

Signed by the governor May 25, 1989, 6:28 p.m.

CHAPTER 281—H.F.No. 1285

VETOED

CHAPTER 282—H.F.No. 1759

An act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, veterans nursing homes, and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 13.46, subdivision 2; 16B.06, by adding a subdivision; 43A.27, subdivision 2; 62A.045; 62A.046; 62D.041, subdivision 1, and by adding a subdivision; 62D.042, subdivision 1; 62D.05, subdivision 6; 144.122; 144.50, subdivision 6, and by adding a subdivision; 144.562, subdivisions 2 and 3; 144.651, subdivision 2; 144.698, subdivision 1; 144.701; 144.702, subdivision 2, and by adding subdivisions; 144A.01, subdivision 5, and by adding subdivisions; 144A.04, subdivision 7, and by adding subdivisions; 144A.071, subdivision 3; 144A.073, subdivision 1; 144A.10, by adding subdivisions; 144A.11, subdivision 3, and by adding a subdivision; 144A.12, subdivision 1; 144A.15, subdivision 1, and by adding subdivisions; 144A.45, subdivision 2; 144A.46; 144A.61; 144A.611; 145.38, subdivision 1; 145.39, subdivision 1; 145.61, subdivision 5; 145.63; 145.882, subdivisions 1, 3, and 7; 145.894; 146.13; 147.02, subdivision 1; 148B.23, subdivision 1; 148B.27, subdivision 2; 148B.32, subdivision 2; 148B.40, subdivision 3; 149.02; 149.06; 153A.13, subdivision 4; 153A.15, subdivision 3; 153A.16; 157.14; 176.136, subdivisions 1 and 5; 214.04, subdivision 3; 214.06, subdivision 1; 237.70, subdivision 7; 237.701, subdivision 1; 245.461; 245.462; 245.463, subdivision 2, and by adding subdivisions; 245.464; 245.465; 245.466, subdivisions 1, 2, 5, and 6; 245.467, subdivisions 3, 4, and 5; 245.468; 245.469; 245.470, subdivision 1; 245.472, subdivision 1, and by adding a subdivision; 245.473, subdivision 1; 245.474; 245.476, subdivisions 1, 3, and by adding subdivisions; 245.477; 245.478, subdivisions 2 and 3; 245.479; 245.48; 245.482; 245.483; 245.484; 245.485; 245.486; 245.62, subdivision 3; 245.696, subdivision 2; 245.697, subdivisions 1, 2, and 2a; 245.713, subdivision 2; 245.73, subdivisions 1, 2, and 4; 245.771, subdivision 3; 245.91, by adding a subdivision; 245.94, subdivision 1, and by adding a subdivision; 245A.02, subdivisions 3, 9, 10, 14, and by adding subdivisions; 245A.03, subdivisions 1, 2, and 3; 245A.04, subdivisions 1, 3, 5, 6, 7, and by adding subdivisions; 245A.06, subdivisions 1, 5, and by adding a subdivision; 245A.07, subdivision 2; 245A.08, subdivision 5; 245A.095; 245A.12; 245A.13; 245A.14, subdivision 3, and by adding subdivisions; 245A.16, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.36; 246.50, subdivisions 3, 4, and 5; 246.51, by adding a subdivision; 246.54; 246.57, subdivision 1; 251.011, subdivision 4, and by adding a subdivision; 252.025, by adding a subdivision; 252.27, subdivision 1; 252.291, subdivision 2; 252.31; 252.41, subdivision 9; 252.46, subdivisions 1, 2, 3, 4, 6, and 12; 252.47; 252.50; 252A.03, by adding a subdivision; 253.015; 253B.03, subdivision 6a; 254A.08, subdivision 2; 254B.02, subdivision 1; 254B.03, subdivisions 1 and 4; 254B.04, by adding a subdivision;

New language is indicated by underline, deletions by ~~strikeout~~.

254B.06, subdivision 1; 254B.09, subdivisions 1, 4, and 5; 256.01, subdivision 2, and by adding a subdivision; 256.014, subdivision 1; 256.018; 256.045, subdivisions 1, 3, 4, 4a, 5, 6, 7, 10, and by adding a subdivision; 256.12, subdivision 14; 256.73, subdivision 3a; 256.736, subdivisions 3, 3b, 4, 10, 11, 14, 16, and by adding subdivisions; 256.737; 256.74, subdivisions 1, 1a, and by adding a subdivision; 256.85; 256.87, subdivision 1a; 256.936, subdivisions 1, 2, and 4; 256.969; 256.974; 256.9741, subdivisions 3, 5, and by adding a subdivision; 256.9742; 256.9744, subdivision 1; 256.975, subdivision 2; 256B.031, subdivision 5; 256B.04, subdivision 14, and by adding a subdivision; 256B.055, subdivisions 7 and 8; 256B.056, subdivisions 3, 4, and 5; 256B.062; 256B.0625, subdivisions 2, 13, 17, and by adding subdivisions; 256B.091, subdivision 3; 256B.092, subdivisions 7 and 8; 256B.14; 256B.25, by adding a subdivision; 256B.421, subdivision 14; 256B.431, subdivisions 2b, 2e, 2i, 3a, 3f, 3g, 4, and by adding subdivisions; 256B.47, subdivision 3; 256B.48, subdivisions 1, 6, and 8; 256B.501, subdivisions 3, 3g, and by adding a subdivision; 256B.69, subdivisions 4, 5, 11, and by adding a subdivision; 256C.28, subdivision 3, and by adding subdivisions; 256D.01, subdivisions 1, 1a, 1b, and 1c; 256D.02, subdivisions 1, 4, and by adding a subdivision; 256D.03, subdivisions 2, 3, and 4; 256D.05, subdivision 1, and by adding a subdivision; 256D.051, subdivisions 1, 2, 3, 6, 8, 13, and by adding subdivisions; 256D.052, subdivisions 1, 2, 3, and 4; 256D.101; 256D.111, subdivision 5; 256D.35, subdivisions 1, 7, and by adding subdivisions; 256D.36, subdivision 1, and by adding a subdivision; 256D.37, subdivision 1; 256E.03, subdivision 2; 256E.05, subdivision 3; 256E.08, subdivision 5; 256E.09, subdivisions 1 and 3; 256F.05, subdivisions 2, 3, and 4; 256G.03, subdivision 1; 256H.01, subdivisions 1, 2, 7, 8, 11, and 12; 256H.02; 256H.03; 256H.05; 256H.07, subdivision 1; 256H.08; 256H.09; 256H.10, subdivision 3, and by adding a subdivision; 256H.11; 256H.12; 256H.15; 256H.18; 256H.20, subdivision 3; 257.071, subdivision 7; 257.55, subdivision 1; 257.57, subdivision 1; 257.62, subdivision 5; 259.47, subdivision 5; 259.49, subdivision 2; 260.251, subdivision 1; 268.0111, subdivision 4, and by adding a subdivision; 268.0122, subdivisions 2 and 3; 268.08, subdivision 1; 268.31; 268.37, by adding a subdivision; 268.86, subdivision 2; 268.871, subdivision 5; 268.88; 287.12; 297.13, subdivision 1; 326.78, subdivision 2; 327C.02, subdivision 2; 357.021, subdivisions 2 and 2a; 517.08, subdivisions 1b and 1c; 518.54, subdivision 6; 518.551, subdivision 10, and by adding a subdivision; 518.611, subdivision 4; 518.613, subdivisions 1, 2, 4, and by adding subdivisions; 540.08; 609.378; 626.556, subdivisions 2 and 10e; and 626.558; Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended; Laws 1987, chapter 403, article 3, section 98; Laws 1988, chapter 689, article 2, sections 248 and 269, subdivision 2; Laws 1988, chapter 719, article 8, section 32; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 145; 157; 196; 245; 246; 251; 252; 253; 254A; 256; 256B; 256D; 256E; 256F; 256H; 259; 268; and 626; proposing coding for new law as Minnesota Statutes, chapter 2561; repealing Minnesota Statutes 1988, sections 144A.10, subdivision 4a; 144A.61, subdivision 6; 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 245A.095, subdivision 3; 246.50, subdivisions 3a, 4a, and 9; 254B.09, subdivision 3; 254B.10; 256.87, subdivision 4; 256.969, subdivisions 2a, 3, 4, 5, and 6; 256B.0625, subdivision 21; 256B.17, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 256B.69, subdivisions 12, 13, 14, and 15; 256D.01, subdivision 1c; 256D.051, subdivision 6a; 256D.052, subdivisions 5, 6, and 7; 256D.06, subdivisions 3, 4, 6, and 6a; 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; 256D.43; 256F.05, subdivision 1; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivisions 2, 3, and 4; 256H.13; 268.86, subdivision 7; 518.613, subdivision 5; Laws 1987, chapter 403, article 5, section 1; Laws 1988, chapter 689, article 2, section 269, subdivision 4; Laws 1988, chapter 719, article 8, section 34.

New language is indicated by underline, deletions by ~~strikeout~~.

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

ARTICLE 1

APPROPRIATIONS

Section 1. HUMAN RESOURCES; APPROPRIATIONS.

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1989," "1990," and "1991," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1989, June 30, 1990, or June 30, 1991, respectively.

SUMMARY BY FUND

	1990	1991	TOTAL
General	\$1,306,847,000	\$1,361,394,000	\$2,668,241,000
Special Revenue	\$ 5,345,000	\$ 5,391,000	\$ 10,736,000
Metropolitan Landfill	\$ 167,000	\$ 167,000	\$ 334,000
Trunk Highway	\$ 1,488,000	\$ 1,488,000	\$ 2,976,000
Total	\$1,313,847,000	\$1,368,440,000	\$2,682,287,000
		APPROPRIATIONS Available for the Year Ending June 30, 1990	1991

Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Appropriation by Fund

General Fund	1,104,499,000	1,160,516,000
--------------	---------------	---------------

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

During the biennium ending June 30, 1991, the commissioner shall notify the chairs of the house health and human services appropriations committee and the senate health and human services finance committee whenever implementation of legislation by the department is likely to result in expenditures \$1,000,000 or more than the amount authorized by the legislature.

Federal money received in excess of the estimates shown in the 1989 department of human services budget document reduces the state appropriation by the amount of the excess receipts, unless otherwise directed by the governor, after consulting with the legislative advisory commission.

For the fiscal year ending June 30, 1989, the appropriations for the medical assistance and general assistance medical care programs in Laws 1988, chapter 689, article 1, section 2, subdivision 5, paragraph (a), are increased by the amount necessary to fully cover the expenditure requirements of these programs.

For the biennium ending June 30, 1991, federal receipts as shown in the biennial budget document or in working papers of the two appropriations committees to be used for financing activities, programs, and projects under the supervision and jurisdiction of the commissioner must be accredited to and become a part of the appropriations provided for in this section.

Positions and administrative money may be transferred within the department of human services as the commissioner considers necessary, with the advance approval of the commissioner of finance.

Estimates of federal money that will be earned by the various accounts of the

department of human services and deposited in the general fund are detailed on the worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance. If federal money anticipated is less than that shown on the official worksheets, the commissioner of finance shall reduce the amount available from the direct appropriation a corresponding amount. The reductions must be noted in the budget document submitted to the 77th legislature in addition to an estimate of similar federal money anticipated for the biennium ending June 30, 1993.

The commissioner of human services, with the approval of the commissioner of finance and by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances among the aid to families with dependent children, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs and between fiscal years of the biennium.

During the biennium ending June 30, 1991, the commissioner shall report annually to the chair of the house of representatives appropriations committee and the chair of the senate finance committee regarding information systems authorized under Minnesota Statutes, section 256.014, subdivision 3, including implementation schedules, the nature and amount of systems expenditures, projected and actual savings, evidence of cost-effectiveness, comparison with anticipated program goals and objectives, impact on affected consumers and providers, and future development plans.

For the biennium ending June 30, 1991, information system project appropria-

tions for development and federal receipts for the alien verification entitlement system must be deposited in the special systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Information Policy Office, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner considers necessary. Any unexpended balance in the appropriation for these projects does not cancel in the first year but is available in the second year of the biennium.

Subd. 2. Human Services
Administration

12,985,000 11,174,000

The state planning agency, the department of human services, and the department of finance shall conduct a study to determine the extent to which changes in health care program rate-setting rules are increasing state expenditures beyond the amount appropriated for the programs and report to the legislature by February 1, 1990, regarding possible changes in state law to prevent major increases in state expenditures through the rulemaking process.

Subd. 3. Legal and
Intergovernmental Programs

4,182,000 4,274,000

By January 1, 1990, the commissioner shall report to the legislature regarding the activities and effectiveness of the county community service evaluation staff, including additional funding necessary to continue the function if the report indicates the activities have improved or have the potential to improve delivery of county social services.

Subd. 4. Social Services

120,519,000 124,284,000

For the biennium ending June 30, 1991,

this appropriation includes one position in fiscal year 1990 and two positions in fiscal year 1991 which are to be regionally based positions to assist in developing privately and publicly operated services for persons with developmental disabilities who are being relocated from regional treatment centers. The four positions authorized to improve the quality of regional treatment center services must also be regionally based.

By February 15, 1990, the board on aging shall submit a report to the legislature containing an analysis of the need for expanding congregate housing services and an evaluation of existing congregate housing service programs.

During the biennium ending June 30, 1991, juvenile detention facilities must provide or arrange for a chemical use assessment for juveniles who request such an assessment and for juveniles petitioned or adjudicated for alcohol- or drug-related unlawful acts in juvenile court.

For the biennium ending June 30, 1991, any balance remaining in the first year for the nonrecurring adoption expense reimbursement appropriation does not cancel, but is available for the second year of the biennium.

For the biennium ending June 30, 1991, \$447,000 each year of the county allocation for Title XX community social services is for migrant child care.

For the biennium ending June 30, 1991, one complement position in the department of human services program for administration of child care fund grants shall be for the purpose of coordinating and expediting the review of applications and for expediting the dispersal of funds to grantees of child care service development grants.

By September 1, 1991, the Higher Education Coordinating Board shall report to the legislature on the percentage of non-AFDC, post-secondary funds expended for administrative purposes during fiscal year 1990.

In the event that money appropriated for foster care liability insurance for fiscal year 1990 is insufficient to cover increased premium costs in that year, the commissioner may use funds appropriated for fiscal year 1991 to cover the costs.

By July 1, 1990, each county shall report to the commissioner on efforts made to implement Minnesota Statutes, section 256F.07, subdivision 3a, regarding placement prevention and family reunification services for minority children. The report must include specific information on the number of foster and adoptive placements involving minority children, including information on the number of minority families who have become foster or adoptive parents and the number of minority families who have left the foster family system, with reasons for their departure from the system. The commissioner shall report to the legislature by November 1, 1990, with a summary and analysis of the county reports and an evaluation of county efforts.

In the event that the commissioner determines that the duties of regional services specialists have been assumed by county case managers and screening teams established under Minnesota Statutes, section 256B.092, subdivision 7, the commissioner may reassign the regional services specialists to other duties.

Subd. 5. Mental Health

21,555,000

25,572,000

Funding to continue the family-based community support pilot project shall be included as a base adjustment in the fiscal year 1992 and 1993 detailed expend-

iture budget submitted to the legislature under Minnesota Statutes, section 16A.11. The funding level shall be adjusted to reflect the full biennial costs of operating the project.

Of this appropriation, \$10,000 is for camping activities for people with mental illness from the mental health special project account.

Of this appropriation, \$53,000 is for the depression awareness, recognition, and treatment program from the mental health special projects account.

Of the appropriation for therapeutic foster care programs, one grant must be awarded to Olmsted county for an existing program.

The commissioner may, with the written approval of the governor after consulting with the legislative advisory commission, transfer all or part of the appropriation for alternative placements for persons who must be moved out of nursing homes due to federal requirements to other appropriations if the commissioner determines that other funding mechanisms will more appropriately meet the needs of the persons being moved.

Subd. 6. Family Support
Programs

	181,169,000	189,755,000
--	-------------	-------------

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Aid to Families with Dependent Children, General Assistance, Work Readiness, Minnesota Supplemental Aid	
\$154,500,000	\$156,236,000

The commissioner shall set the monthly standard of assistance for general assistance and work readiness assistance units

consisting of an adult recipient who is childless and unmarried or living apart from his or her parents or a legal guardian at \$203.

The \$100,000 appropriated for literacy training for the biennium ending June 30, 1991, shall be used for pilot demonstration projects. Each grantee of funds must report back to the commissioner of human services at the end of the grant period with a summary of expenditures and a detailed analysis of persons served, literacy programs used, and outcomes achieved. The commissioner shall report back to the legislature by January 1, 1992, with an evaluation of the program.

The commissioner of human services shall include as a budget change request in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11, an annual adjustment in the aid to families with dependent children, general assistance, and work readiness grants as of July 1 of each year, beginning July 1, 1991, by a percentage amount equal to the percentage increase, if any, in the consumer price index (CPI-U-U.S.) city average, as published by the Bureau of Labor Statistics, United States Department of Labor, during the preceding calendar year for the biennium ending June 30, 1993.

During the biennium ending June 30, 1991, the commissioner of human services shall provide supplementary grants not to exceed \$816,800 a year for aid to families with dependent children and include the following costs in determining the amount of the supplementary grants: major home repairs; repair of major home appliances; utility recaps; supplementary dietary needs not covered by medical assistance; replacement of essential household furnishings and

essential major appliances; and employment-related transportation and educational expenses. Of this amount, \$616,800 is for employment-related transportation and educational expenses.

For the biennium ending June 30, 1991, the maximum room and board rate for a facility that enters into an initial negotiated rate agreement with a county on or after June 1, 1989, may not exceed 90 percent of the maximum rate established under Minnesota Statutes, section 256D.37.

(b) Family Support Programs Administration

\$ 26,669,000 \$ 33,519,000

Federal financial reimbursement received during fiscal year 1989 for work readiness services expenditures by counties must be credited to the work readiness account and is appropriated to the commissioner of human services for work readiness program purposes. Amounts not needed to reimburse counties must be canceled to the general fund.

Any balance remaining in the first year for the welfare fraud eligibility verification program appropriation does not cancel but is available in the second year of the biennium ending June 30, 1991.

In implementing the requirements of Minnesota Statutes, section 256.01, subdivision 2, clause (c), the commissioner shall develop specific program measures to assess county compliance with fraud initiatives and provide technical assistance to enforce fraud program requirements.

Any balance remaining at the end of the first year in the appropriation for social adjustment services for refugees and child welfare services for refugees does not cancel but is available for the second year.

Money appropriated in Laws 1988, chapter 689, article 1, section 2, subdivision 5, for food stamp outreach programs does not cancel to the general fund but is available in fiscal year 1990.

Federal financial participation received during fiscal year 1989 for work readiness service expenditures is appropriated to the commissioner for work readiness program purposes and must be used to reimburse counties for work readiness expenditures.

For the biennium ending June 30, 1991, federal food stamp employment and training funds received for the work readiness program are appropriated to the commissioner to reimburse counties for work readiness service expenditures.

During the biennium ending June 30, 1991, money appropriated from the general fund to the department of human services for the work incentive program shall transfer to the job opportunity and basic skills program upon acceptance by the federal government of Minnesota's welfare reform plan.

Any unexpended balance remaining in the first year of the appropriation for the AFDC self-employment investment demonstration project appropriation does not cancel but is available for the second year of the biennium.

For the biennium ending June 30, 1991, federal funds received for direct employment services provided to refugees and immigrants is appropriated to the commissioner to provide bicultural employment service case managers to PATHS eligible refugees and immigrants. The commissioner of human services shall review expenditures of bilingual case management funds at the end of the third quarter of the second year of the bien-

nium and may reallocate unencumbered funds to those counties which can demonstrate a need for additional funds. Funds shall be reallocated according to the same formula used initially to allocate funds to counties.

Any unexpended balance up to \$2,000,000 remaining in the first year for the PATHS case management and employment and training services appropriation does not cancel and is available for the second year of the biennium ending June 30, 1991.

In planning for the operation of the child support enforcement clearinghouse information system, the commissioner shall issue a request for a proposal for the operation of the system and, in consultation with the information policy office, review responses to the solicitation. After review of the proposals, the commissioner may award a service contract for operation of the system or continue processing through the department of administration. In the event the projected costs for systems operation exceed the available appropriation, the commissioner shall notify the chairs of the house health and human services division of appropriations and the senate health and human services division of finance.

For the child support enforcement activity, during the biennium ending June 30, 1991, money received from the counties for providing data processing services must be deposited in that activity's account. The money is appropriated to the commissioner for the purposes of the child support enforcement activity.

Federal financial participation from the United States Department of Agriculture for expenditures that are eligible for reimbursement through the food stamp employment and training program for

nonpublic assistance recipients is appropriated to the commissioner to operate the food stamp employment and training program for nonpublic assistance recipients.

