boarding care home residents who request a screening. Prior to July of each year, the commissioner shall allocate state funds available for alternative care grants to each local agency. This allocation must be made as follows: half of the state funds available for alternative care grants must be allocated to each county according to the total number of adults in that county who are recipients age 65 or older who are reported to the department by March 1 of each state fiscal year and half of the state funds available for alternative care grants must be allocated to a county according to that county's number of medicare enrollments age 65 or older for the most recent statistical report. Payment is available under this subdivision only for individuals (1) for whom the screening team would recommend nursing home or boarding care home admission, or continued stay if alternative care were not available; (2) who are receiving medical assistance or who would be eligible for medical assistance within 180 days of admission to a nursing home; (3) who need services that are not available at that time in the county through other public assistance; and (4) who are age 65 or older.

The commissioner shall establish by rule, in accordance with chapter 14, procedures for determining grant reallocations, limits on the rates for payment of approved services, including screenings, and submittal and approval of a biennial county plan for the administration of the preadmission screening and alternative care grants program. Grants may be used for payment of costs of providing care-related supplies, equipment, and services such as, but not limited to, foster care for elderly persons, day care whether or not offered through a nursing home, nutritional counseling, or medical social services, which services are provided by a licensed health care provider, a home health service eligible for reimbursement under Titles XVIII and XIX of the federal Social Security Act, or by persons employed by or contracted with by the county board or the local welfare agency. The county agency shall ensure that a plan of care is established for each individual in accordance with subdivision 3, clause (e)(2), and that a client's service needs and eligibility is reassessed at least every six months. The plan shall include any services prescribed by the individual's attending physician as necessary and follow up services as necessary. The county agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program and shall provide documentation in each individual's plan of care and to the commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private. The county agency shall document to the commissioner that the agency made reasonable efforts to inform potential providers of the anticipated need for services under the alternative care grants program, including a minimum of 14 days written advance notice of the opportunity to be selected as a service

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provider and an annual public meeting with providers to explain and review the criteria for selection, and that the agency allowed potential providers an opportunity to be selected to contract with the county board. Grants to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

The county must select providers for contracts or agreements using the following criteria and other criteria established by the county:

- (1) the need for the particular services offered by the provider;
- (2) the population to be served, including the number of clients, the length of time services will be provided, and the medical condition of clients;
- (3) the geographic area to be served;
- (4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;
- (5) rates for each service and unit of service exclusive of county administrative costs;
- (6) evaluation of services previously delivered by the provider; and
- (7) contract or agreement conditions, including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. The county shall provide a written statement of the reasons for not selecting providers.

The commissioner shall establish a sliding fee schedule for requiring payment for the cost of providing services under this subdivision to persons who are eligible for the services but who are not yet eligible for medical assistance. The sliding fee schedule is not subject to chapter 14 but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the sliding fee schedule in final forms.

The commissioner shall apply for a waiver for federal financial participation to expand the availability of services under this subdivision. The commissioner shall provide grants to counties from the nonfederal share, unless the commissioner obtains a federal waiver for medical assistance payments, of medical assistance appropriations. A county agency may use grant money to supplement but not supplant services available through other public assistance or service programs and shall not use grant money to establish new programs for which public money is available through sources other than grants provided under this subdivision. A county agency shall not use grant money to provide care under this subdivision to an individual if the anticipated cost of providing this care would exceed the average payment, as determined by the commissioner, for the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

level of ~~nursing home~~ care that the recipient would receive if placed in a nursing home or boarding care home. The nonfederal share may be used to pay up to 90 percent of the start-up and service delivery costs of providing care under this subdivision. Each county agency that receives a grant shall pay ten percent of the costs for persons who are eligible for the services but who are not yet eligible for medical assistance.

The commissioner shall promulgate emergency rules in accordance with sections 14.29 to 14.36, to establish required documentation and reporting of care delivered.

Sec. 25. **REPEALER.**

Minnesota Statutes 1986, section 256.968, is repealed.

Sec. 26. **EFFECTIVE DATE.**

Section 14 is effective the day following enactment. Sections 20 to 24 are effective July 1, 1987.

Approved May 28, 1987

CHAPTER 300—S.F.No. 596

An act changing the effective date of an appropriation for payment of certain occupation tax refunds; amending Laws 1985, First Special Session chapter 14, article 18, section 8; and H. F. No. 529, article 19, section 2, if enacted.

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

Section 1. Laws 1985, First Special Session chapter 14, article 18, section 8, is amended to read:

Sec. 8. **APPROPRIATION; OCCUPATION TAX REFUNDS.**

(a) There is appropriated effective July 1, ~~1988~~ 1987, to the commissioner of revenue from the general fund an amount equal to one-half of any credits due as a result of a recomputation of occupation taxes for production year 1984 and previous years based on the limitations prescribed in section 298.40, subdivision 1, and established by the commissioner as an account payable on or before May 1, 1985, to the extent the refunds were not paid pursuant to section 7. The commissioner shall refund to the taxpayers the amount computed plus interest at the rate established in Minnesota Statutes, section 298.09, subdivision 4, from the date of the overpayment.

(b) There is appropriated effective July 1, 1989, to the commissioner of revenue from the general fund the remainder of the amount computed pursuant

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