For the biennium ending June 30, 1991, federal money received for the operating costs of the statewide MAXIS automated eligibility information system is appropriated to the commissioner to pay for the development and operation of the MAXIS system and the counties' share of the operating costs.

Subd. 7. Health Care Programs		
General Fund	553,384,000	593,448,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Medical Assistance and General Assistance Medical Care

\$506,808,000	\$545,894,000
---------------	---------------

The developmental achievement center pilot payment rate system in Minnesota Statutes, section 252.46, subdivision 14, may operate through June 30, 1991.

The commissioner of human services shall seek federal financial participation to reimburse the costs of family therapy necessary to the mental health of an adoptive child who prior to adoption had been under the guardianship of the commissioner under Minnesota Statutes, section 260.242.

Notwithstanding any law to the contrary, the commissioner shall include as budget change requests in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11, all annual inflationary adjustments in the medical assistance, general assistance medical care, and Minnesota supplemental aid programs.

Of this appropriation, \$300,000 in fiscal year 1991 is for the increased costs of exceptions to the moratorium on licensure and certification of long-term care beds. The commissioner of health may license or certify beds through the exception review process, provided the projected total annual increased state medical assistance costs of all licenses or certifications granted during the biennium under any exception to the moratorium do not exceed an annual amount of \$300,000.

The amount appropriated for medical assistance is based on projected inflationary increases for Minnesota nursing homes of 5.1 percent the first year and 5.2 percent the second year. The inflationary increases are required under current law in Minnesota Statutes, chapter 256B. The projected increases include increases of 4.8 percent the first year and 5.1 percent the second year for nursing home wages, including nursing staff wages. The projected state general fund cost for inflationary increases is \$11,314,000 the first year and \$19,821,000 the second year. The actual inflationary increases will be based on the index established under Minnesota Statutes, chapter 256B. The commissioner shall annually report, in the manner prescribed by the commissioner, on the home's use of that portion of the inflationary increase that is attributable to the wage increase.

During the biennium ending June 30, 1991, the commissioner may determine the need for conversion of a home and community-based service program to an intermediate care facility for people with mental retardation if the conversion is cost-effective and the people receiving home and community-based services choose to receive services in an intermediate care facility for people with mental retardation. After the commissioner has determined the need to convert the

program, the commissioner of health shall certify the program as an intermediate care facility for people with mental retardation if the program meets applicable certification standards. Notwithstanding the provisions of Minnesota Statutes, section 246.18, receipts collected for state-operated community services are appropriated to the commissioner and are dedicated to the operation of state-operated community services which are converted in this section or which were authorized in Laws 1988, chapter 689, article 1, section 2, subdivision 5. Any balance remaining in this account at the end of the fiscal year does not cancel and is available for the second year of the biennium. The commissioner may, after consultation with the legislative advisory commission and approval of the governor, transfer funds from the Minnesota supplemental aid program to the medical assistance program to fund services converted under this section.

The maximum pharmacy dispensing fee under medical assistance and general assistance medical care is \$4.20.

Payments to vendors for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and X-ray services in either the medical assistance or general assistance medical care programs must continue to be calculated at the lower of (1) the submitted charges, or (2) the 50th percentile of prevailing charges in 1982.

Effective with services rendered on or after July 1, 1989, payments to dentists for medical assistance recipients shall be increased by 7.5 percent for diagnostic and routine preventive services and by five percent for all other dental services.

Federal money received during the biennium for administration of the home and community-based services waiver for persons with mental retardation is appropriated to the commissioner of human services for administration of the home and community-based services program and must be deposited in that activity's account.

(b) Preadmission Screening and Alternative Care Grants

\$16,530,000 \$16,530,000

Any balance remaining in the first year of the appropriation for the preadmission screening-alternative care grants program does not cancel but is available for the second year.

During the biennium ending June 30, 1991, the commissioner shall include in the forecast of health care entitlement program expenditures submitted to the commissioner of finance and the legislature, an estimate of projected expenditures for that portion of the preadmission screening and alternative care grant funded through the medical assistance program.

(c) Children's Health Plan

\$ 4,297,000 \$ 6,736,000

Of this appropriation, \$20,000 in fiscal year 1990 is for a study of the utilization of outpatient mental health services by children eligible for medical assistance. The results of the study must be used to prepare recommendations for the legislature to structure an appropriate and cost-effective outpatient mental health benefit under the children's health plan. \$480,000 in fiscal year 1991 is appropriated to add an outpatient mental health benefit to the children's health plan in fiscal year 1991.

(d) Health Care Programs Administration

\$25,749,000 \$24,288,000

For the biennium ending June 30, 1991, \$200,000 in fiscal year 1990 and \$200,000 in fiscal year 1991 is appropriated for contracting with private or public entities for case management services for those medical assistance and general assistance recipients identified by the commissioner as inappropriately using health care services. To implement the project, the commissioner shall seek appropriate waivers. The commissioner may enter into risk-based contracts and contract for a full range of health services for medical assistance and general assistance medical care recipients. Federal receipts received for this purpose shall be dedicated to this activity.

By February 1, 1990, the commissioner may develop a plan to minimize turnover of direct care employees in privately operated day training and habilitation services, intermediate care facilities for persons with mental retardation, semi-independent living services, and waived services programs. The plan must be provided to the chairs of the health and human services divisions of the senate finance committee and the house of representatives appropriations committee. The plan must specify the amount of appropriations required to implement the plan and may provide for a phase-in period of up to five years. The commissioner may develop the plan in collaboration with representatives of public and private facilities and service providers, clients and family members, advocacy organizations, employees, and other interested persons and organizations.

During the biennium ending June 30, 1991, the appropriation in the preadmission screening and annual resident review account shall be used to cover the nonfederal share of costs for conducting diagnostic assessments, reassess-

ments, and screening which are required by Public Law Number 100-203 and which are federally reimbursable as a state medical assistance expense at 75 percent. This provision is effective July 1, 1989, and does not include screening costs covered under Minnesota Statutes, section 256B.091. Federal receipts for this activity are dedicated to the department for this purpose.

The interagency board for quality assurance shall study the following issues and report to the legislature by November 1, 1990, on its findings and recommendations: (1) identifying indicators of high quality long-term care service provided in Minnesota nursing homes and boarding care homes; and (2) establishing a program of incentive payments to reward nursing facilities that provide the highest quality care to residents. A study advisory committee consisting of nursing home consumers and representatives of the nursing home industry must be appointed by the executive director of the interagency board for quality assurance to participate in the study process.

The commissioner shall work with Care Providers of Minnesota, the Minnesota Association of Homes for the Aging, and consumer groups to seek assistance from the Minnesota congressional delegation and the United States Department of Health and Human Services to obtain recognition of the Minnesota case mix system as an alternative to the current Medicare payment system, or other appropriate solutions. The commissioner shall report to the legislative commission on long-term care by November 1, 1989, regarding efforts to resolve the conflicts between the Medicare and medical assistance nursing home reimbursement systems. The commissioner shall report on the extent of the conflict and the potential impact on Minnesota nursing homes

and shall make recommendations regarding necessary state and federal actions.

Recoveries obtained by the provider appeals unit shall be dedicated to the medical assistance account during the biennium ending June 30, 1991.

Federal receipts received for the phone-in system for prior authorization for health care providers and the provider relations unit within the health care management division are appropriated to the commissioner for those purposes.

The receipts realized for the sale of the provider manual are appropriated to the commissioner for printing and distribution of the materials.

Any balance remaining in the first year of the appropriation for the review of medical assistance prepayment programs does not cancel but is available for the second year.

Of this appropriation, \$45,000 each year is for the establishment of a statewide resource center on caregiver support and respite care services. The complement of the department is increased by one position for this purpose. This appropriation and complement increase are not included in the base funding level. The commissioner shall report to the legislature by February 15, 1990, with an analysis of the activities of the resource center, information on the need for respite care services, a projection of the need for respite care services, and an evaluation of existing caregiver support and respite care programs.

Money appropriated in Laws 1988, chapter 689, article 1, section 2, subdivision 5, for a regional demonstration project to provide health care coverage to low-income uninsured persons does not cancel but is available for fiscal year 1990.

The appropriation is available when planning for the project is complete, sufficient money has been committed from non-state sources to allow the project to proceed, and the project is prepared to begin accepting and approving applications from uninsured individuals. The commissioner shall contract with the coalition formed for the nine counties named in Minnesota Statutes, section 256B.73, subdivision 2.

The MA and GAMC managed care project shall continue through June 30, 1990.

Subd. 8. State Residential Facilities	210,705,000	212,009,000
---------------------------------------	-------------	-------------

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Regional Treatment Centers and State-operated Community Services

Approved Complement

June 30, 1990	June 30, 1991
4,763	4,687

(1) Salaries	\$169,617,000	\$169,005,000
(2) Current Expense	\$ 14,150,000	\$ 15,699,000
(3) Repairs and Betterments	\$ 2,772,000	\$ 1,772,000
(4) Special Equipment	\$ 680,000	\$ 1,150,000
(5) Personnel Mitigation	\$ -0-	\$ 2,000,000

Money appropriated for personnel mitigation expenses in fiscal year 1991 may be used to cover expenses occurring in fiscal year 1990.

The commissioner shall prepare and present a plan to the legislature by February 15, 1990, on methods of increasing

the use of staff and resources at the Willmar Regional Treatment Center to serve children with severe emotional disturbance who would otherwise be placed in treatment in other states.

Regional treatment center and state-operated nursing home employees, except temporary or emergency employees, affected by changes in the department of human services delivery system must receive, along with other options, priority consideration in order to transfer to vacant or newly created positions at the Minneapolis and Hastings veterans homes and at facilities operated by the commissioner of corrections. The veterans homes board, in cooperation with the commissioners of human services and corrections, shall develop procedures to facilitate these transfers.

The legislative audit commission shall evaluate the regional treatment center systems project and report findings and recommendations to the chair of the house health and human services division of appropriations and the senate health and human services division of finance by January 15, 1992.

Provided there is no conflict with any collective bargaining agreement, any regional treatment center or state nursing home reduction in the human services technician classifications and other nonprofessional, nonsupervisory direct care positions must only be accomplished through attrition, transfers, and retirement and must not be accomplished through layoff, unless the position reduction is due to the relocation of residents to a different state facility and the employee declines to accept a transfer to a comparable position in another state facility.

Any regional treatment center employee

position identified as being vacant by the regional treatment center and the commissioner of human services may only be declared so after review of the chair of the house human services division of appropriations and the chair of the senate health and human services division of finance.

The legislative auditor shall study the admission and discharge policies for persons with mental retardation or related conditions in regional treatment centers, state-operated community-based services, and privately operated facilities and report to the legislature by February 1, 1990.

Notwithstanding any other law to the contrary, the commissioner may transfer money between nonsalary object of expenditure classes to salary object of expenditure classes for staff training and personnel mitigation during the biennium ending June 30, 1991.

With the approval of the commissioner of finance, the commissioner of human services may transfer any unencumbered balance from any department account, except an income maintenance entitlement account, to the regional treatment salary account during fiscal year 1989. The amounts transferred must be identified to the chairs of the senate finance division on health and human services and the house appropriations division on health and human services.

For the biennium ending June 30, 1991, this appropriation includes \$40,000 in the second year to be transferred to the commissioner of health for licensure of additional community-based supervised living facilities.

During the biennium ending June 30, 1991, employees of residential facilities

who are eligible for retraining funds may use those funds to attend an approved program in any public or private adult education or post-secondary institution.

Of this appropriation, \$546,000 each year shall be available to the commissioner for contingency situations related to chemical dependency programs operated by regional treatment centers during the biennium ending June 30, 1991.

The commissioner shall consolidate both program and support functions at each of the regional centers and state nursing homes to ensure efficient and effective space utilization that is consistent with applicable licensing and certification standards. The commissioner may transfer residents and positions between the regional center and state nursing home system as necessary to promote the most efficient use of available state buildings. Surplus buildings shall be reported to the commissioner of administration for appropriate disposition according to Minnesota Statutes, section 16B.24.

Any unencumbered balances in special equipment and repairs and betterments remaining in the first year do not cancel but are available for the second year of the biennium.

(b) Nursing Homes

Approved Complement - 569.5 534.5

(1) Salaries	\$18,477,000	\$17,649,000
(2) Current Expense	\$ 2,486,000	\$ 2,474,000
(3) Repairs and Betterments	\$ 378,000	\$ 222,000
(4) Special Equipment	\$ 66,000	\$ 0
(c) Other State Residential Facilities Administration Activities	\$ 2,079,000	\$ 2,038,000

Sec. 3. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDTION

888,000 921,000

Sec. 4. VETERANS NURSING HOMES BOARD

Subdivision 1. Total Appropriation

18,876,000 21,041,000

The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.

Subd. 2. Veterans Nursing Homes

18,731,000 20,896,000

At least 80 percent of the new positions at the Hastings and Minneapolis veterans homes must be nonsupervisory positions in direct care services, rehabilitation services, psychological services, social services, pharmaceutical services, food services, housekeeping services, and internal auditing as recommended in the governor's 1989-1991 biennial budget document. Any remaining portion of the appropriation for new positions may be used to fund other positions.

The appropriation for geriatric research and teaching is not included in the base funding level.

Subd. 3. Veterans Nursing Homes Board

145,000 145,000

Sec. 5. COMMISSIONER OF JOBS AND TRAINING

Subdivision 1. Total Appropriation

37,755,000 32,349,000

The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.

Subd. 2. Rehabilitation Services

18,305,000 18,380,000

Any balance remaining in the first year does not cancel but is available for the second year.

The commissioner shall report to the legislature by January 15, 1990, on grants for the rehabilitation of injured workers, including the number of workers served and the outcome on injured workers of the services provided.

Subd. 3. Services for the Blind	3,380,000	3,383,000
Subd. 4. Economic Opportunity Office	7,257,000	7,257,000

For the biennium ending June 30, 1991, the commissioner shall transfer to the community services block grant program ten percent of the money received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. Up to 3.75 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1991, the commissioner shall transfer to the low-income home weatherization program at least five percent of money received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. Up to 1.63 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1991, no more than 1.63 percent of money remaining under the low-income home energy assistance program after transfers to the community services block grant and the weatherization program may be

used by the commissioner for administrative purposes.

For the biennium ending June 30, 1991, discretionary money from the community services block grant (regular) must be used to supplement the appropriation for local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities to the extent supplemental funding is required. Any remaining money shall be allocated to state-designated and state-recognized community action agencies, Indian reservations, and the Minnesota migrant council.

The commissioner shall, by January 1 of each year of the biennium, report to the legislature on the use of discretionary money from the community services block grant (regular) and discretionary money resulting from block grant transfers to the community services block grant.

Subd. 5. Employment and Training

8,813,000

3,329,000

Of this amount, \$250,000 in each year is to be distributed to organizations applying for grants through the governor's job council to provide services and support to dislocated workers. The governor's job council may award grants to organizations to assist dislocated workers who have been dislocated as a result of a plant closing or layoff that did not meet the threshold levels as provided in article 2, section 177, subdivisions 6 and 8, if the council determines that the plant closing or layoff has a significant effect on the community. An additional \$15,000 each year is for prefeasibility study grants related to this provision. Any balance remaining in the first year of the appropriation for dislocated workers does not cancel but is available for the second year.

The appropriations increase for the summer youth employment program must be spent on transitional services.

Of the money appropriated for the summer youth employment programs for fiscal year 1990, \$750,000 is immediately available. Any remaining balance of the immediately available money is available for the year in which it is appropriated. If the appropriation for either year of the biennium is insufficient, money may be transferred from the appropriation for the other year.

Any balance remaining in the first year of the appropriation for the Minnesota employment and economic development program does not cancel but is available for the second year.

Any balance remaining at the end of the fiscal year ending June 30, 1989, in the appropriation in Laws 1987, article 1, section 4, subdivision 2, for Minnesota employment and economic development wage subsidies does not cancel and is available for the fiscal year ending June 30, 1990.

Any balance remaining in the Minnesota wage subsidy account established under Minnesota Statutes, section 268.681, subdivision 4, at the end of the fiscal years ending June 30, 1989, and June 30, 1990, does not cancel and is available for the second year.

Sec. 6. COMMISSIONER OF CORRECTIONS

Subdivision 1. Appropriation by

Fund

General Fund

104,822,000

104,505,000

The amounts that may be spent from the appropriation for each program and activity are more specifically described in the following subdivisions.

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval of the commissioner of finance.

Subd. 2. Correctional
Institutions

75,733,000

75,477,000

Any unencumbered balances in special equipment, repairs and replacement, food provisions, and central office health care remaining in the first year do not cancel but are available for the second year.

Employees of the St. Paul-Ramsey Medical Center who perform the functions of psychologist and director of the mental health unit at the Minnesota correctional facility-Oak Park Heights and psychiatric social worker at the Minnesota correctional facility-Stillwater shall be transferred to the state classified service without competitive or qualifying examination and shall be placed by the commissioner of employee relations, with no loss in salary, in the proper classifications. These transferred employees shall begin on the date of transfer to serve a probationary period appropriate to the classification to which each is assigned according to a collective bargaining agreement or plans established under Minnesota Statutes, section 43A.16.

Subd. 3. Community Services

25,041,000

24,950,000

Base level funding in the probation and supervised release activity for services to Dakota and Rice counties must be transferred to the community corrections act appropriation upon the entry of those counties into the community corrections program. An incumbent whose position is transferred under this subdivision retains the wages and benefits of the former position under the applicable state plan or collective bargaining agreement until the date upon which a

collective bargaining agreement under Minnesota Statutes, chapter 179A, covering the new position is renewed or adjusted.

The commissioners of corrections and human services shall study the funding structure of general assistance per diems for emergency shelters for battered women and report to the legislature by January 15, 1991.

The commissioner is encouraged to direct a portion of the increase in funding to battered women's programs toward pay increases for employees of the programs.

Of the appropriation for battered women's programs, \$34,000 in fiscal year 1990 is to pay startup costs for an American Indian battered women's shelter.

Subd. 4. Management Services	4,048,000	4,078,000
Sec. 7. SENTENCING GUIDELINES COMMISSION	218,000	218,000
Sec. 8. CORRECTIONS OMBUDSMAN	369,000	364,000
Sec. 9. COMMISSIONER OF HEALTH		
Subdivision 1. Appropriation by Fund		
General Fund	39,345,000	41,480,000
Metropolitan Landfill Contingency Fund	167,000	167,000
Special Revenue Fund	435,000	375,000
Trunk Highway Fund	1,488,000	1,488,000

The appropriation from the metropolitan landfill contingency fund is for monitoring well water supplies and conducting health assessments in the metropolitan area.

The appropriation from the trunk highway fund is for emergency medical services activities.

Positions and administrative money may be transferred within the department of health as the commissioner considers necessary, with the advance approval of the commissioner of finance.

The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.

Subd. 2. Preventive and Protective Health Services

General Fund	11,610,000	11,751,000
Metropolitan Landfill Contingency Fund	145,000	145,000
Special Revenue Fund	255,000	255,000
Trunk Highway Fund	61,000	61,000

Of this amount, \$135,000 in 1990 and \$115,000 in 1991 from the general fund are one-time appropriations to conduct a follow-up study of asbestos-related lung disease among Conwed Corporation employees and spouses. The commissioner shall by January 1, 1990, present to the legislature a report addressing recommendations and plans for a comprehensive feasibility study of a statewide occupational disease surveillance system.

Of this amount, \$65,000 in 1990 from the general fund is a one-time appropriation to develop and pilot test the feasibility of an epidemiologic study of the relationship between emissions of sulfur dioxide and other air contaminants and the prevalence and severity of asthma in the city of Inver Grove Heights and surrounding areas of Dakota County. The commissioner of health shall, by February 1, 1990, submit to the legislature a report including the results of this study and specific recommendations related to any future epidemiologic studies.

For the biennium ending June 30, 1991, no less than \$2,000,000 from the general fund shall be used by the commis-

sioner for AIDS prevention grants and contracts for certain high risk populations, including communities of color, adolescents at high risk, homosexual men, intravenous drug users, and others as determined by the commissioner. By October 1, 1990, and October 1, 1991, the commissioner shall report to the chairs of the health and human services divisions of the house appropriations committee and the senate finance committee regarding the amounts of state and federal money spent by the department in fiscal years 1990 and 1991 on grants and contracts to assist each of the above groups.

The \$47,000 required to be transferred to the general fund by Laws 1987, chapter 388, section 9, paragraph (c), shall be transferred not later than June 30, 1992.

The commissioner shall present to the legislature by January 1, 1990, a plan for implementing the hazardous substance exposure provisions required under Minnesota Statutes, section 145.94. The plan shall include proposals for funding and recommendations for coordinating the implementation efforts of the state department of health, the pollution control agency, and local health departments.

Subd. 3. Health Delivery Systems

General Fund	24,028,000	26,028,000
Special Revenue Fund	180,000	120,000
Trunk Highway Fund	1,341,000	1,341,000

Of this amount, \$80,000 in 1990 and \$20,000 in 1991 from the health occupations licensing account within the state government special revenue fund are to pay start-up and ongoing costs associated with registering contact lens technicians and respiratory therapists. These and all subsequent costs related to this

provision shall be returned to the health occupations licensing account through fees. The commissioner may use unencumbered balances in the health occupations licensing account to pay start-up costs associated with the registration of any additional occupational groups, except acupuncturists, for which the commissioner determines registration is appropriate. All such costs shall be returned to the health occupations licensing account through fees.

Of this amount, \$5,000 from the general fund is available as a state match for a grant program to community-based organizations to purchase and provide paint removal equipment.

Of this amount, \$10,000 from the general fund in each year is to contract with local health boards to provide safe housing for residents who are relocated due to a paint-related or plaster-related lead contamination threat in their place of residence.

Of this amount, \$35,000 from the general fund in each year is to conduct assessments to determine sources of lead contamination in the residences of children and pregnant women whose blood lead levels exceed 25 micrograms per deciliter or the Centers for Disease Control recommendation for elevated blood level, and to provide education on ways of reducing the danger of lead contamination.

Of this amount, \$50,000 from the general fund in each year is to implement a lead education strategy and to fund lead abatement advocates.

Of this amount, \$5,000 from the general fund is transferred to the commissioner of state planning for a task force to study lead abatement costs. The task force

shall consist of representatives of the Minnesota housing finance agency, the pollution control agency, the department of health, the state planning agency, abatement contractors, realtors, community residents including both tenants and landowners, lead advocacy organizations, and cultural groups at high risk of lead poisoning. The task force shall evaluate the costs of providing assistance to property owners and local communities required to do lead paint, soil, and dust abatement; and of providing subsidized programs to assist the property owners and communities. The task force shall present recommendations for a statewide subsidized abatement service program. The task force shall report its findings and recommendations to the legislature by January 15, 1990.

Of the appropriation to supplement the federal Women, Infants and Children (WIC) program, any balance remaining in the first year does not cancel but is available for the second year.

For the biennium ending June 30, 1991, the commissioner of finance may authorize the transfer of money to the community health services activity from other programs in this section if the transferred money is to be used to supplement the community health services subsidy.

For the biennium ending June 30, 1991, if the appropriation for community health services or services to children with handicaps is insufficient for either year, the appropriation for the other year is available by direction of the governor after consulting with the legislative advisory commission.

For the biennium ending June 30, 1991, community health services boards should give priority consideration in the alloca-

tion of increased community health services subsidy funds to activities consistent with recommendations of the state community health services advisory committee and the commissioner's statewide goals relating to prevention of human immunodeficiency virus.

For the biennium ending June 30, 1991, community health services boards are encouraged to use a portion of their community health services subsidy increases to conduct erythrocyte protoporphyrin and blood lead screenings among children at high risk for lead toxicity.

Until the start of the 1992 licensure year, the commissioner of health shall not apply the provisions of Minnesota Statutes, section 144.55, subdivision 6, paragraph (b), to the Minnesota Veterans Home at Hastings.

The commissioner shall report to the legislature by December 15, 1989, on the commissioner's enforcement of section 144A.10, subdivision 2, relating to the coordination of nursing home inspections, and on the commissioner's enforcement of section 144.55, subdivision 5, relating to the coordination of hospital inspections. The report must include a list of the agencies inspecting nursing homes and hospitals, the frequency of inspections, the legal authority for the inspections, the purpose of the inspections, and recommendations for consolidating and coordinating the inspections. The report must also include recommendations for improving the enforcement of sections 144A.10, subdivision 2, and 144.55, subdivision 5.

Subd. 4. Health Support Services

General Fund	3,707,000	3,701,000
Metropolitan Landfill Contingency Fund	22,000	22,000
Trunk Highway Fund	86,000	86,000

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total

Appropriation

Special Revenue Fund	4,910,000	5,016,000
General Fund	75,000	

Notwithstanding any law to the contrary, all fees generated by the health-related licensing boards or the commissioner of health under Minnesota Statutes, section 214.06, and all unobligated balances in the direct-appropriated special revenue fund on June 30, 1989, attributable to fees generated by the health-related licensing boards, shall be credited to the health occupations licensing account within the state government special revenue fund.

Unless otherwise designated, all appropriations in this section are from the special revenue fund.

Subd. 2. Board of Chiropractic Examiners	264,000	252,000
Subd. 3. Board of Dentistry	400,000	400,000
Subd. 4. Board of Medical Examiners	1,760,000	1,920,000

Of this amount, \$210,000 in 1990 and \$262,000 in 1991 are for the purpose of purchasing additional legal services from the office of the attorney general. This money is available only in the event that the board requires legal services above and beyond a level equivalent to that provided by the office of the attorney general during 1989. Unencumbered balances in the appropriation for purchasing additional legal services may be transferred between fiscal years of the biennium.

For the biennium ending June 30, 1991, fees set by the board of medical examiners pursuant to Minnesota Statutes, section 214.06, must be fixed by rule. The procedure for noncontroversial rules in Minnesota Statutes, sections 14.22 to

14.28, may be used except that, notwithstanding the requirements of Minnesota Statutes, section 14.22, clause (3), no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.

Subd. 5. Board of Nursing	1,055,000	1,019,000
Subd. 6. Board of Examiners for Nursing Home Administrators	141,000	141,000
Subd. 7. Board of Optometry	57,000	59,000
Subd. 8. Board of Pharmacy	445,000	431,000
Subd. 9. Board of Podiatry	26,000	26,000
Subd. 10. Board of Psychology	181,000	187,000
Subd. 11. Social Work and Mental Health Boards		
Special Revenue Fund	485,000	485,000
General Fund	75,000	
(a) Board of Marriage and Family Therapy		
\$ 82,000	\$	82,000
(b) Board of Social Work		
\$ 87,000	\$	87,000
(c) Board of Unlicensed Mental Health Service Providers		
Special Revenue Fund		
\$ 93,000	\$	93,000
General Fund		
\$ 75,000	\$	

The fee for filing as an unlicensed mental health service provider is \$50 until permanent rules establishing the amount of the fee are adopted.

**(d) The Office of Social Work and Mental
Health Boards**
\$ 223,000 \$ 223,000

Subd. 12. Board of Veterinary Medicine	96,000	96,000
Subd. 13. Revenue		

The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues from fees collected by the boards, except that the board of unlicensed mental health service providers may spend from appropriated money in excess of fees collected. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Sec. 11. COMMISSIONER OF FINANCE

During the biennium ending June 30, 1991, the commissioner of finance shall forward to the chairs of the house health and human services appropriations committee and the senate health and human services finance committee all reports of projected funding deficiencies in programs operated or supervised by the departments of human services, health, jobs and training, and corrections, and the offices of ombudsman for corrections and for mental health and mental retardation, the sentencing guidelines commission, the health-related boards, and the department of veterans affairs. If no deficiency funding recommendations are made by the governor, the commissioner shall notify the legislature of any projected deficiencies by February 1 of each year.

For the governor's recommended budget for fiscal year 1992 and fiscal year 1993, in those instances where the gov-

ernor recommends funding for a change request but at a level different from the agency request, the commissioner of finance shall include in the governor's recommendation detail information commensurate with that provided by the agency. This includes a breakout of spending items if more than one provision is included in the request and rationale for the request. The commissioner of finance shall also adjust the long range implications expenditure projections to coincide with the revised governor's recommendation.

Sec. 12. TRANSFERS OF MONEY

Subdivision 1. Governor's Approval Required

For the biennium ending June 30, 1991, the commissioners of human services, corrections, jobs and training, and health and the veterans nursing homes board shall not transfer money to or from the object of expenditure "personal services" to or from the object of expenditure "grants and aid," as shown on the official worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance, except upon the written approval of the governor after consulting with the legislative advisory commission. Notwithstanding this limitation, money may be transferred to "grants and aid" without approval of the governor in the following programs: services for the blind, basic client rehabilitation services, and rehabilitation services for workers' compensation recipients.

Subd. 2. Transfers of Unencumbered Appropriations

For the biennium ending June 30, 1991, the commissioners of human services, corrections, health, and jobs and training by direction of the governor after

consulting with the legislative advisory commission may transfer unencumbered appropriation balances and positions among all programs.

Sec. 13. PROJECT LABOR

For human services and corrections institutions, wages for project labor may be paid if the employee is to be engaged in a construction or repair project of short-term and nonrecurring nature. Minnesota Statutes, section 43A.25, does not prevent the payment of the prevailing wage rate, as defined in Minnesota Statutes, section 177.42, subdivision 6, to a person hired to work on a project, whether or not the person is working under a contract.

Sec. 14. PROVISIONS

For the biennium ending June 30, 1991, money appropriated to the commissioner of corrections and the commissioner of human services in this act for the purchase of provisions within the item "current expense" must be used solely for that purpose. Money provided and not used for purchase of provisions must be canceled into the fund from which appropriated, except that money provided and not used for the purchase of provisions because of population decreases may be transferred and used for the purchase of medical and hospital supplies with the written approval of the governor after consulting with the legislative advisory commission.

The allowance for food may be adjusted annually according to the United States Department of Labor, Bureau of Labor Statistics publication, producer price index, with the approval of the commissioner of finance. Adjustments for fiscal year 1990 and fiscal year 1991 must be based on the June 1989 and June 1990 producer price index respectively, but the

adjustment must be prorated if the wholesale food price index adjustment would require money in excess of this appropriation.

Sec. 15. PUBLIC HEALTH FUND

Any balance remaining in the public health fund at the close of fiscal year 1989, regardless of any dedicated purpose, shall be transferred to the general fund.

Sec. 16. Minnesota Statutes 1988, section 144.122, is amended to read:

144.122 LICENSE AND PERMIT FEES.

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the general fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with subdivision 1 or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

Sec. 17. Minnesota Statutes 1988, section 145.894, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

145.894 STATE COMMISSIONER OF HEALTH; DUTIES, RESPONSIBILITIES.

The commissioner of health shall:

(a) Develop a comprehensive state plan for the delivery of nutritional supplements to pregnant and lactating women, infants, and children;

(b) Contract with existing local public or private nonprofit organizations for the administration of the nutritional supplement program;

(c) Develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the delivery of individual and family nutrition education and counseling at project sites;

(d) Develop in cooperation with other agencies and vendors a uniform state voucher system for the delivery of nutritional supplements;

(e) Authorize local health agencies to issue vouchers bimonthly to some or all eligible individuals served by the agency, provided the agency demonstrates that the federal minimum requirements for providing nutrition education will continue to be met and that the quality of nutrition education and health services provided by the agency will not be adversely impacted;

(f) Investigate and implement an infant formula cost reduction system that will reduce the cost of nutritional supplements so that by October 1, 1988, additional mothers and children will be served;

(g) Develop, analyze, and evaluate the health aspects of the nutritional supplement program and establish nutritional guidelines for the program;

(h) Apply for, administer, and annually expend at least 99 percent of available federal or private funds;

(i) Aggressively market services to eligible individuals by conducting ongoing outreach activities and by coordinating with and providing marketing materials and technical assistance to local human services and community service agencies and nonprofit service providers;

(j) Determine, on July 1 of each year, the number of pregnant women participating in each special supplemental food program for women, infants, and children (W.I.C.) and, in 1986, 1987, and 1988, at the commissioner's discretion, designate a different food program deliverer if the current deliverer fails to increase the participation of pregnant women in the program by at least ten percent over the previous year's participation rate;

(k) Promulgate all rules necessary to carry out the provisions of sections 145.891 to 145.897; ~~and~~

(l) Report to the legislature by November 15 of every year on the expendi-

New language is indicated by underline, deletions by ~~strikeout~~.

tures and activities under sections 145.891. to 145.897 of the state and local health agencies for the preceding fiscal year; and

(m) Ensure that any state appropriation to supplement the federal program is spent consistent with federal requirements.

Sec. 18. Minnesota Statutes 1988, section 268.37, is amended by adding a subdivision to read:

Subd. 6. ELIGIBILITY CRITERIA. To the extent allowed by federal regulations, the commissioner shall ensure that the same income eligibility criteria apply to both the weatherization program and the energy assistance program.

Sec. 19. Minnesota Statutes 1988, section 287.12, is amended to read:

287.12 TAXES, HOW APPORTIONED.

All taxes paid to the county treasurer under the provisions of sections 287.01 to 287.12 shall be credited to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine the receipts from the mortgage registration tax during the preceding month. The treasurer shall report to the county welfare agency on or before the tenth day of each month 97 percent of the receipts attributable to the statutory rate in section 287.05. That amount, in addition to 97 percent of the amount determined under section 287.29, must be shown as a deduction from the report filed with the department of human services as required by section 256.82. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month. If a county's mortgage and deed tax receipts exceed the state share of AFDC grants for the county, the excess amount must be offset against state payments to the county for the state share of the income maintenance programs. Any excess remaining after offsetting all state payments for income maintenance programs must be paid to the commissioner of human services and credited to the AFDC account.

ARTICLE 2

SOCIAL SERVICES, HEALTH, AND ADMINISTRATION

Section 1. Minnesota Statutes 1988, section 16B.06, is amended by adding a subdivision to read:

Subd. 2a. EXCEPTION. The requirements of subdivision 2 do not apply to state contracts distributing state or federal funds pursuant to the federal economic dislocation and worker adjustment assistance act, United States Code, title 29, section 1651 et seq., or sections 268.973 and 268.974. For these contracts, the commissioner of jobs and training is authorized to directly enter into state contracts with approval of the governor's job training council.

New language is indicated by underline, deletions by ~~strikeout~~.

and encumber available funds to ensure a rapid response to the needs of dislocated workers. The commissioner shall adopt internal procedures to administer and monitor funds distributed under these contracts.

Sec. 2. Minnesota Statutes 1988, section 43A.27, subdivision 2, is amended to read:

Subd. 2. **ELECTIVE ELIGIBILITY.** The following persons, if not otherwise covered by section 43A.24, may elect coverage for themselves or their dependents at their own expense:

(a) a state employee, including persons on layoff from a civil service position as provided in collective bargaining agreements or a plan established pursuant to section 43A.18;

(b) an employee of the board of regents of the University of Minnesota, including persons on layoff, as provided in collective bargaining agreements or by the board of regents;

(c) an officer or employee of the state agricultural society, state horticultural society, Sibley house association, Minnesota humanities commission, Minnesota international center, Minnesota academy of science, science museum of Minnesota, Minnesota safety council, state office of disabled American veterans, state office of the American Legion and its auxiliary, ~~or~~ state office of veterans of foreign wars and its auxiliary, or state office of the Military Order of the Purple Heart;

(d) a civilian employee of the adjutant general who is paid from federal funds and who is not eligible for benefits from any federal civilian employee group life insurance or health benefits program; and

(e) an officer or employee of the state capitol credit union or the highway credit union.

Sec. 3. Minnesota Statutes 1988, section 62D.041, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** (a) For the purposes of this section, the term "uncovered expenditures" means the costs of health care services that are covered by a health maintenance organization for which an enrollee would also be liable in the event of the organization's insolvency, and that are not guaranteed, insured, or assumed by a person other than the health maintenance organization.

(b) For purposes of this section, if a health maintenance organization offers supplemental benefits as described in section 62D.05, subdivision 6, "uncovered expenditures" excludes any expenditures attributable to the supplemental benefit.

Sec. 4. Minnesota Statutes 1988, section 62D.041, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 10. SUPPLEMENTAL DEPOSIT. A health maintenance organization offering supplemental benefits as described in section 62D.05, subdivision 6, must maintain an additional deposit in the first year such benefits are offered equal to \$50,000. At the end of the second year such benefits are offered, the health maintenance organization must maintain an additional deposit equal to \$150,000. At the end of the third year such benefits are offered and every year thereafter, the health maintenance organization must maintain an additional deposit of \$250,000.

Sec. 5. Minnesota Statutes 1988, section 62D.042, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For purposes of this section, "guaranteeing organization" means an organization that has agreed to make necessary contributions or advancements to the health maintenance organization to maintain the health maintenance organization's statutorily required net worth.

(b) For this section, "working capital" means current assets minus current liabilities.

(c) For purposes of this section, if a health maintenance organization offers supplemental benefits as described in section 62D.05, subdivision 6, "expenses" does not include any expenses attributable to the supplemental benefit.

Sec. 6. Minnesota Statutes 1988, section 62D.05, subdivision 6, is amended to read:

Subd. 6. **SUPPLEMENTAL BENEFITS.** (a) A health maintenance organization may, as a supplemental benefit, provide coverage to its enrollees for health care services and supplies received from providers who are not employed by, under contract with, or otherwise affiliated with the health maintenance organization. Supplemental benefits may be provided if the following conditions are met:

(1) a health maintenance organization desiring to offer supplemental benefits must at all times comply with the requirements of sections 62D.041 and 62D.042;

(2) a health maintenance organization offering supplemental benefits must maintain an additional surplus in the first year supplemental benefits are offered equal to the lesser of \$500,000 or 33 percent of the supplemental benefit expenses. At the end of the second year supplemental benefits are offered, the health maintenance organization must maintain an additional surplus equal to the lesser of \$1,000,000 or 33 percent of the supplemental benefit expenses. At the end of the third year benefits are offered and every year after that, the health maintenance organization must maintain an additional surplus equal to the greater of \$1,000,000 or 33 percent of the supplemental benefit expenses. When in the judgment of the commissioner the health maintenance organization's surplus is inadequate, the commissioner may require the health maintenance organization to maintain additional surplus;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) claims relating to supplemental benefits must be processed in accordance with the requirements of section 72A.201; and

(4) in marketing supplemental benefits, the health maintenance organization shall fully disclose and describe to enrollees and potential enrollees the nature and extent of the supplemental coverage, and any claims filing and other administrative responsibilities in regard to supplemental benefits.

(b) The commissioner may, pursuant to chapter 14, adopt, enforce, and administer rules relating to this subdivision, including: rules insuring that these benefits are supplementary and not substitutes for comprehensive health maintenance services by addressing percentage of out-of-plan coverage; rules relating to protection against insolvency, including the establishment of necessary financial reserves; rules relating to appropriate standards for claims processing; rules relating to marketing practices; and other rules necessary for the effective and efficient administration of this subdivision. The commissioner, in adopting rules, shall give consideration to existing laws and rules administered and enforced by the department of commerce relating to health insurance plans. ~~Except as otherwise provided by law, a health maintenance organization may not advertise, offer, or enter into contracts for the coverage described in this subdivision until 30 days after the effective date of rules adopted by the commissioner of health to implement this subdivision.~~

Sec. 7. [144.0535] ENTRY FOR INSPECTION.

For the purposes of performing their official duties, all officers and employees of the state department of health shall have the right to enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.

Sec. 8. Minnesota Statutes 1988, section 144.50, subdivision 6, is amended to read:

Subd. 6. **SUPERVISED LIVING FACILITY LICENSES.** (a) The commissioner may license as a supervised living facility a facility seeking medical assistance certification as an intermediate care facility for persons with mental retardation or related conditions for four or more persons as authorized under section 252.291.

(b) Class B supervised living facilities for six or less persons seeking medical assistance certification as an intermediate care facility for persons with mental retardation or related conditions shall meet Group R, Division 3, occupancy requirements of the state building code, the fire protection provisions of chapter 21 of the 1985 life safety code, NFPA 101, for facilities housing persons with impractical evacuation capabilities, and shall provide the necessary physical plant accommodations to meet the needs and functional disabilities of the residents.

Sec. 9. Minnesota Statutes 1988, section 144.562, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **ELIGIBILITY FOR LICENSE CONDITION.** A hospital is not eligible to receive a license condition for swing beds unless (1) it either has a licensed bed capacity of less than 50 beds defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~ 482.66, or it has a licensed bed capacity of 50 beds or more and has swing beds that were approved for medicare reimbursement before May 1, 1985 or it has a licensed bed capacity of less than 65 beds and, as of the effective date, the available nursing homes within 50 miles have had occupancy rates of 96 percent or higher in the past two years; (2) it is located in a rural area as defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~ 482.66; and (3) it agrees to utilize no more than four hospital beds as swing beds at any one time, except that the commissioner may approve the utilization of up to three additional beds at the request of a hospital if no medicare certified skilled nursing facility beds are available within 25 miles of that hospital.

Sec. 10. Minnesota Statutes 1988, section 144.562, subdivision 3, is amended to read:

Subd. 3. **APPROVAL OF LICENSE CONDITION.** The commissioner of health shall approve a license condition for swing beds if the hospital meets all of the criteria of this subdivision:

- (a) The hospital must meet the eligibility criteria in subdivision 2.
- (b) The hospital must be in compliance with the medicare conditions of participation for swing beds under Code of Federal Regulations, title 42, section ~~405.1041~~ 482.66.
- (c) The hospital must agree, in writing, to limit the length of stay of a patient receiving services in a swing bed to not more than 40 days, or the duration of medicare eligibility, unless the commissioner of health approves a greater length of stay in an emergency situation. To determine whether an emergency situation exists, the commissioner shall require the hospital to provide documentation that continued services in the swing bed are required by the patient; that no skilled nursing facility beds are available within 25 miles from the patient's home, or in some more remote facility of the resident's choice, that can provide the appropriate level of services required by the patient; and that other alternative services are not available to meet the needs of the patient. If the commissioner approves a greater length of stay, the hospital shall develop a plan providing for the discharge of the patient upon the availability of a nursing home bed or other services that meet the needs of the patient. Permission to extend a patient's length of stay must be requested by the hospital at least ten days prior to the end of the maximum length of stay.
- (d) The hospital must agree, in writing, to limit admission to a swing bed only to (1) patients who have been hospitalized and not yet discharged from the facility, or (2) patients who are transferred directly from an acute care hospital.
- (e) The hospital must agree, in writing, to report to the commissioner of

New language is indicated by underline, deletions by ~~strikeout~~.

health by December 1, 1985, and annually thereafter, in a manner required by the commissioner (1) the number of patients readmitted to a swing bed within 60 days of a patient's discharge from the facility, (2) the hospital's charges for care in a swing bed during the reporting period with a description of the care provided for the rate charged, and (3) the number of beds used by the hospital for transitional care and similar subacute inpatient care.

(f) The hospital must agree, in writing, to report statistical data on the utilization of the swing beds on forms supplied by the commissioner. The data must include the number of swing beds, the number of admissions to and discharges from swing beds, medicare reimbursed patient days, total patient days, and other information required by the commissioner to assess the utilization of swing beds.

Sec. 11. Minnesota Statutes 1988, section 144.698, subdivision 1, is amended to read:

Subdivision 1. **YEARLY REPORTS.** Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

(a) (1) a balance sheet detailing the assets, liabilities, and net worth of the hospital;

(b) (2) a detailed statement of income and expenses;

(c) (3) a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act; ~~and~~

(d) (4) a copy of all changes to articles of incorporation or bylaws;

(5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;

(6) information required on the revenue and expense report form set in effect on July 1, 1989; and

(7) other information required by the commissioner in rule.

Sec. 12. Minnesota Statutes 1988, section 144.701, is amended to read:

144.701 RATE DISCLOSURE.

Subdivision 1. **CONSUMER INFORMATION.** The commissioner of health shall ensure that the total costs, total revenues, and total services of each hospital and each outpatient surgical center are reported to the public in a form understandable to consumers.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **DATA FOR POLICY MAKING.** The commissioner of health shall compile relevant financial and accounting data concerning hospitals and outpatient surgical centers in order to have statistical information available for legislative policy making.

Subd. 3. **RATE SCHEDULE.** The commissioner of health shall obtain from each hospital and outpatient surgical center a current rate schedule. Any subsequent amendments or modifications of that schedule shall be filed with the commissioner of health at least 60 days in advance of on or before their effective date.

Subd. 4. **FILING FEES.** Each report which is required to be submitted to the commissioner of health under sections 144.695 to 144.703 and which is not submitted to a voluntary, nonprofit reporting organization in accordance with section 144.702 shall be accompanied by a filing fee in an amount prescribed by rule of the commissioner of health. Fees received pursuant to this subdivision shall be deposited in the general fund of the state treasury. Upon the withdrawal of approval of a reporting organization, or the decision of the commissioner to not renew a reporting organization, fees collected under section 144.702 shall be submitted to the commissioner and deposited in the general fund. The commissioner shall report the termination or nonrenewal of the voluntary reporting organization to the chair of the health and human services subdivision of the appropriations committee of the house of representatives, to the chair of the health and human services division of the finance committee of the senate, and the commissioner of finance.

Sec. 13. Minnesota Statutes 1988, section 144.702, subdivision 2, is amended to read:

Subd. 2. **APPROVAL OF ORGANIZATION'S REPORTING PROCEDURES.** The commissioner of health may approve voluntary reporting procedures ~~which are substantially equivalent to reporting requirements and procedures adopted by the commissioner of health for reporting procedures under sections 144.695 to 144.703.~~ consistent with written operating requirements for the voluntary, nonprofit reporting organization which shall be established annually by the commissioner. These written operating requirements shall specify reports, analyses, and other deliverables to be produced by the voluntary, nonprofit reporting organization, and the dates on which those deliverables must be submitted to the commissioner. The commissioner of health shall, by rule, prescribe standards for approval of voluntary reporting procedures, which submission of data by hospitals and outpatient surgical centers to the voluntary, nonprofit reporting organization or to the commissioner. These standards shall provide for:

- (a) The filing of appropriate financial information with the reporting organization;
- (b) Adequate analysis and verification of that financial information; and

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Timely publication of the costs, revenues, and rates of individual hospitals and outpatient surgical centers prior to the effective date of any proposed rate increase. The commissioner of health shall annually review the procedures approved pursuant to this subdivision.

Sec. 14. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

Subd. 7. STAFF SUPPORT. The commissioner may require as part of the written operating requirements for the voluntary, nonprofit reporting organization that the organization provide sufficient funds to cover the costs of one professional staff position who will directly administer the health care cost information system.

Sec. 15. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

Subd. 8. TERMINATION OR NONRENEWAL OF REPORTING ORGANIZATION. The commissioner may withdraw approval of any voluntary, nonprofit reporting organization for failure on the part of the voluntary, nonprofit reporting organization to comply with the written operating requirements under subdivision 2. Upon the effective date of the withdrawal, all funds collected by the voluntary, nonprofit reporting organization under section 144.701, subdivision 4, but not expended shall be deposited in the general fund.

The commissioner may choose not to renew approval of a voluntary, nonprofit reporting organization if the organization has failed to perform its obligations satisfactorily under the written operating requirements under subdivision 2.

Sec. 16. [144.851] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 144.851 to 144.862.

Subd. 2. ABATEMENT. "Abatement" means the use of the best available technology to remove or encapsulate deteriorating or intact lead paint or to reduce the availability of lead in soil and house dust, medicine, water, and any other sources considered a lead hazard by the commissioner.

Subd. 3. BOARD OF HEALTH. "Board of health" means an administrative authority established under section 145A.03 or 145A.07.

Subd. 4. COMMISSIONER. "Commissioner" means the commissioner of health.

Subd. 5. ELEVATED BLOOD LEAD LEVEL. "Elevated blood lead level" means at least 25 micrograms per deciliter.

Subd. 6. ENCAPSULATION. "Encapsulation" refers to the covering or containment of a lead source in soil or paint to prevent harmful exposure to lead. Encapsulation includes, but is not limited to, covering of bare soil that contains more than acceptable levels of lead under rules adopted under section 144.862 with sod or soil that contains acceptable parts per million lead under rules adopted under section 144.862, seeding, and treatment for walkways and parking areas.

New language is indicated by underline, deletions by strikeout.

Subd. 7. LEAD ABATEMENT CONTRACTOR. “Lead abatement contractor” means an employer or other person or entity who, for financial gain, directly performs or causes to be performed, through subcontracting or similar delegation, work related to lead hazard abatement or immediate hazard removal.

Sec. 17. [144.852] PROACTIVE LEAD EDUCATION STRATEGY.

The commissioner shall contract with boards of health in communities at high risk for toxic lead exposure to children, lead advocacy organizations, and businesses to design and implement a uniform, proactive educational program to introduce sections 144.851 to 144.861 and promote the prevention of exposure to all sources of lead to target populations. Priority shall be given to provide ongoing education to health care and social service providers, registered lead abatement contractors, building trades professionals and nonprofessionals, property owners, and parents. Educational materials shall be multilingual and multicultural to meet the needs of diverse populations.

Sec. 18. [144.853] LEAD SCREENING FOR CHILDREN.

Within limits of available appropriations, the commissioner shall contract with the boards of health in Minneapolis, St. Paul, and Duluth to promote and subsidize a baseline blood lead test of all children at risk who live in the high risk areas served by these boards of health and who are under six years of age. The lead screening shall be advocated on a statewide basis through the proactive education efforts of boards of health. The lead screening shall be promoted to be carried out in conjunction with routine blood tests.

Medical laboratories performing blood lead analyses must provide copies of the laboratory report form for all blood levels of at least ten micrograms per deciliter to the commissioner and to the board of health of the city or county in which the patient resides.

The information obtained from the screenings shall be reported by census tract and made available for research and to the public.

The commissioner shall work through the statewide WIC program to ensure that erythrocyte protoporphyrin testing of children for lead toxicity is integrated as a state reimbursed screening component of WIC services. The commissioner shall also evaluate the accessibility and affordability of lead screening for children throughout the state as provided by other health care providers and report the findings to the legislature by January 1990.

Sec. 19. [144.854] ASSESSMENT AND ABATEMENT.

Subdivision 1. RESIDENCE ASSESSMENT. If a child or pregnant woman is identified as having a blood lead level that exceeds 25 micrograms per deciliter or the Center for Disease Control recommendation for elevated blood level, the board of health must do a timely assessment of the child's or pregnant woman's residence to determine the sources of lead contamination and must provide education to the residents and the owner on the best means of reducing the danger of the lead sources.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. ABATEMENT ORDERS. If the level of lead in paint, soil, or dust found during the assessment conducted under subdivision 1 exceeds the toxic level of lead standards established in rules adopted under section 144.862, the board of health must order the property owner to abate the lead sources.

Subd. 3. PROVISION OF EQUIPMENT. State matching funds shall be made available for a grant program to community-based organizations to purchase and provide paint removal equipment. Equipment shall include: drop cloth, secure containers, power water sprayers, scrapers, and any other equipment required by local health department or state health department rules. Equipment shall be made available to low-income households on a priority basis.

Subd. 4. PROTECTION OF RESIDENT AND YARD. No person shall be required to scrape loose paint or remove intact paint in response to a housing code violation order or environmental health or abatement order unless the municipality provides:

(1) specific information regarding personal safety precautions, and proper removal, containment, and cleanup of lead paint and debris;

(2) a referral to an organization with proper removal equipment; and

(3) a lead paint removal hot-line phone number for information and technical assistance.

Subd. 5. WARNING NOTICE. A warning notice must be posted on all entrances to properties for which an order to abate a lead source has been issued by a board of health. This notice must remain posted until the abatement has been completed in accordance with the order, or until the board of health removes it. This warning must be at least 8-1/2 by 11 inches in size, and must include the following provisions, or provisions using substantially similar language:

(a) "This property contains dangerous amounts of lead to which children under age six and pregnant women should not be exposed."

(b) "It is unlawful to remove or deface this warning. This warning may be removed only upon the direction of the board of health."

Subd. 6. RELOCATION OF RESIDENTS. Relocation of residents is required from rooms or dwellings for removal of intact paint and the removal or disruption of lead painted surfaces and plaster walls during construction or remodeling projects. The commissioner shall contract with boards of health for safe housing for relocation requirements. Efforts must be made to minimize disruption and ensure that a family may return to their place of residence if they desire, after abatement is completed.

Subd. 7. RETESTING REQUIRED. After completion of the abatement as ordered, the board of health must retest the paint, soil, and dust previously in violation to assure the violations no longer exist.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 20. [144.856] REGISTRATION OF ABATEMENT CONTRACTORS.

After July 1, 1989, abatement contractors who contract for the removal of leaded soil, dust, or deteriorating paint must register by phone, mail, or in person with the commissioner and notify the board of health of all abatement projects undertaken in response to an abatement order. All abatement contractors shall be given instructional materials on safe abatement methods and the requirements of relocation from rooms or dwellings by residents. By July 1, 1990, the commissioner shall develop a training program for abatement contractors and adopt rules specifying the abatement methods that must be used by contractors to provide for the safe collection, handling, storage, encapsulation, removal, transportation, and disposal of lead containing material. The commissioner shall adopt emergency rules for abatement methods and standards for paint, bare soil, dust, and drinking water from public fountains for cities of the first class. By January 1, 1991, the commissioner shall report to the legislature concerning the need for licensure or certification of lead abatement contractors.

Sec. 21. [144.860] LEAD ABATEMENT ADVOCATE.

The commissioner shall create and administer a program to fund locally based advocates who, following the issuance of an abatement order, will visit the family in their residence to instruct them about safety measures, materials, and methods to be followed before, during, and after the abatement process.

Sec. 22. [144.861] STUDY ON ABATEMENT COSTS.

The commissioner of state planning shall convene a task force of representatives of the Minnesota housing finance agency, the pollution control agency, the department of health, the state planning agency, abatement contractors, realtors, community residents including both tenants and landowners, lead advocacy organizations, and cultural groups at high risk of lead poisoning to evaluate the costs of providing assistance to property owners and local communities required to do abatement under this law and of providing subsidized programs to assist them. The task force shall also present recommendations for a statewide subsidized abatement service program. The agency shall report its findings and recommendations to the legislature by January 1990.

Sec. 23. [144.862] RULES.

By June 30, 1990, the commissioner of the pollution control agency and the commissioner of health shall jointly adopt rules to set toxic lead levels for paint, bare soil, dust, and drinking water from public fountains.

Sec. 24. Minnesota Statutes 1988, section 144A.01, subdivision 5, is amended to read:

Subd. 5. "Nursing home" means a facility or that part of a facility which provides nursing care to five or more persons. "Nursing home" does not include

New language is indicated by underline, deletions by ~~strikeout~~.

a facility or that part of a facility which is a hospital, a hospital with approved swing beds as defined in section 144.562, clinic, doctor's office, diagnostic or treatment center, or a residential ~~facility program~~ licensed pursuant to sections ~~245.781 to 245.821~~ 245A.01 to 245A.16 or 252.28.

Sec. 25. Minnesota Statutes 1988, section 144A.45, subdivision 2, is amended to read:

Subd. 2. **REGULATORY FUNCTIONS.** (a) The commissioner shall:

(1) evaluate, monitor, and license home care providers in accordance with sections 144A.45 to 144A.49;

(2) inspect the office and records of a provider during regular business hours; ~~provided that when conducting routine office visits or inspections, the commissioner shall provide at least 48 hours~~ without advance notice to the home care provider;

(3) with the consent of the consumer, visit the home where services are being provided;

(4) issue correction orders and assess civil penalties in accordance with section 144.653, subdivisions 5 to 8; and

(5) take other action reasonably required to accomplish the purposes of sections 144A.43 to 144A.49.

(b) In the exercise of the authority granted in sections 144A.43 to 144A.49, the commissioner shall comply with the applicable requirements of section 144.122, the government data practices act, and the administrative procedure act.

Sec. 26. Minnesota Statutes 1988, section 144A.46, is amended to read:

144A.46 **LICENSURE.**

Subdivision 1. **LICENSE REQUIRED.** (a) A home care provider may not operate in the state without a current license issued by the commissioner of health.

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122.

Subd. 2. **EXEMPTIONS.** The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) a person who is licensed under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care provider or other organization;

(2) a personal care assistant who provides services under the medical assistance program as authorized under section 256B.0625, subdivision 19, and section 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under section 256B.0625, subdivision 19, and section 256B.04, subdivision 16;

(4) a person who is registered under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a person who provides services to a person with mental retardation under a program of semi-independent living services regulated by Minnesota Rules, parts 9525.0500 to 9525.0660; or

(6) a person who provides services to a person with mental retardation under contract with a county to provide home and community-based services that are reimbursed under the medical assistance program, chapter 256B, and regulated by Minnesota Rules, parts 9525.1800 to 9525.1930.

An exemption under this subdivision does not excuse the individual from complying with applicable provisions of the home care bill of rights.

Subd. 3. **ENFORCEMENT.** The commissioner may refuse to grant or renew a license, or may suspend or revoke a license, for violation of statutes or rules relating to home care services or for conduct detrimental to the welfare of the consumer. Prior to any suspension, revocation, or refusal to renew a license, the home care provider shall be entitled to notice and a hearing as provided by sections 14.57 to 14.70. In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by a provider for not more than 60 days if the commissioner determines that the health or safety of a consumer is in imminent danger, provided (1) advance notice is given to the provider; (2) after notice, the provider fails to correct the problem; (3) the commissioner has reason to believe that other administrative remedies are not likely to be effective.

New language is indicated by underline, deletions by ~~strikeout~~.

tive; and (4) there is an opportunity for a contested case hearing within the 60 days. The process of suspending or revoking a license must include a plan for transferring affected clients to other providers.

Subd. 3a. INJUNCTIVE RELIEF. In addition to any other remedy provided by law, the commissioner may bring an action in district court to enjoin a person who is involved in the management, operation, or control of a home care provider, or an employee of the home care provider from illegally engaging in activities regulated by sections 144A.43 to 144A.48. The commissioner may bring an action under this subdivision in the district court in Ramsey county or in the district in which a home care provider is providing services. The court may grant a temporary restraining order in the proceeding if continued activity by the person who is involved in the management, operation, or control of a home care provider, or by an employee of the home care provider, would create an imminent risk of harm to a recipient of home care services.

Subd. 3b. SUBPOENA. In matters pending before the commissioner under sections 144A.43 to 144A.48, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. If a person fails or refuses to comply with a subpoena or order of the commissioner to appear or testify regarding any matter about which the person may be lawfully questioned or to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, the commissioner may apply to the district court in any district, and the court shall order the person to comply with the commissioner's order or subpoena. The commissioner of health may administer oaths to witnesses, or take their affirmation. Depositions may be taken in or outside the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a named person anywhere within the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage and in the same manner as prescribed by law for process issued out of a district court. A person subpoenaed under this subdivision shall receive the same fees, mileage, and other costs that are paid in proceedings in district court.

Subd. 4. RELATION TO OTHER REGULATORY PROGRAMS. In the exercise of the authority granted under sections 144A.43 to 144A.49, the commissioner shall not duplicate or replace standards and requirements imposed under another state regulatory program. The commissioner shall not impose additional training or education requirements upon members of a licensed or registered occupation or profession, except as necessary to address or prevent problems that are unique to the delivery of services in the home or to enforce and protect the rights of consumers listed in section 144A.44. For home care providers certified under the Medicare program, the state standards must not be inconsistent with the Medicare standards for Medicare services. To the extent possible, the commissioner shall coordinate the inspections required under sections 144A.45 to 144A.48 with the health facility licensure inspections required under sections 144.50 to 144.58 or 144A.10 when the health care facility is also licensed under the provisions of Laws 1987, chapter 378.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **PRIOR CRIMINAL CONVICTIONS.** An applicant for a home care provider license shall disclose to the commissioner all criminal convictions of persons involved in the management, operation, or control of the provider. A home care provider shall require employees of the provider and applicants for employment in positions that involve contact with recipients of home care services to disclose all criminal convictions. The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the federal bureau of investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network. No person may be employed by a home care provider or in a position that involves contact with recipients of home care services nor may any person be involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining what types of employment positions, including volunteer positions, involve contact with recipients of home care services, and whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.

Sec. 27. **[144A.465] LICENSURE; PENALTY.**

A person involved in the management, operation, or control of a home care provider who violates section 144A.46, subdivision 1, paragraph (a), is guilty of a misdemeanor. This section does not apply to a person who had no legal authority to affect or change decisions related to the management, operation, or control of a home care provider.

Sec. 28. Minnesota Statutes 1988, section 145.38, subdivision 1, is amended to read:

Subdivision 1. No person shall sell to a person under ~~49~~ 18 years of age any glue ~~or~~, cement, or aerosol paint containing toluene, benzene, xylene, amyl

New language is indicated by underline, deletions by ~~strikeout~~.

nitrate, butyl nitrate, nitrous oxide, or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system. This section does not apply if the glue ~~or~~, cement, or aerosol paint is contained in a packaged kit for the construction of a model automobile, airplane, or similar item.

Sec. 29. **[145.385] WARNING SIGNS.**

A business establishment that offers for sale at retail any item as described in section 145.38, subdivision 1, must display a conspicuous sign that contains the following, or substantially similar, language:

"NOTICE

It is unlawful for a person to sell glue, cement, or aerosol paint containing intoxicating substances to a person under 18 years of age, except as provided by law. Such an offense is a misdemeanor. It is also unlawful for a person to use or possess glue, cement, or aerosol paint with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system. Such an offense is a misdemeanor. Such use can be harmful or fatal."

Sec. 30. Minnesota Statutes 1988, section 145.39, subdivision 1, is amended to read:

Subdivision 1. No person ~~under 19 years of age~~ shall use or possess any glue, cement, aerosol paint, or any other substance containing toluene, benzene, xylene, amyl nitrate, butyl nitrate, nitrous oxide, or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system with the intent of inducing intoxication, excitement or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor.

Sec. 31. **[145.406] INFORMATION ON THE SALE AND USE OF TOXIC SUBSTANCES.**

The commissioner of health shall prepare and distribute materials designed to provide information to retail businesses on the requirements of sections 145.38 to 145.40.

Sec. 32. **[145.867] PERSONS REQUIRING SPECIAL DIETS.**

Subdivision 1. PUBLIC FACILITY. "Public facility" means an auditorium, concert hall, sports stadium, sports arena, or theater.

Subd. 2. IDENTIFICATION CARD FOR INDIVIDUALS NEEDING A SPECIAL DIET. The commissioner of health shall make special diet identification

New language is indicated by underline, deletions by ~~strikeout~~.

cards available to physicians and to persons with diabetes and other conditions requiring special diets. The identification card must contain spaces for: (1) the person's name, address, and signature; (2) the physician's name, phone number, and signature; (3) a description of the person's medical condition; and (4) an expiration date. The card must also contain the following provision, in identical or substantially similar language: "The owner of this card is exempted by the commissioner of health from prohibitions on bringing outside food and drink into a public facility." Persons with medical conditions requiring a special diet may ask their physician to fill out and sign the card. The physician shall fill out and sign the card if, in the physician's medical judgment, the person has a medical condition that requires a special diet. Persons with diabetes shall be automatically assumed by physicians to require special diets. Special diet identification cards shall be valid for five years. Persons with a medical condition requiring a special diet may request a new card from their physician up to six months before the expiration date.

Subd. 3. EXEMPTION FROM FOOD AND DRINK PROHIBITIONS.

Persons with medical conditions requiring a special diet who present a valid special diet identification card to any employee of a public facility shall be allowed to bring in outside food and drink, subject to the limitations in subdivision 4. To be valid, the card must be filled out according to subdivision 2 and must be current. Persons with special diet identification cards must obey all other food and drink regulations established by a public facility including prohibitions on eating or drinking in certain areas of the public facility.

Subd. 4. LIMITATION ON EXEMPTION. Public facilities may limit the amount of food and drink that may be brought into a public facility by a person with a special diet identification card to the amount that can reasonably be consumed by a single individual. Public facilities may also place limits on the size of any food or drink container carried in, if the container would be a safety hazard or interfere with other patrons or customers. Public facilities may also require persons displaying a special diet identification card to show some other form of identification.

Sec. 33. Minnesota Statutes 1988, section 145.882, subdivision 1, is amended to read:

Subdivision 1. CONTINUATION OF 1983 PROJECTS FUNDING LEVELS AND ADVISORY TASK FORCE REVIEW. (a) Notwithstanding subdivisions 2 and 3, recipients of maternal and child health grants for special projects in state fiscal year 1983 shall continue to be funded at the same level as in state fiscal year 1983 until December 31, 1987. Beginning January 1, 1988, recipients of maternal and child health special project grants awarded in state fiscal year 1983 must receive:

(1) for calendar year 1988, no less than 80 percent of the amount awarded in state fiscal year 1983; and

(2) for calendar year 1989, no less than 70 percent of the amount awarded in state fiscal year 1983.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) ~~The amount of grants awarded under this subdivision must be deducted from the allocation under subdivisions 3 and 4 for the community health services area within which the grantee is located. In order to receive money under this subdivision, recipients must continue to comply with sections 145.881 and 145.882 to 145.888. These recipients are also eligible to apply for grants under subdivisions 2, 3, and 4. Any decrease in the amount of federal funding to the state for the maternal and child health block grant must be apportioned to reflect a proportional decrease for each recipient. Any increase in the amount of federal funding to the state must be distributed under subdivisions 2, 3, and 4.~~

(e) The advisory task force shall review and recommend the proportion of maternal and child health block grant funds to be expended for indirect costs, direct services and special projects.

Sec. 34. Minnesota Statutes 1988, section 145.882, subdivision 3, is amended to read:

Subd. 3. **ALLOCATION TO COMMUNITY HEALTH SERVICES AREAS.** (a) The maternal and child health block grant money remaining after distributions made under ~~subdivisions 1 and subdivision 2~~ must be allocated according to the formula in subdivision 4 to community health services areas for distribution by community health boards as defined in section 145A.02, subdivision 5, to qualified programs that provide essential services within the community health services area as long as:

(1) the Minneapolis community health service area is allocated at least \$1,626,215 per year;

(2) the St. Paul community health service area is allocated at least \$822,931 per year; and

(3) all other community health service areas are allocated at least \$30,000 per county per year or their 1988-1989 funding cycle award, whichever is less.

(b) Notwithstanding paragraph (a), if the total amount of maternal and child health block grant funding decreases, the decrease must be apportioned to reflect a proportional decrease for each recipient, including recipients who would otherwise receive a guaranteed minimum allocation under paragraph (a).

Sec. 35. Minnesota Statutes 1988, section 145.882, subdivision 7, is amended to read:

Subd. 7. **USE OF BLOCK GRANT MONEY.** (a) Maternal and child health block grant money allocated to a community health board or community health services area under this section must be used for qualified programs for high risk and low income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low income and minority groups with a high rate of infant mortality and children with low

New language is indicated by underline, deletions by ~~strikeout~~.

birth weight, by providing services calculated to produce measurable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth;

(2) specifically target pregnant women whose age, medical condition, or maternal history substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness, disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs; ~~or~~

(4) provide family planning and preventive medical care for specifically identified target populations, such as minority and low income teenagers, in a manner calculated to decrease the occurrence of inappropriate pregnancy and minimize the risk of complications associated with pregnancy and childbirth; or

(5) specifically address the frequency and severity of childhood injuries in high risk target populations by providing services calculated to produce measurable decreases in mortality and morbidity. However, money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury-related programs under this clause does not exceed ten percent of the total allocation under subdivision 3.

(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only ~~if~~ under the following conditions:

(1) the community health board or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision; or

(2) the money is used to continue projects that received funding before creation of the maternal and child health block grant in 1981.

(c) Projects that received funding before creation of the maternal and child health block grant in 1981, must be allocated at least the amount of maternal and child health special project grant funds received in 1989, unless (1) the local board of health provides equivalent alternative funding for the project from another source; or (2) the local board of health demonstrates that the need for the specific services provided by the project has significantly decreased as a result of changes in the demographic characteristics of the population, or other factors that have a major impact on the demand for services. If the amount of federal funding to the state for the maternal and child health block grant is decreased, these projects must receive a proportional decrease as required in subdivision 1. Increases in allocation amounts to local boards of health under subdivision 4 may be used to increase funding levels for these projects.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 36. [145.898] SUDDEN INFANT DEATH.

The department of health shall develop uniform investigative guidelines and protocols for coroners and medical examiners conducting death investigations and autopsies of children under two years of age.

Sec. 37. [145.9245] GRANTS FOR CASE MANAGEMENT SERVICES FOR AIDS INFECTED PERSONS.

The commissioner may award special grants to community health boards as defined in section 145A.02, subdivision 5, or nonprofit corporations for the development, implementation, and evaluation of case management services for individuals infected with the human immunodeficiency virus to assist in preventing transmission of the human immunodeficiency virus to others.

Sec. 38. Minnesota Statutes 1988, section 146.13, is amended to read:

146.13 REGISTRATION FEES.

Every person not hereinafter excepted from the provisions of this chapter authorized to practice healing in this state shall, ~~in the month of January each year,~~ annually register with the director of the particular board of examiners which examined and registered or licensed the person to practice that branch or system of healing pursued; and shall, at that time, for the purpose of making such registration, sign and send to such director in writing the following: name, the name of the place, and the address, at which the practice of healing is engaged in, and pay to the director each year a fee in an amount to be fixed by rule of the respective board of examiners. Any person who shall change the address or place of practice during the year shall forthwith notify such director in writing of such change, giving such new address or place. The director of each board of examiners shall keep a proper register of all such persons and to each person so registering the proper board shall issue a certificate for the current year, signed by the president and the director and sealed with the seal of such board, setting forth name, the name of the place and the address at which the practice of healing is engaged in, and the branch or system of healing pursued. Any person not hereinafter excepted from the provisions of this chapter lawfully entitled to engage in the practice of healing in this state ~~after the month of January in any year,~~ and who shall not be currently registered as provided in this section, shall, within 30 days after first so engaging in the practice of healing, register with the proper examining board in the manner provided in this chapter, pay to the director of such board the fee above required, and received from such board a certificate as above prescribed for the balance of such year. Every person receiving a certificate, as herein provided, shall display the same in a conspicuous place in the office or other corresponding place where the practice of healing is pursued.

All fees received by the director of any examining board for registration required by this section shall be paid to the general fund. The expenses of keeping proper registers, furnishing the certificates herein provided for, employ-

New language is indicated by underline, deletions by ~~strikeout~~.

ing inspectors for procuring evidence of any violation of the laws administered thereby and aiding in the enforcement of such laws, and for such other expenses as may be necessarily paid or incurred in the exercise of its powers or performance of its duties, shall be paid from the appropriation made to the examining board.

Sec. 39. Minnesota Statutes 1988, section 147.02, subdivision 1, is amended to read:

Subdivision 1. **UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATES.** The board shall, with the consent of six of its members, issue a license to practice medicine to a person who meets the following requirements:

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed ~~an~~ a comprehensive examination for initial licensure prepared and graded by the national board of medical examiners or the federation of state medical boards. The board shall by rule determine what constitutes a passing score in the examination.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 40. Minnesota Statutes 1988, section 148B.23, subdivision 1, is amended to read:

Subdivision 1. **EXEMPTION FROM EXAMINATION.** For two years from July 1, 1987, the board shall issue a license without examination to an applicant:

(1) for a licensed social worker, if the board determines that the applicant has received a baccalaureate degree from an accredited program of social work, or that the applicant has at least a baccalaureate degree from an accredited college or university and two years in full-time employment or 4,000 hours of experience in the supervised practice of social work within the five years before July 1, 1989, or within a longer time period as specified by the board;

(2) for a licensed graduate social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board;

(3) for a licensed independent social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board; and, after receiving the degree, has practiced social work for at least two years in full-time employment or 4,000 hours under the supervision of a social worker meeting these requirements, or of another qualified professional; and

(4) for a licensed independent clinical social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline as approved by the board; and, after receiving the degree, has practiced clinical social work for at least two years in full-time employment or 4,000 hours under the supervision of a clinical social worker meeting these requirements, or of another qualified mental health professional.

Sec. 41. Minnesota Statutes 1988, section 148B.27, subdivision 2, is amended to read:

Subd. 2. **USE OF TITLES.** After the board adopts rules, no individual shall be presented to the public by any title incorporating the words "social work" or "social worker" unless that individual holds a valid license issued under sections 148B.18 to 148B.28. City, county, and state agency social workers who are not licensed under sections 148B.18 to 148B.28 may use the title city agency social worker or county agency social worker or state agency social worker. Hospital social workers who are not licensed under sections 148B.18 to 148B.28 may use the title hospital social worker while acting within the scope of their employment.

Sec. 42. Minnesota Statutes 1988, section 148B.32, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **APPEARANCE AS LICENSEE PROHIBITED.** After adoption of rules by the board implementing sections 148B.29 to 148B.39, no individual shall be held out to be a marriage and family therapist unless that individual holds a valid license issued under sections 148B.29 to 148B.39, is a psychologist licensed by the board of psychology with a competency in marriage and family therapy, or is a person providing marriage and family therapy who is employed by a hospital licensed under chapter 144 and who is acting within the scope of the person's employment.

Sec. 43. Minnesota Statutes 1988, section 148B.40, subdivision 3, is amended to read:

Subd. 3. **MENTAL HEALTH SERVICE PROVIDER.** "Mental health service provider" or "provider" means any person who provides, for a remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical examiners under chapter 147; the board of nursing under sections 148.171 to 148.285; or the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license. In addition, the term does not include employees of the state of Minnesota or any of its political subdivisions while acting within the scope of their public employment; hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting as marriage and family counselors within the scope of their employment by the hospital or nursing home; persons employed by a program licensed by the commissioner of human services who are acting as mental health service providers within the scope of their employment; and persons certified as chemical dependency professionals by the Institute for Chemical Dependency Professionals of Minnesota, Inc. The Institute for Chemical Dependency Professionals shall provide the board of unlicensed mental health service providers with the name and address of any person whose certification has been discontinued, along with the reason for the discontinuance. Any chemical dependency treatment professional who does not maintain a current and valid certification with the Institute of Chemical Treatment Professionals of Minnesota, Inc., must register with the board of unlicensed mental health service providers in order to provide chemical dependency treatment services.

Sec. 44. Minnesota Statutes 1988, section 149.02, is amended to read:

149.02 EXAMINATION; LICENSING.

The state commissioner of health is hereby authorized and empowered to examine, upon submission of an application therefor and fee as prescribed by the commissioner pursuant to section 144.122, all applicants for license to practice mortuary science or funeral directing and to determine whether or not the applicants possess the necessary qualifications to practice mortuary science or

New language is indicated by underline, deletions by ~~strikeout~~.

funeral directing. If upon examination the commissioner shall determine that an applicant is properly qualified to practice mortuary science or funeral directing, the commissioner shall grant a license to the person to practice mortuary science or funeral directing. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

On or after the thirty-first day of December, 1955, separate licenses as embalmer or funeral director shall not be issued, except that a license as funeral director shall be issued to those apprentices who have been registered under rules of the commissioner as apprentice funeral directors on the first day of July, 1955, qualify by examination for licensure under such rules as funeral directors before the first day of August, 1957. Such applicants shall file an application for license as a funeral director in the manner as is required in section 149.03 for a license in mortuary science. It shall be accompanied by a fee in an amount prescribed by the commissioner pursuant to section 144.122. However, a single license as a funeral director shall be issued to those persons whose custom, rites, or religious beliefs forbid the practice of embalming. An applicant for a single license as a funeral director under this exception shall submit to the commissioner of health two affidavits substantiating the beliefs and convictions of the applicant and shall meet any other standards for licensure as are required by law or by rule of the commissioner. Such a funeral director shall only direct funerals for persons of the same customs, rites or religious beliefs as those of the funeral director. In the case of a funeral conducted for persons of such customs, rites or religious beliefs where embalming and funeral directing is necessary according to law, such embalming and funeral directing shall be performed only by a person licensed to do so in this state.

All licensees who on the thirty-first day of December, 1955, hold licenses as embalmers only shall be granted licenses to practice mortuary science and may renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122.

All licensees who on the thirty-first day of December, 1955, hold licenses as funeral director only may continue to renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122. If a licensee fails to renew, as in this chapter required, that person's license as a funeral director shall not thereafter be reinstated.

To assist in the holding of the examination and enforcement of the provisions of this chapter, the commissioner shall establish a mortuary sciences advisory council and shall appoint ~~four~~ five members to it. Two members shall be licensed in mortuary science and shall have had at least five years experience immediately preceding their appointment in the preparation and disposition of dead human bodies and in the practice of mortuary science. ~~A third member shall be a representative of the commissioner~~ Two members must be public members as defined by section 214.02, and the ~~fourth~~ fifth member shall be a full-time academic staff member of the course in mortuary science of the University of Minnesota. The terms, compensation and removal of members and expiration of the council shall be as provided in section 15.059.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 45. Minnesota Statutes 1988, section 149.06, is amended to read:

149.06 VIOLATIONS, PENALTIES.

Any person who shall embalm a dead human body, or who shall hold out as a mortician, embalmer, funeral director, or trainee, without being licensed or registered, shall be guilty of a misdemeanor and punished accordingly. This chapter shall not apply to or in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which the indigent dead human bodies are held subject to anatomical study, or to the custom or rites of any religious sect in the burial of their dead.

~~The name of a person registered as a trainee must not be used or caused or permitted to be used by the person, in any way, in the name, designation, or title, or in the advertising of the funeral establishment with which the person is associated or in which the person may have acquired a proprietary or financial interest.~~

Nothing in this chapter shall in any way affect the operation of corporations or burial associations, providing all work of embalming or funeral directing is done by licensed morticians or funeral directors, as provided by this chapter. It shall be unlawful for any such corporation or burial association to:

(1) Violate any of the laws of this state relative to the burial or disposal of dead human bodies, or any of the rules of the state commissioner of health in relation to the care, custody, or disposition of dead human bodies, or the disinfecting of premises where contagion exists;

(2) Publish or disseminate misleading advertising;

(3) Directly or indirectly pay or cause to be paid any sum of money or other valuable consideration for the securing of business, other than by advertising, or for obtaining authority to dispose of any dead human bodies;

(4) Permit unlicensed persons to render or perform any of the services required to be performed by persons licensed under the provisions of this chapter.

Any corporation or burial association violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

Nothing in this chapter shall be construed as repealing any of the laws of this state in regard to the organizing or incorporating of cooperative associations.

Sec. 46. Minnesota Statutes 1988, section 153A.13, subdivision 4, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **HEARING INSTRUMENT SELLING.** "Hearing instrument selling" means fitting and selling hearing instruments, assisting the consumer in instrument selection, selling hearing instruments at retail, ~~and~~ or testing human hearing in connection with these activities.

Sec. 47. Minnesota Statutes 1988, section 153A.15, subdivision 3, is amended to read:

Subd. 3. **PROCEDURES.** The commissioner shall establish, in writing, internal operating procedures for receiving and investigating complaints and imposing enforcement actions. The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states. Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14. Procedures for sharing complaint information shall be consistent with the requirements for handling government data under chapter 13.

Sec. 48. Minnesota Statutes 1988, section 153A.16, is amended to read:

153A.16 BOND REQUIRED.

A sole proprietor, partnership, association, or corporation engaged in hearing instrument sales shall provide a surety bond in favor of the state of Minnesota in the amount of \$5,000 for every individual engaged in the practice of selling hearing instruments, up to a maximum of \$25,000. The bond required by this section must be in favor of the state for the benefit of any person who suffers loss of payments for the purchase or repair of a hearing instrument after July 1, 1988, due to insolvency or cessation of the business of the sole proprietor, partnership, association, or corporation engaged in hearing instrument sales. A copy of the bond must be filed with the ~~attorney general~~ commissioner of health. A person claiming against the bond may maintain an action at law against the surety and the sole proprietor, partnership, association, or corporation. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein must not exceed the amount of the bond.

Sec. 49. **[157.031] ADDITIONAL LICENSE REQUIRED FOR BOARD AND LODGING ESTABLISHMENTS; SPECIAL SERVICES.**

Subdivision 1. DEFINITIONS. (a) "Supportive services" means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, and dressing, grooming, or bathing. Supportive services also include providing reminders to residents to take medications that are self administered or providing storage for medications if requested.

(b) "Health supervision services" means the provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in bathing or with walking devices.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. REGISTRATION. A board and lodging establishment that provides supportive services or health supervision services must register with the commissioner by September 1, 1989. The registration must include the name, address, and telephone number of the establishment, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the board and lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the special license rules required by subdivision 5 are effective.

Subd. 3. RESTRICTION ON THE PROVISION OF SERVICES. Effective September 1, 1989, and until the rules required under subdivision 5 are adopted, a board and lodging establishment may provide health supervision services only if a licensed nurse is on site in the facility for at least four hours a week to provide supervision and health monitoring of the residents. A board and lodging facility that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.

Subd. 4. SPECIAL LICENSE REQUIRED. Upon adoption of the rules required by subdivision 5, a board and lodging establishment that provides either supportive care or health supervision services must obtain a special license from the commissioner. The special license is required until rules resulting from the recommendations made in accordance with section 213 are implemented.

Subd. 5. RULES. By July 1, 1990, the commissioner of health shall adopt rules necessary to implement the special license provisions. The rules may address the type of services that can be provided, staffing requirements, and the training and qualifications of staff. The rules must set a fee for the issuance of the special service license. The special license fee is in addition to the license fee prescribed in section 157.03. Nothing in section 157.031 and sections 213 and 214 is intended to prevent the promulgation of rules by the commissioner of human services governing the licensure or delivery of services to persons with mental illness or the requirement to comply with those rules.

Subd. 6. SERVICES THAT MAY NOT BE PROVIDED IN A BOARD AND LODGING ESTABLISHMENT. A board and lodging establishment may not admit or retain individuals who:

(1) would require assistance from facility staff because of the following needs: incontinence, catheter care, use of injectable or parenteral medications, wound care, or dressing changes or irrigations of any kind; or

(2) require a level of care and supervision beyond supportive services or health supervision services.

Subd. 7. CERTAIN INDIVIDUALS MAY PROVIDE SERVICES. This section does not prohibit the provision of health care services to residents of a board and lodging establishment by family members of the resident or by a registered or licensed home care agency employed by the resident.

New language is indicated by underline, deletions by strikeout.

Subd. 8. EXEMPTION FOR ESTABLISHMENTS WITH A HUMAN SERVICES LICENSE. This section does not apply to a board and lodging establishment that is licensed by the commissioner of human services under chapter 245A.

Subd. 9. VIOLATIONS. The commissioner may revoke both the special service license, when issued, and the establishment license, if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.

Sec. 50. Minnesota Statutes 1988, section 157.14, is amended to read:

157.14 EXEMPTIONS.

This chapter shall not be construed to apply to interstate carriers under the supervision of the United States Department of Health, Education and Welfare or to any building constructed and primarily used for religious worship, nor to any building owned, operated and used by a college or university in accordance with regulations promulgated by the college or university. Any person, firm or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05 is exempt at that premises from licensure as a place of refreshment or restaurant; provided, that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of the chapter or the rules of the state commissioner of health relating to food and beverage service establishments. This chapter does not apply to family day care homes or group family day care homes governed by sections 245.781 to 245.812 and does not apply to nonprofit senior citizen centers for the sale of home-baked goods.

Sec. 51. Minnesota Statutes 1988, section 176.136, subdivision 1, is amended to read:

Subdivision 1. SCHEDULE. The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups. The procedures established by the commissioner shall limit the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, ~~to the 75th percentile of usual and customary fees or charges~~ based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 52. Minnesota Statutes 1988, section 176.136, subdivision 5, is amended to read:

Subd. 5. **PERMANENT RULES.** Where permanent rules have been adopted to implement this section, the commissioner shall annually give notice in the State Register of the 75th percentile reimbursement allowance to meet the requirements of subdivision 1. The notice shall be in lieu of the requirements of chapter 14 if the 75th percentile for the service meets and shall be set at the 75th percentile of the billings for each service in the data base; provided that the requirements of paragraphs (a) to (e) are met.

(a) The data base includes at least three different providers of the service.

(b) The data base contains at least 20 billings for the service.

(c) The standard deviation as a percentage of the mean of billings for the service is 50 percent or less; data is taken from the data base of Blue Cross and Blue Shield of Minnesota where available; if not available from Blue Cross and Blue Shield of Minnesota, the data will be taken directly from the health care providers, professional associations, or other available sources.

(d) The means of the Blue Cross and Blue Shield data base and of the department of human services data base for the service are within 20 percent of each other; standard deviation is less than or equal to 50 percent of the mean of the billings for each service in the data base or the value of the 75th percentile is not greater than or equal to three times the value of the 25th percentile of the billings for each service in the data base.

(e) The data is taken from the data base of Blue Cross and Blue Shield or the department of human services 75th percentile logically reflects the usual and customary charges for the service.

Sec. 53. [196.27] **AGENT ORANGE SETTLEMENT PAYMENTS.**

(a) Payments received by veterans or their dependents because of settlements between them and the manufacturers of Agent Orange or other chemical agents, as defined in section 196.21, must not be treated as income (or an available resource) of the veterans or their dependents for the purposes of any program of public assistance or benefit program administered by the department of veterans affairs, the department of human services, or other agencies of the state or political subdivisions of the state, except as provided in paragraph (b).

(b) The income and resource exclusion in paragraph (a) does not apply to the medical assistance, food stamps, or aid to families with dependent children programs until the commissioner of human services receives formal approval from the United States Department of Health and Human Services, for the medical assistance and aid to families with dependent children programs, and from the United States Department of Agriculture, for the food stamps program. The income exclusion does not apply to the Minnesota supplemental aid program until the commissioner receives formal federal approval of the exclusion for the medical assistance program.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 54. Minnesota Statutes 1988, section 214.04, subdivision 3, is amended to read:

Subd. 3. The executive secretary of each health-related and non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive secretaries and other employees of the following boards shall be hired by the board, and the executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) dentistry;
- (2) medical examiners;
- (3) nursing;
- (4) pharmacy;
- (5) accountancy;
- (6) architecture, engineering, land surveying and landscape architecture;
- (7) barber examiners;
- (8) cosmetology;
- (9) electricity;
- (10) teaching;
- (11) peace officer standards and training;
- (12) social work;
- (13) marriage and family therapy;
- (14) unlicensed mental health service providers; and
- (15) office of social work and mental health boards.

The board of medical examiners shall set the salary of its executive director, which may not exceed 95 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1. The board of dentistry shall set the salary of its executive director, which may not exceed 80 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1. The board shall submit a proposed salary increase to the legislative commission on employee relations and the full legislature for approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2.

New language is indicated by underline, deletions by ~~strikeout~~.

The executive secretaries serving the remaining boards are hired by those boards and are in the unclassified civil service, except for part-time executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 55. Minnesota Statutes 1988, section 245.73, subdivision 1, is amended to read:

Subdivision 1. **COMMISSIONER'S DUTY.** The commissioner shall establish a statewide program to assist counties in ensuring provision of services to adult mentally ill persons. The commissioner shall make grants to county boards to provide community based services to mentally ill persons through facilities programs licensed under sections ~~245.781 to 245.812~~ 245A.01 to 245A.16.

Sec. 56. Minnesota Statutes 1988, section 245.73, subdivision 2, is amended to read:

Subd. 2. **APPLICATION; CRITERIA.** County boards may submit an application and budget for use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner for residential facilities programs for adult mentally ill persons to meet licensing requirements pursuant to sections ~~245.781 to 245.812~~ 245A.01 to 245A.16. Funds shall not be used to supplant or reduce local, state, or federal expenditure levels supporting existing resources unless the reduction in available moneys is the result of a state or federal decision not to refund an existing program. State funds received by a county pursuant to this section shall be used only for direct service costs. Both direct service and other costs, including but not limited to renovation, construction or rent of buildings, purchase or lease of vehicles or equipment as required for licensure as a facility residential program for adult mentally ill persons under sections ~~245.781 to 245.812~~ 245A.01 to 245A.16, may be paid out of the matching funds required under subdivision 3. Neither the state funds nor the matching funds shall be used for room and board costs.

Sec. 57. Minnesota Statutes 1988, section 245.91, is amended by adding a subdivision to read:

Subd. 6. SERIOUS INJURY. "Serious injury" means:

(1) fractures;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) dislocations;

(3) evidence of internal injuries;

(4) head injuries with loss of consciousness;

(5) lacerations involving injuries to tendons or organs, and those for which complications are present;

(6) extensive second degree or third degree burns, and other burns for which complications are present;

(7) extensive second degree or third degree frost bite, and others for which complications are present;

(8) irreversible mobility or avulsion of teeth;

(9) injuries to the eyeball;

(10) ingestion of foreign substances and objects that are harmful;

(11) near drowning;

(12) heat exhaustion or sunstroke; and

(13) all other injuries considered serious by a physician.

Sec. 58. Minnesota Statutes 1988, section 245.94, subdivision 1, is amended to read:

Subdivision 1. **POWERS.** (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

(b) The ombudsman may mediate or advocate on behalf of a client.

(c) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds.

(d) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency, facility, or program.

(e) The ombudsman may examine, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is

New language is indicated by underline, deletions by ~~strikeout~~.

capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition.

(f) The ombudsman may subpoena a person to appear, give testimony, or produce documents or other evidence that the ombudsman considers relevant to a matter under inquiry. The ombudsman may petition the appropriate court to enforce the subpoena. A witness who is at a hearing or is part of an investigation possesses the same privileges that a witness possesses in the courts or under the law of this state. Data obtained from a person under this paragraph are private data as defined in section 13.02, subdivision 12.

~~(g)~~ (g) The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency, facility, or program.

~~(h)~~ (h) The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the consent of the affected client, other proceedings affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition.

~~(i)~~ (i) The ombudsman shall have access to data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 12 and 13, regarding services provided to clients with mental retardation or a related condition.

~~(j)~~ (j) To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility or program.

~~(k)~~ (k) Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

Sec. 59. Minnesota Statutes 1988, section 245.94, is amended by adding a subdivision to read:

Subd. 2a. MANDATORY REPORTING. Within 24 hours after a client suffers death or serious injury, the facility or program director shall notify the ombudsman of the death or serious injury.

Sec. 60. Minnesota Statutes 1988, section 245A.02, subdivision 3, is amended to read:

Subd. 3. **APPLICANT.** "Applicant" means an individual, corporation, partnership, voluntary association, controlling individual, or other organization that has applied for licensure under sections 245A.01 to 245A.16 and the rules of the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 61. Minnesota Statutes 1988, section 245A.02, is amended by adding a subdivision to read:

Subd. 5a. CONTROLLING INDIVIDUAL. "Controlling individual" means a public body, governmental agency, business entity, officer, program administrator, or director whose responsibilities include the direction of the management or policies of a program. Controlling individual also means an individual who, directly or indirectly, beneficially owns an interest in a corporation, partnership, or other business association that is a controlling individual. Controlling individual does not include:

(1) a bank, savings bank, trust company, building and loan association, savings and loan association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

(2) an individual who is a state or federal official, or state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more programs, unless the individual is also an officer or director of the program, receives remuneration from the program, or owns any of the beneficial interests not excluded in this subdivision;

(3) an individual who owns less than five percent of the outstanding common shares of a corporation:

(i) whose securities are exempt under section 80A.15, subdivision 1, clause (f); or

(ii) whose transactions are exempt under section 80A.15, subdivision 2, clause (b); or

(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer or director of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation.

Sec. 62. Minnesota Statutes 1988, section 245A.02, is amended by adding a subdivision to read:

Subd. 6a. DROP-IN CHILD CARE PROGRAM. "Drop-in child care program" means a nonresidential program of child care provided to children for a maximum per child of five hours in any one day and 40 hours in any one calendar month at a child care center that does not have a regularly scheduled, ongoing child care program with a stable enrollment, and that is licensed exclusively for that purpose.

Sec. 63. Minnesota Statutes 1988, section 245A.02, subdivision 9, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 9. **LICENSE HOLDER.** "License holder" means an individual, corporation, partnership, voluntary association, or other organization that is legally responsible for the operation of the program ~~and~~, has been granted a license by the commissioner under sections 245A.01 to 245A.16 and the rules of the commissioner, and is a controlling individual.

Sec. 64. Minnesota Statutes 1988, section 245A.02, subdivision 10, is amended to read:

Subd. 10. **NONRESIDENTIAL PROGRAM.** "Nonresidential program" means care, supervision, rehabilitation, training or habilitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, including adult day care programs; a nursing home that receives public funds to provide services for five or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a nursing home or hospital and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Nonresidential programs include home and community-based services and semi-independent living services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

Sec. 65. Minnesota Statutes 1988, section 245A.02, subdivision 14, is amended to read:

Subd. 14. **RESIDENTIAL PROGRAM.** "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for five or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an intermediate care facility for four or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Residential programs include home and community-based services and semi-independent living services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 66. Minnesota Statutes 1988, section 245A.03, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** Unless licensed by the commissioner, an individual, corporation, partnership, voluntary association or other organization, or controlling individual must not:

- (1) operate a residential or a nonresidential program;
- (2) receive a child or adult for care, supervision, or placement in foster care or adoption;
- (3) help plan the placement of a child or adult in foster care or adoption; or
- (4) advertise a residential or nonresidential program.

Sec. 67. Minnesota Statutes 1988, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **EXCLUSION FROM LICENSURE.** Sections 245A.01 to 245A.16 do not apply to:

- (1) residential or nonresidential programs that are provided to a person by an individual who is related;
- (2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;
- (3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;
- (4) sheltered workshops or work activity programs that are certified by the commissioner of jobs and training;
- (5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten special education programs that are operated by the commissioner of education or a school as defined in section 120.101, subdivision 4;
- (6) nonresidential programs for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building or present on property that is contiguous with the physical facility where the nonresidential program is provided;
- (7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;
- (8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, ~~1989~~ 1990;

New language is indicated by underline, deletions by ~~strikeout~~.

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year;

(12) programs ~~not located in family or group family day care homes whose primary purpose is to provide social or recreational activities outside of the regular school day for adults or school-age children age five and older, until such time as appropriate rules have been adopted by the commissioner such as scouting, boys clubs, girls clubs, sports, or the arts; except that a program operating in a school building is not excluded unless it is approved by the district's school board;~~

(13) head start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period; ~~or~~

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) until July 1, 1991, nonresidential programs for persons with mental illness; or

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules.

Sec. 68. Minnesota Statutes 1988, section 245A.03, subdivision 3, is amended to read:

Subd. 3. **UNLICENSED PROGRAMS.** (a) It is a misdemeanor for an individual, corporation, partnership, voluntary association, ~~or~~ other organization, or a controlling individual to provide a residential or nonresidential program without a license and in willful disregard of sections 245A.01 to 245A.16 unless the program is excluded from licensure under subdivision 2.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) If, after receiving notice that a license is required, the individual, corporation, partnership, voluntary association, ~~or~~ other organization, or controlling individual has failed to apply for a license, the commissioner may ask the appropriate county attorney or the attorney general to begin proceedings to secure a court order against the continued operation of the program. The county attorney and the attorney general have a duty to cooperate with the commissioner.

Sec. 69. Minnesota Statutes 1988, section 245A.04, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION FOR LICENSURE.** (a) An individual, corporation, partnership, voluntary association, ~~or~~ other organization or controlling individual that is subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions.

(b) An application for licensure must specify one or more controlling individuals as an agent who is responsible for dealing with the commissioner of human services on all matters provided for in this chapter and on whom service of all notices and orders must be made. The agent must be authorized to accept service on behalf of all of the controlling individuals of the program. Service on the agent is service on all of the controlling individuals of the program. It is not a defense to any action arising under this chapter that service was not made on each controlling individual of the program. The designation of one or more controlling individuals as agents under this paragraph does not affect the legal responsibility of any other controlling individual under this chapter.

Sec. 70. Minnesota Statutes 1988, section 245A.04, subdivision 3, is amended to read:

Subd. 3. **STUDY OF THE APPLICANT.** (a) Before issuing the commissioner issues a license, the commissioner shall conduct a study of the applicant individuals specified in clauses (1) to (4) according to rules of the commissioner. The applicant, license holder, the bureau of criminal apprehension, county attorneys, county sheriffs, and county agencies, and local chiefs of police, after written notice to the individual who is the subject of the data study, shall help with the study by giving the commissioner criminal conviction data, arrest information, and reports about abuse or neglect of children or adults, and investigation results available from local, state, and national criminal record repositories, including the criminal justice data communications network, about substantiated under section 626.557 and the maltreatment of minors substantiated under section 626.556. The individuals to be studied shall include:

New language is indicated by underline, deletions by ~~strikeout~~.

- (1) the applicant;
- (2) persons over the age of 13 living in the household where the licensed program will be provided;
- (3) current employees or contractors of the applicant who will have direct contact with persons served by the program; and
- (4) volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3).

~~The commissioner and agencies required to help conduct the study may charge the applicant or the subject of the data a reasonable fee for conducting the study.~~

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1) or (3) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1) or (3) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (4) shall be conducted on at least an annual basis. No applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(b) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a), clauses (1) to (4), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

(c) A study must meet the following minimum criteria:

(1) if the subject of the data has resided in the same county for at least the past five years, the study must include information from the county sheriff, the local chief of police, and the county agency

(2) if the subject of the data has resided in the state, but not in the same county, for the past five years, the study must include agency's record of substantiated abuse of adults, neglect of adults, and the maltreatment of minors, and information from the agencies listed in clause (1) and the bureau of criminal apprehension; and

New language is indicated by underline, deletions by ~~strikeout~~.

(3) if the subject of the data has not resided in the state for at least five years; the study must include information from the agencies listed in clauses (1) and (2) and the national criminal records repository and the state law enforcement agencies in the states where the subject of the data has maintained a residence during the past five years.

The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (a), clauses (1) to (4).

(e) (d) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or immediately suspend, suspend, or revoke or ~~suspend~~ a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

(d) (e) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(f) No person in paragraph (a), clause (1), (2), (3), or (4) who is disqualified as a result of this act may be retained by the agency in a position involving direct contact with persons served by the program.

(g) The commissioner shall not implement the procedures contained in this subdivision until appropriate rules have been adopted, except for the applicants and license holders for child foster care, adult foster care, and family day care homes.

(h) Termination of persons in paragraph (a), clause (1), (2), (3), or (4) made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

(i) The commissioner may establish records to fulfill the requirements of this section. The information contained in the records is only available to the commissioner for the purpose authorized in this section.

Sec. 71. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

Subd. 3a. NOTIFICATION TO SUBJECT OF STUDY RESULTS. The commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing, of the results of the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program.

New language is indicated by underline, deletions by ~~strikeout~~.

The commissioner shall notify the individual studied if the information contained in the study could cause disqualification from direct contact with persons served by the program. The commissioner shall disclose the information to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that could cause disqualification of the subject from direct contact with persons served by the program. However, the applicant or license holder shall not be told what that information is unless the data practices act provides for release of the information and the individual studied authorizes the release of the information.

Sec. 72. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

Subd. 3b. RECONSIDERATION OF DISQUALIFICATION. (a) Within 30 days after receiving notice of possible disqualification under subdivision 3a, the individual who is the subject of the study may request reconsideration of the notice of possible disqualification. The individual must submit the request for reconsideration to the commissioner in writing. The individual must present information to show that:

(1) the information the commissioner relied upon is incorrect; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner may set aside the disqualification if the commissioner finds that the information the commissioner relied upon is incorrect or the individual does not pose a risk of harm to any person served by the applicant or license holder and rules adopted by the commissioner do not preclude reconsideration. The commissioner shall review the consequences of the event or events that could lead to disqualification, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, and documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event.

(c) The commissioner shall respond in writing to all reconsideration requests within 15 working days after receiving the request for reconsideration. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing of the decision.

(d) Except as provided in subdivision 3c, the commissioner's decision to grant or deny a reconsideration of disqualification under this subdivision, or to set aside or uphold the results of the study under subdivision 3, is the final administrative agency action.

Sec. 73. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3c. CONTESTED CASE. If a disqualification is not set aside, a person who, on or after the effective date of rules adopted under subdivision 3, paragraph (i), is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14. Rules adopted under this chapter may not preclude an employee in a contested case hearing for disqualification from submitting evidence concerning information gathered under subdivision 3, paragraph (e).

Sec. 74. Minnesota Statutes 1988, section 245A.04, subdivision 5, is amended to read:

Subd. 5. COMMISSIONER'S RIGHT OF ACCESS. When the commissioner is exercising the powers conferred by sections 245A.01 to 245A.15, the commissioner must be given access to the physical plant and grounds where the program is provided, documents, persons served by the program, and staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is conducting an investigation of allegations of abuse, neglect, maltreatment, or other violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 75. Minnesota Statutes 1988, section 245A.04, subdivision 6, is amended to read:

Subd. 6. COMMISSIONER'S EVALUATION. Before granting, suspending, revoking, or making probationary a license, the commissioner shall evaluate information gathered under this section. The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, consumer evaluations of the program, and information about the character and qualifications of the personnel employed by the applicant or license holder.

The commissioner shall evaluate the results of the study required in subdivision 3 and determine whether a risk of harm to the persons served by the program exists. In conducting this evaluation, the commissioner shall apply the disqualification standards set forth in rules adopted under this chapter. If any

New language is indicated by underline, deletions by ~~strikeout~~.

rule currently does not include these disqualification standards, the commissioner shall apply the standards in section 364.03, subdivision 2 3, until the rule is revised to include disqualification standards. The commissioner shall revise all rules authorized by this chapter to include disqualification standards. Prior to the adoption of rules establishing disqualification standards, the commissioner shall forward the proposed rules to the commissioner of human rights for review and recommendation concerning the protection of individual rights. The recommendation of the commissioner of human rights is not binding on the commissioner of human services. The provisions of chapter 364 do not apply to applicants or license holders governed by sections 245A.01 to 245A.16 except as provided in this subdivision.

Sec. 76. Minnesota Statutes 1988, section 245A.04, subdivision 7, is amended to read:

Subd. 7. **ISSUANCE OF A LICENSE; PROVISIONAL LICENSE.** (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

- (1) the name of the license holder;
- (2) the address of the program;
- (3) the effective date and expiration date of the license;
- (4) the type of license;

(5) the maximum number and ages of persons that may receive services from the program; and

- (6) any special conditions of licensure.

(b) The commissioner may issue a provisional license for a period not to exceed one year if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

- (3) the applicant complies with applicable laws and rules in all other respects.

A provisional license must not be issued except at the time that a license is first issued to an applicant.

A license shall not be transferable to another individual, corporation, partnership, voluntary association ~~or~~, other organization, or controlling individual, or to another location. All licenses expire at 12:01 a.m. on the day after the

New language is indicated by underline, deletions by ~~strikeout~~.

expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

Sec. 77. Minnesota Statutes 1988, section 245A.06, subdivision 1, is amended to read:

Subdivision 1. **CONTENTS OF CORRECTION ORDERS.** (a) If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order to the applicant or license holder. The correction order must state:

- (1) the conditions that constitute a violation of the law or rule;
- (2) the specific law or rule violated; and
- (3) the time allowed to correct each violation.

(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or fine.

Sec. 78. Minnesota Statutes 1988, section 245A.06, subdivision 5, is amended to read:

Subd. 5. **FORFEITURE OF FINES.** The license holder shall pay the fines assessed ~~within 15 calendar days of receipt of notice of~~ on or before the payment date specified in the commissioner's order. If the license holder fails to fully comply with the order, the commissioner shall suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine.

Sec. 79. Minnesota Statutes 1988, section 245A.06, is amended by adding a subdivision to read:

Subd. 5a. ACCRUAL OF FINES. A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in an order to forfeit is corrected. A fine assessed for a violation shall stop accruing when the commissioner receives the written notice. The commissioner shall reinspect the program within three working days after receiving the notice. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit, accrual of the daily fine resumes on the date of reinspection and the amount of fines that otherwise would have accrued between the date the commissioner received the notice and date of the reinspection is added to the total assessment due from the license holder. The commissioner shall notify the license holder by certified mail that accrual of the

New language is indicated by underline, deletions by ~~strikeout~~.

fine has resumed. The license holder may challenge the resumption in a contested case under chapter 14 by written request within 15 days after receipt of the notice of resumption. Recovery of the resumed fine must be stayed if a controlling individual or a legal representative on behalf of the license holder makes a written request for a hearing. The request for hearing, however, may not stay accrual of the daily fine for violations that have not been corrected. The cost of reinspection conducted under this subdivision for uncorrected violations must be added to the total amount of accrued fines due from the license holder.

Sec. 80. Minnesota Statutes 1988, section 245A.07, subdivision 2, is amended to read:

Subd. 2. **IMMEDIATE SUSPENSION IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS.** If the license holder's failure to comply with applicable law or rule has placed the health, safety, or rights of persons served by the program in imminent danger, the commissioner shall act immediately to suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under sections 245A.01 to 245A.16 while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to a contested case hearing under chapter 14 must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license by notifying the commissioner in writing by certified mail within five calendar days after receiving notice that the license has been immediately suspended. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Sec. 81. Minnesota Statutes 1988, section 245A.08, subdivision 5, is amended to read:

Subd. 5. **NOTICE OF THE COMMISSIONER'S FINAL ORDER.** After considering the findings of fact, conclusions, and recommendations of the administrative law judge, the commissioner shall issue a final order. The commissioner shall consider, but shall not be bound by, the recommendations of the administrative law judge. The appellant must be notified of the commissioner's final order as required by chapter 14. The notice must also contain information about the appellant's rights under chapter 14. The institution of proceedings for judicial review of the commissioner's final order shall not stay the enforcement of the final order except as provided in section 14.65. A license holder and each controlling individual of a license holder whose license has been revoked because of noncompliance with applicable law or rule must not be granted a license for five years following the revocation.

Sec. 82. Minnesota Statutes 1988, section 245A.12, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

245A.12 VOLUNTARY RECEIVERSHIP FOR RESIDENTIAL FACILITIES PROGRAMS.

A majority of controlling persons individuals of a residential program may at any time ask the commissioner to assume operation of the residential program through appointment of a receiver. On receiving the request for a receiver, the commissioner may enter into an agreement with a majority of controlling persons individuals and provide for the appointment of a receiver to operate the residential program under conditions acceptable to both the commissioner and the majority of controlling persons. The agreement must specify the terms and conditions of the receivership and preserve the rights of the persons being served by the residential program. A receivership set up under this section terminates at the time specified by the parties to the agreement or 30 days after either of the parties gives written notice to the other party of termination of the receivership agreement.

Sec. 83. Minnesota Statutes 1988, section 245A.13, is amended to read:

245A.13 INVOLUNTARY RECEIVERSHIP FOR RESIDENTIAL FACILITIES PROGRAMS.

Subdivision 1. **APPLICATION.** In addition to any other remedy provided by law, the commissioner may petition the district court in the county where the residential program is located for an order directing the controlling persons individuals of the residential program to show cause why the commissioner or the commissioner's designated representative should not be appointed receiver to operate the residential program. The petition to the district court must contain proof by affidavit: (1) that the commissioner has either begun license suspension or revocation proceedings, suspended or revoked a license, or has decided to deny an application for licensure of the residential program; or (2) it appears to the commissioner that the health, safety, or rights of the residents may be in jeopardy because of the manner in which the residential program may close, the residential program's financial condition, or violations committed by the residential program of federal or state laws or rules. If the license holder ~~or~~ applicant, or controlling individual operates more than one residential program, the commissioner's petition must specify and be limited to the residential program for which ~~the commissioner has either begun license suspension or revocation proceedings, suspended or revoked a license, or has decided to deny an application for licensure of the residential program~~ it seeks receivership. The affidavit submitted by the commissioner must set forth alternatives to receivership that have been considered, including rate adjustments. The order to show cause is returnable not less than five days after service is completed and must provide for personal service of a copy to the residential program administrator and to the persons designated as agents by the controlling persons individuals to accept service on their behalf.

Subd. 2. **APPOINTMENT OF RECEIVER; RENTAL.** If the court finds that involuntary receivership is necessary as a means of protecting the health,

New language is indicated by underline, deletions by ~~strikeout~~.

safety, or rights of persons being served by the residential program, the court shall appoint ~~the commissioner or the commissioner's designated representative~~ as a receiver to operate the residential program. In the event that no receiver can be found who meets the conditions of this section, the commissioner or commissioner's designated representative may serve as the receiver. The court shall determine a fair monthly rental for the physical plant, taking into account all relevant factors ~~including necessary to meet required arms-length obligations of controlling individuals such as mortgage payments, real estate taxes, special assessments, and~~ the conditions of the physical plant. The rental fee must be paid by the receiver to the appropriate controlling ~~persons~~ individuals for each month that the receivership remains in effect. No payment made to a controlling ~~person~~ individual by the receiver or any state agency during a period of involuntary receivership shall include any allowance for profit or be based on any formula that includes an allowance for profit.

Subd. 3. **POWERS AND DUTIES OF THE RECEIVER.** Within ~~18~~ 36 months after the receivership order, a receiver appointed to operate a residential program during a period of involuntary receivership shall provide for the orderly transfer of the persons served by the residential program to other residential programs or make other provisions to protect their health, safety, and rights. The receiver shall correct or eliminate deficiencies in the residential program that the commissioner determines endanger the health, safety, or welfare of the persons being served by the residential program unless the correction or elimination of deficiencies involves major alteration in the structure of the physical plant. If the correction or elimination of the deficiencies requires major alterations in the structure of the physical plant, the receiver shall take actions designed to result in the immediate transfer of persons served by the residential program. During the period of the receivership, the receiver shall operate the residential program in a manner designed to guarantee preserve the health, safety, rights, adequate care, and supervision of the persons served by the residential program. The receiver may make contracts and incur lawful expenses. The receiver shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the receiver's functions including the receiver's fee set under subdivision 4. No security interest in any real or personal property comprising the residential program or contained within it, or in any fixture of the physical plant, shall be impaired or diminished in priority by the receiver. The receiver shall pay all valid obligations of the residential program and may deduct these expenses, if necessary, from rental payments owed to any controlling ~~person~~ individual by virtue of the receivership.

Subd. 4. **RECEIVER'S FEE; LIABILITY; ASSISTANCE FROM THE COMMISSIONER.** A receiver appointed under an involuntary receivership is entitled to a reasonable receiver's fee as determined by the court. The receiver's fee is governed by section 256B.495. The receiver is liable only in an official capacity for injury to person and property by reason of the conditions of the residential program. The receiver is not personally liable, except for gross negligence and intentional acts.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **TERMINATION.** An involuntary receivership terminates ~~42~~ 36 months after the date on which it was ordered or at any other time designated by the court or when any of the following events occurs:

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

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

(3) the commissioner determines that all persons residing in the residential program have been provided with alternative residential programs.

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

Subd. 7. **RATE RECOMMENDATION.** The commissioner of human services may review rates of a residential program participating in the medical assistance program which is in involuntary receivership and that has needs or deficiencies documented by the department of health or the department of human services. If the commissioner of human services determines that a review of the rate established under section 256B.501 is needed, the commissioner shall:

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

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

Subd. 8. **ADJUSTMENT TO THE RATE.** Upon review of rates under subdivision 7, the commissioner may adjust the residential program's payment rate. The commissioner shall review the circumstances, together with the residential program cost report, to determine whether or not the deficiencies or needs can be corrected or met by reallocating residential program staff, costs revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that any deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the residential program's actual resident days

New language is indicated by underline, deletions by ~~strikeout~~.

from the most recent desk-audited cost report or the estimated resident days in the projected receivership period. The payment rate adjustment must meet the conditions in Minnesota Rules, parts 9553.0010 to 9553.0080, and remains in effect during the period of the receivership or until another date set by the commissioner. Upon the subsequent sale or transfer of the residential program, the commissioner may recover amounts that were paid as payment rate adjustments under this subdivision. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. This provision does not limit the liability of the seller to the commissioner pursuant to section 256B.0641.

Sec. 84. Minnesota Statutes 1988, section 245A.14, subdivision 3, is amended to read:

Subd. 3. **CONDITIONAL LICENSE.** Until such time as the commissioner adopts appropriate rules for conditional licenses, no license holder or applicant for a family or group family day care license is required to spend more than \$100 to meet fire safety rules in excess of those required to meet Group "R" occupancies under the Uniform Building Code, chapter 12, as incorporated by reference in Minnesota Rules, part 1305.0100.

When the commissioner determines that an applicant or license holder of a family or group family day care license would be required to spend over \$100 for physical changes to ensure fire safety, the commissioner may issue a conditional license when all of the following conditions have been met:

(a) The commissioner shall notify the ~~provider~~ license holder or applicant in writing of the fire safety deficiencies.

(b) The commissioner shall notify the ~~provider~~ license holder or applicant in writing of alternative compliance standards that would correct deficiencies, if available.

(c) The ~~provider~~ license holder or applicant agrees in writing to notify each parent, on a form prescribed by the commissioner that requires the signature of the parent, of the fire safety deficiencies, and the existence of the conditional license.

Sec. 85. Minnesota Statutes 1988, section 245A.14, is amended by adding a subdivision to read:

Subd. 6. DROP-IN CHILD CARE PROGRAMS. Except as expressly set forth in this subdivision, drop-in child care programs must be licensed as a drop-in program under the rules governing child care programs operated in a center. Drop-in child care programs are exempt from the requirements in Minnesota Rules, parts 9503.0040; 9503.0045, subpart 1, items F and G; 9503.0050, subpart 6, except for children less than two and one-half years old; one-half the requirements of 9503.0060, subpart 4, item A, subitems (2), (5), and (8), subpart 5, item A, subitems (2), (3), and (7), and subpart 6, item A, subitems (3) and (6); 9507.0070; and 9503.0090, subpart 2. A drop-in child care program must be

New language is indicated by underline, deletions by ~~strikeout~~.

operated under the supervision of a person qualified as a director and a teacher. A drop-in child care program must maintain a minimum staff ratio for children age two and one-half or greater of one staff person for each ten children, except that there must be at least two persons on staff whenever the program is operating. If the program has additional staff who are on call as a mandatory condition of their employment, the minimum ratio may be exceeded only for children age two and one-half or greater, by a maximum of four children, for no more than 20 minutes while additional staff are in transit. The minimum staff-to-child ratio for infants up to 16 months of age is one staff person for every four infants. The minimum staff-to-child ratio for children age 17 months to 30 months is one staff for every seven children. In drop-in care programs that serve both infants and older children, children up to age two and one-half may be supervised by assistant teachers, as long as other staff are present in appropriate ratios. The minimum staff distribution pattern for a drop-in child care program serving children age two and one-half or greater is: the first staff member must be a teacher; the second, third, and fourth staff members must have at least the qualifications of a child care aide; the fifth staff member must have at least the qualifications of an assistant teacher; the sixth, seventh, and eighth staff members must have at least the qualifications of a child care aide; and the ninth staff person must have at least the qualifications of an assistant teacher. A drop-in child care program serving children less than two and one-half years of age must serve these children in an area separated from older children. Children age two and one-half and older may be cared for in the same child care group.

Sec. 86. Minnesota Statutes 1988, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **DELEGATION OF AUTHORITY TO AGENCIES.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, to recommend correction orders and fines under section 245A.06, or to recommend suspending, revoking, and making licenses probationary under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section.

(b) By January 1, 1991, the commissioner shall study and make recommendations to the legislature regarding the licensing and provision of support services to child foster homes. In developing the recommendations, the commissioner shall consult licensed private agencies, county agencies, and licensed foster home providers.

Sec. 87. Minnesota Statutes 1988, section 246.50, subdivision 3, is amended to read:

Subd. 3. **REGIONAL TREATMENT CENTER STATE FACILITY.** "Regional treatment center State facility" means a any state facility for treating persons with mental illness, mental retardation, or chemical dependency now existing or hereafter established, owned or operated by the state of Minnesota and under the programmatic direction or fiscal control of the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

State facility includes regional treatment centers; the state nursing homes; state-operated, community-based programs; and other facilities owned or operated by the state and under the commissioner's control.

Sec. 88. Minnesota Statutes 1988, section 246.50, subdivision 4, is amended to read:

Subd. 4. ~~PATIENT OR RESIDENT CLIENT.~~ "Patient Client" means any person with mental illness or chemical dependency, receiving services at a state facility, whether or not those services require occupancy of a bed overnight.

Sec. 89. Minnesota Statutes 1988, section 246.50, subdivision 5, is amended to read:

Subd. 5. ~~COST OF CARE.~~ "Cost of care" means the commissioner's determination of the anticipated average per capita cost of all maintenance, treatment and expense, including depreciation of buildings and equipment, interest paid on bonds issued for capital improvements to state facilities, and indirect costs related to the operation other than that paid from the Minnesota state building fund, at all of the state facilities during the current year for which billing is being made. The commissioner shall determine the anticipated average per capita cost. The commissioner may establish one all inclusive rate or separate rates for each patient or resident disability group, and may establish separate charges for each facility. "Cost of care" for outpatient or day care patients or residents shall be on a cost for service basis under a schedule the commissioner shall establish.

For purposes of this subdivision "resident patient" means a person who occupies a bed while housed in a state facility for observation, care, diagnosis, or treatment.

For purposes of this subdivision "outpatient" or "day care" patient or resident means a person who makes use of diagnostic, therapeutic, counseling, or other service in a state facility or through state personnel but does not occupy a bed overnight.

For the purposes of collecting from the federal government for the care of those patients eligible for medical care under the Social Security Act "cost of care" shall be determined as set forth in the rules and regulations of the Department of Health and Human Services or its successor agency. charge for services provided to any person admitted to a state facility.

For purposes of this subdivision, "charge for services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all inclusive charge per facility, per disability group, or per treatment program. The commissioner may determine a charge per service, using a method that includes direct and indirect costs.

New language is indicated by underline, deletions by strikeout.

Sec. 90. Minnesota Statutes 1988, section 246.51, is amended by adding a subdivision to read:

Subd. 3. APPLICABILITY. The commissioner may recover, under sections 246.50 to 246.55, the cost of any care provided in a state facility, including care provided prior to the effective date of this section regardless of the terminology used to designate the status or condition of the person receiving the care or the terminology used to identify the facility. For purposes of recovering the cost of care provided prior to the effective date of this section, the term "state facility" as used in sections 246.50 to 246.55 includes "state hospital," "regional treatment center," or "regional center"; and the term "client" includes, but is not limited to, persons designated as "mentally deficient," "inebriate," "chemically dependent," or "intoxicated."

Sec. 91. Minnesota Statutes 1988, section 246.54, is amended to read:

246.54 LIABILITY OF COUNTY; REIMBURSEMENT.

Except for chemical dependency services provided under sections 254B.01 to 254B.09, the patient's or resident's county shall pay to the state of Minnesota a portion of the cost of care provided in a regional treatment center to a patient or resident legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the ~~per capita rate cost of care~~, as determined by the commissioner, for each day, or the portion thereof, that the patient or resident spends at a regional treatment center. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the ~~per capita rate cost of care~~, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the patient or resident, the patient's or resident's estate, or from the patient's or resident's relatives, except as provided in section 246.53. No such payments shall be made for any patient or resident who was last committed prior to July 1, 1947.

Sec. 92. Minnesota Statutes 1988, section 252.27, subdivision 1, is amended to read:

Subdivision 1. Whenever any child who has mental retardation or a related condition, or a physical or emotional handicap is in 24 hour care outside the home including respite care, in a facility licensed by the commissioner of human services, the cost of care shall be paid by the county of financial responsibility determined pursuant to ~~section 256E.08, subdivision 7~~ chapter 256G. If the child's parents or guardians do not reside in this state, the cost shall be paid by the county in which the child is found the responsible governmental agency in the state from which the child came, by the parents or guardians of the child if they are financially able, or, if no other payment source is available, by the commissioner of human services.

Subd. 1a. DEFINITIONS. A person has a "related condition" if that

New language is indicated by underline, deletions by ~~strikeout~~.

person has a severe, chronic disability that is (a) attributable to cerebral palsy, epilepsy, autism, prader-willi syndrome, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (b) is likely to continue indefinitely; and (c) results in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living. For the purposes of this section, a child has an "emotional handicap" if the child has a psychiatric or other emotional disorder which substantially impairs the child's mental health and requires 24 hour treatment or supervision.

Sec. 93. Minnesota Statutes 1988, section 252.46, subdivision 1, is amended to read:

Subdivision 1. **RATES FOR CALENDAR YEARS ~~1988 AND~~ 1989 AND 1990**. Payment rates to vendors, except regional centers, for county-funded day training and habilitation services and transportation provided to persons receiving day training and habilitation services established by a county board for calendar years ~~1988 and~~ 1989 and 1990 are governed by subdivisions 2 to 10.

"Payment rate" as used in subdivisions 2 to 10 refers to three kinds of payment rates: a full-day service rate for persons who receive at least six service hours a day, including the time it takes to transport the person to and from the service site; a partial-day service rate that must not exceed 75 percent of the full-day service rate for persons who receive less than a full day of service; and a transportation rate for providing, or arranging and paying for, transportation of a person to and from the person's residence to the service site.

Sec. 94. Minnesota Statutes 1988, section 252.46, subdivision 2, is amended to read:

Subd. 2. **~~1988 AND 1989~~ AND 1990 MINIMUM**. Unless a variance is granted under subdivision 6, the minimum payment rates set by a county board for each vendor for calendar years ~~1988 and~~ 1989 and 1990 must be equal to the payment rates approved by the commissioner for that vendor in effect January 1, ~~1987~~ 1988, and January 1, ~~1988~~ 1989, respectively.

Sec. 95. Minnesota Statutes 1988, section 252.46, subdivision 3, is amended to read:

Subd. 3. **~~1988 AND 1989~~ AND 1990 MAXIMUM**. Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for calendar years ~~1988 and~~ 1989 and 1990 must be equal to the payment rates approved by the commissioner for that vendor in effect December 1, ~~1987~~ 1988, and December 1, ~~1988~~ 1989, respectively, increased by no more than the projected percentage change in the urban consumer price index, all items, published

New language is indicated by underline, deletions by ~~strikeout~~.

by the United States Department of Labor, for the upcoming calendar year over the current calendar year.

Sec. 96. Minnesota Statutes 1988, section 252.46, subdivision 4, is amended to read:

Subd. 4. **NEW VENDORS.** Payment rates established by a county for calendar years ~~1988 and 1989~~ and 1990, for a new vendor for which there were no previous rates must not exceed 125 percent of the average payment rates in the regional development commission district under sections 462.381 to 462.396 in which the new vendor is located.

Sec. 97. Minnesota Statutes 1988, section 252.46, subdivision 6, is amended to read:

Subd. 6. **VARIANCES.** A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request with the recommended payment rates. The commissioner shall develop by October 1, 1989, a uniform format for submission of documentation for the variance requests. This format shall be used by each vendor requesting a variance. The form shall be developed by the commissioner and shall be reviewed by representatives of advocacy and provider groups and counties. A variance may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, capital costs required for continued licensure, increased insurance costs, start-up and conversion costs for supported employment, direct service staff salaries and benefits, and transportation. The county board shall review all vendors' payment rates that are ten or more than ten percent lower than the statewide median payment rates. If the county determines that the payment rates do not provide sufficient revenue to the vendor for authorized service delivery the county must recommend a variance under this section. When the county board contracts for increased services from any vendor for some or all individuals receiving services from the vendor, the county board shall review the vendor's payment rates to determine whether the increase requires that a variance to the minimum rates be recommended under this section to reflect the vendor's lower per unit fixed costs. The written variance request must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates and recommended an effective date for the change in the rate.

(2) The proposed changes are required for the vendor to deliver authorized individual services in an effective and efficient manner.

(3) The proposed changes are necessary to demonstrate compliance with minimum licensing standards, or to provide community-integrated and supported employment services after a change in the vendor's existing services has been approved as provided in section 252.28.

New language is indicated by underline, deletions by ~~strikeout~~.

(4) The vendor documents that the changes cannot be achieved by reallocating current staff or by reallocating financial resources.

(5) The county board submits evidence that the need for additional staff cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(6) The county board submits a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services.

(7) The county board's recommended payment rates do not exceed 125 percent of the current calendar year's statewide median payment rates.

The commissioner shall have 60 calendar days from the date of the receipt of the complete request to accept or reject it, or the request shall be deemed to have been granted. If the commissioner rejects the request, the commissioner shall state in writing the specific objections to the request and the reasons for its rejection.

Sec. 98. Minnesota Statutes 1988, section 252.46, subdivision 12, is amended to read:

Subd. 12. **RATES ESTABLISHED AFTER ~~1989~~ 1990.** Payment rates established by a county board to be paid to a vendor on or after January 1, ~~1990~~ 1991, must be determined under permanent rules adopted by the commissioner. No county shall pay a rate that is less than the minimum rate determined by the commissioner.

In developing procedures for setting minimum payment rates and procedures for establishing payment rates, the commissioner shall consider the following factors:

- (1) a vendor's payment rate and historical cost in the previous year;
- (2) current economic trends and conditions;
- (3) costs that a vendor must incur to operate efficiently, effectively and economically and still provide training and habilitation services that comply with quality standards required by state and federal regulations;
- (4) increased liability insurance costs;
- (5) costs incurred for the development and continuation of supported employment services;
- (6) cost variations in providing services to people with different needs;
- (7) the adequacy of reimbursement rates that are more than 15 percent below the statewide average; and

New language is indicated by underline, deletions by ~~strikeout~~.

(8) other appropriate factors.

The commissioner may develop procedures to establish differing hourly rates that take into account variations in the number of clients per staff hour, to assess the need for day training and habilitation services, and to control the utilization of services.

In developing procedures for setting transportation rates, the commissioner may consider allowing the county board to set those rates or may consider developing a uniform standard.

Medical assistance rates for home and community-based services provided under section 256B.501 by licensed vendors of day training and habilitation services must not be greater than the rates for the same services established by counties under sections 252.40 to 252.47.

Sec. 99. Minnesota Statutes 1988, section 252.47, is amended to read:

252.47 RULES.

To implement sections 252.40 to 252.47, the commissioner shall adopt permanent rules under sections 14.01 to 14.38. The rules may include a plan for phasing in implementation of the procedures and rates established by the rules. The phase-in may occur prior to calendar year ~~1990~~ 1991. The commissioner shall establish an advisory task force to advise and make recommendations to the commissioner during the rulemaking process. The advisory task force must include legislators, vendors, residential service providers, counties, consumers, department personnel, and others as determined by the commissioner.

Sec. 100. Minnesota Statutes 1988, section 253B.03, subdivision 6a, is amended to read:

Subd. 6a. ADMINISTRATION OF NEUROLEPTIC MEDICATIONS.

(a) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision.

(b) A neuroleptic medication may be administered to a patient who is competent to consent to neuroleptic medications only if the patient has given written, informed consent to administration of the neuroleptic medication.

(c) A neuroleptic medication may be administered to a patient who is not competent to consent to neuroleptic medications only if a court approves the administration of the neuroleptic medication or:

(1) the patient does not object to or refuse the medication;

(2) a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

New language is indicated by underline, deletions by ~~strikeout~~.

(3) a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication.

(d) A person who consents to treatment pursuant to this subdivision is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision does not affect any other liability that may result from the manner in which the treatment is performed.

(e) The court may allow and order paid to a guardian ad litem a reasonable fee for services provided under paragraph (c), or the court may appoint a volunteer guardian ad litem.

Sec. 101. Minnesota Statutes 1988, section 254A.08, subdivision 2, is amended to read:

Subd. 2. For the purpose of this section, a detoxification program means a social rehabilitation program established for the purpose of facilitating access into care and treatment by detoxifying and evaluating the person and providing entrance into a comprehensive program. Such a Evaluation of the person shall include verification by a professional, after preliminary examination, that the person is intoxicated or has symptoms of chemical dependency and appears to be in imminent danger of harming self or others. A detoxification program shall have available the services of a licensed physician for medical emergencies and routine medical surveillance. A detoxification program licensed by the department of human services to serve both adults and minors at the same site must provide for separate sleeping areas for adults and minors.

Sec. 102. ~~[254A.145]~~ **INHALANT ABUSE DEMONSTRATION PROJECT.**

Within the limits of the available appropriation and notwithstanding the requirements of chapter 254B, the commissioner of human services shall create a demonstration project to provide intervention and to coordinate community services for inhalant abusers aged seven to 14. The project shall be established in a community that has been shown to be at great risk of such inhalant abuse and shall include assessment, education, and case management components. For individuals identified as inhalant abusers, case managers shall make referrals to services otherwise offered in the community. The case manager shall also monitor the progress of the individuals referred.

As part of this project, the commissioner of human services shall work with other agencies that provide services to youth and children, including education agencies and other drug treatment and counseling agencies, to increase public awareness concerning inhalant abuse among youth and children.

Sec. 103. Minnesota Statutes 1988, section 254B.02, subdivision 1, is amended to read:

New language is indicated by underline, deletions by strikeout.

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.

(b) The average median ~~family~~ married couple income for the previous three years for the state is divided by the average median ~~family~~ married couple 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. 104. Minnesota Statutes 1988, 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

New language is indicated by underline, deletions by ~~strikeout~~.

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 commissioner 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.

(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

Sec. 105. Minnesota Statutes 1988, section 254B.03, subdivision 4, is amended to read:

Subd. 4. **DIVISION OF COSTS.** Except for services provided by a county under section 254B.09, subdivision 1, the county shall, out of local money, pay the state for 15 percent of the cost of chemical dependency services. 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 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 county financially responsible for the persons has exhausted its allocation.

Sec. 106. Minnesota Statutes 1988, section 254B.04, is amended by adding a subdivision to read:

Subd. 3. **AMOUNT OF CONTRIBUTION.** The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons whose income is greater than the standard of assistance under sections 256B.055, 256B.056, 256B.06, and 256D.01 to 256D.21. The commissioner may adopt rules to amend existing fee scales. The commissioner may establish a separate fee scale for recipients of chemical dependency transitional and extended care 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

New language is indicated by underline, deletions by ~~strikeout~~.

sections 256B.055, 256B.056, 256B.06, and 256D.01 to 256D.21. The required amount of contribution established by the fee scale in this subdivision is also the cost of care responsibility subject to collection under section 254B.06, subdivision 1.

Sec. 107. Minnesota Statutes 1988, 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 initiate, or request the attorney general to initiate, necessary civil action to recover the unpaid cost of care. 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 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. 108. Minnesota Statutes 1988, section 254B.09, subdivision 1, is amended to read:

Subdivision 1. **AMERICAN INDIAN CHEMICAL DEPENDENCY ACCOUNT.** The commissioner shall pay eligible vendors for chemical dependency services to American Indians on the same basis as other payments, except that no local match is required when an invoice is submitted by the governing authority of a federally recognized American Indian tribal body or a county if the tribal governing body has not entered into an agreement under subdivision 2 on behalf of a current resident of the reservation under this section.

Sec. 109. Minnesota Statutes 1988, section 254B.09, subdivision 4, is amended to read:

Subd. 4. **TRIBAL ALLOCATION.** Forty-two and one-half percent of the American Indian chemical dependency account must be allocated to the federally recognized American Indian tribal governing bodies that have entered into an agreement under subdivision 2 as follows: \$10,000 must be allocated to each governing body and the remainder must be allocated in direct proportion to the population of the reservation according to the most recently available estimates from the federal Bureau of Indian Affairs. When a tribal governing body has not entered into an agreement with the commissioner under subdivision 2, the county may use funds allocated to the reservation to pay for chemical dependency services for a current resident of the county and of the reservation.

Sec. 110. Minnesota Statutes 1988, section 254B.09, subdivision 5, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

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 and to counties submitting invoices for American Indians under subdivision 1 when all money allocated under subdivision 4 has been used. An American Indian tribal governing body or a county submitting invoices under subdivision 1 may receive not more than 30 percent of the reserve account in a year. The commissioner may refuse to make reserve payments for persons not eligible under section 254B.04, subdivision 1, if the tribal governing body responsible for treatment placement has exhausted its allocation. Money must be allocated as invoices are received.

Sec. 111. Minnesota Statutes 1988, section 256.01, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC POWERS.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require local agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of local agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require local agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

New language is indicated by underline, deletions by ~~strikeout~~.

(2) Inform local agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to local agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) ~~The commissioner is~~ Act as designated as guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

New language is indicated by underline, deletions by ~~strikeout~~.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by local agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan including estimated project costs and the proposed order establishing the waiver shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties,

New language is indicated by underline, deletions by ~~strikeout~~.

and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$400,000. When the balance in the account exceeds \$400,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children pursuant to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

Sec. 112. Minnesota Statutes 1988, section 256.01, is amended by adding a subdivision to read:

Subd. 12. CHILD MORTALITY REVIEW PANEL. (a) The commissioner shall establish a child mortality review panel for reviewing deaths of children in Minnesota, including deaths attributed to maltreatment or in which maltreatment may be a contributing cause. The commissioners of health, education, and public safety and the attorney general shall each designate a representative to the child mortality review panel. Other panel members shall be appointed by the commissioner, including a board-certified pathologist and a physician who is a coroner or a medical examiner. The purpose of the panel shall be to make recommendations to the state and to local agencies for improving the child

New language is indicated by underline, deletions by ~~strikeout~~.

protection system, including modifications in statute, rule, policy, and procedure.

(b) The commissioner may require a local agency to establish a local child mortality review panel. The commissioner may establish procedures for conducting local reviews and may require that all professionals with knowledge of a child mortality case participate in the local review. In this section, "professional" means a person licensed to perform or a person performing a specific service in the child protective service system. "Professional" includes law enforcement personnel, social service agency attorneys, educators, and social service, health care, and mental health care providers.

(c) If the commissioner of human services has reason to believe that a child's death was caused by maltreatment or that maltreatment was a contributing cause, the commissioner has access to not public data under chapter 13 maintained by state agencies, statewide systems, or political subdivisions that are related to the child's death or circumstances surrounding the care of the child. The commissioner shall also have access to records of private hospitals as necessary to carry out the duties prescribed by this section. Access to data under this paragraph is limited to police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; and records created by social service agencies that provided services to the child or family within three years preceding the child's death. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner. Not public data may be shared with members of the state or local child mortality review panel in connection with an individual case.

(d) Notwithstanding the data's classification in the possession of any other agency, data acquired by a local or state child mortality review panel in the exercise of its duties is protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data is not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but shall not disclose data that was classified as confidential or private data on decedents, under section 13.10, or private, confidential, or protected nonpublic data in the disseminating agency.

(e) A person attending a child mortality review panel meeting shall not disclose what transpired at the meeting, except to carry out the purposes of the mortality review panel. The proceedings and records of the mortality review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a local agency, arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of

New language is indicated by underline, deletions by ~~strikeout~~.

the review panel. A person who presented information before the review panel or who is a member of the panel shall not be prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review meetings.

Sec. 113. Minnesota Statutes 1988, section 256.018, is amended to read:

256.018 COUNTY PUBLIC ASSISTANCE INCENTIVE FUND.

Beginning in 1990, \$1,000,000 is appropriated from the general fund to the department in each fiscal year for The commissioner shall grant incentive awards of money specifically appropriated for this purpose to counties: (1) that have not been assessed an administrative penalty under section 256.017 in the corresponding fiscal year; and (2) that perform satisfactorily according to indicators established by the commissioner.

After consultation with local agencies, the commissioner shall inform local agencies in writing of the performance indicators that govern the awarding of the incentive fund for each fiscal year by April of the preceding fiscal year.

The commissioner may set performance indicators to govern the awarding of the total fund, may allocate portions of the fund to be awarded by unique indicators, or may set a sole indicator to govern the awarding of funds.

The funds shall be awarded to qualifying local agencies according to their share of benefits for the programs related to the performance indicators governing the distribution of the fund or part of it as compared to the total benefits of all qualifying local agencies for the programs related to the performance indicators governing the distribution of the fund or part of it.

Sec. 114. Minnesota Statutes 1988, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. **CONTINUING SUPPORT CONTRIBUTIONS.** In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. ~~Except as provided in subdivision 4;~~ The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and for five months thereafter. The order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that assistance is again being provided for the child of the parent under sections 256.72 to 256.87. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 115. Minnesota Statutes 1988, section 256.974, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**256.974 OFFICE OF OMBUDSMAN FOR OLDER MINNESOTANS;
LOCAL PROGRAMS.**

The ombudsman for older Minnesotans serves in the classified service under section 256.01, subdivision 7, in an office within the Minnesota board on aging that incorporates the long-term care ombudsman program required by the Older Americans Act, Public Law Number 98-456 100-75, United States Code, title 42, section 3027(a)(12), and established within the Minnesota board on aging. The Minnesota board on aging may make grants to and designate local programs ~~or area agencies on aging~~ for the provision of ombudsman services to clients in county or multicounty areas. ~~Individuals providing local ombudsman services must be qualified to perform the duties required by section 256.9742.~~ The local program may not be an agency engaged in the provision of nursing home care, hospital care, or home care services either directly or by contract, or have the responsibility for planning, coordinating, funding, or administering nursing home care, hospital care, or home care services.

Sec. 116. Minnesota Statutes 1988, section 256.9741, subdivision 3, is amended to read:

Subd. 3. "Client" means an individual who requests, or on whose behalf a request is made for, ombudsman services and is (a) a resident of a long-term care facility or (b) ~~a patient in an acute care facility who is eligible for Medicare and beneficiary who requests assistance relating to admission or discharge from an acute care facility~~ access, discharge, or denial of inpatient or outpatient services, or (c) an individual reserving or requesting a home care service.

Sec. 117. Minnesota Statutes 1988, section 256.9741, subdivision 5, is amended to read:

Subd. 5. "Office" means the office of ombudsman established within the Minnesota board on aging or local ombudsman programs that the board on aging designates.

Sec. 118. Minnesota Statutes 1988, section 256.9741, is amended by adding a subdivision to read:

Subd. 6. "Home care service" means health, social, or supportive services provided to an individual for a fee in the individual's residence and in the community to promote, maintain, or restore health, or maximize the individual's level of independence, while minimizing the effects of disability and illness.

Sec. 119. Minnesota Statutes 1988, section 256.9742, is amended to read:

256.9742 DUTIES AND POWERS OF THE OFFICE.

Subdivision 1. **DUTIES.** The ombudsman shall:

(1) gather information and evaluate any act, practice, policy, procedure, or administrative action of a long-term care facility, acute care facility, home care

New language is indicated by underline, deletions by ~~strikeout~~.

service provider, or government agency that may adversely affect the health, safety, welfare, or rights of any client;

- (2) mediate or advocate on behalf of clients;
- (3) monitor the development and implementation of federal, state, or local laws, rules, regulations, and policies affecting the rights and benefits of clients;
- (4) comment on and recommend to the legislature and public and private agencies regarding laws, rules, regulations, and policies affecting clients;
- (5) inform public agencies about the problems of clients;
- (6) provide for training of volunteers and promote the development of citizen participation in the work of the office;
- (7) conduct public forums to obtain information about and publicize issues affecting clients;
- (8) provide public education regarding the health, safety, welfare, and rights of clients; and
- (9) collect and analyze data relating to complaints ~~and~~ conditions in ~~long-term care facilities~~, and services.

Subd. 1a. DESIGNATION; LOCAL OMBUDSMAN REPRESENTATIVES. (a) In designating an individual to perform duties under this section, the ombudsman must determine that the individual is qualified to perform the duties required by this section.

(b) An individual designated under this section must successfully complete an orientation training conducted under the direction of the ombudsman or approved by the ombudsman. Orientation training shall be at least 20 hours and will consist of training in: investigation, dispute resolution, health care regulation, confidentiality, resident and patients' rights, and health care reimbursement.

(c) The ombudsman shall develop and implement a continuing education program for individuals designated under this section. The continuing education program shall be at least 60 hours annually.

(d) The ombudsman may withdraw an individual's designation if the individual fails to perform duties of this section or meet continuing education requirements. The individual may request a reconsideration of such action by the board on aging whose decision shall be final.

Subd. 2. IMMUNITY FROM LIABILITY. ~~A person designated as an~~ The ombudsman or designee under this section is immune from civil liability that otherwise might result from the person's actions or omissions if the person's actions are in good faith, are within the scope of the person's responsibilities as an ombudsman, and do not constitute willful or reckless misconduct.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **POSTING.** Every long-term care facility and acute care facility shall post in a conspicuous place the address and telephone number of the office. A home care service provider shall provide all recipients with the address and telephone number of the office. The posting or notice is subject to approval by the ombudsman.

Subd. 4. **ACCESS TO LONG-TERM CARE AND ACUTE CARE FACILITIES AND CLIENTS.** The ombudsman or designee may:

- (1) enter any long-term care facility without notice at any time;
- (2) enter any acute care facility without notice during normal business hours;

(3) enter any acute care facility without notice at any time to interview a patient or observe services being provided to the patient as part of an investigation of a matter that is within the scope of the ombudsman's authority, but only if the ombudsman's or designee's presence does not intrude upon the privacy of another patient or interfere with routine hospital services provided to any patient in the facility;

(4) communicate privately and without restriction with any client in accordance with section 144.651; ~~and~~

(4) (5) inspect records of a long-term care facility, home care service provider, or acute care facility that pertain to the care of the client according to sections 144.335 and 144.651; and

(6) with the consent of a client or client's legal guardian, have access to review records pertaining to the care of the client according to sections 144.335 and 144.651. If a client cannot consent and has no legal guardian, access to the records is authorized by this section.

A person who denies access to the ombudsman or designee in violation of this subdivision or aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

Subd. 5. **ACCESS TO STATE RECORDS.** The ombudsman or designee has access to data of a state agency necessary for the discharge of the ombudsman's duties, including records classified confidential or private under chapter 13, or any other law. The data requested must be related to a specific case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the ombudsman or designee shall first obtain the individual's consent. If the individual cannot consent and has no legal guardian, then access to the data is authorized by this section.

Each state agency responsible for licensing, regulating, and enforcing state and federal laws and regulations concerning long-term care, home care service providers, and acute care facilities shall forward to the ombudsman on a quarterly basis, copies of all correction orders, penalty assessments, and complaint investigation reports, for all long-term care facilities ~~and,~~ acute care facilities, and home care service providers.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. PROHIBITION AGAINST DISCRIMINATION OR RETALIATION. (a) No entity shall take discriminatory, disciplinary, or retaliatory action against an employee or volunteer, or a patient, resident, or guardian or family member of a patient, resident, or guardian for filing in good faith a complaint with or providing information to the ombudsman or designee. A person who violates this subdivision or who aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

(b) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of report, is discriminatory, disciplinary, or retaliatory. For the purpose of this clause, the term "adverse action" refers to action taken by the entity involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:

- (1) discharge or transfer from a facility;
- (2) termination of service;
- (3) restriction or prohibition of access to the facility or its residents;
- (4) discharge from or termination of employment;
- (5) demotion or reduction in remuneration for services; and
- (6) any restriction of rights set forth in section 144.651 or 144A.44.

Sec. 120. Minnesota Statutes 1988, section 256.9744, subdivision 1, is amended to read:

Subdivision 1. **CLASSIFICATION.** Except as provided in this section, data maintained by the office under sections 256.974 to 256.9744 are private data on individuals or nonpublic data as defined in section 13.02, subdivision 9 or 12, and must be maintained in accordance with the requirements of Public Law Number 98-459 100-75, United States Code, title 42, section 3027(a)(12)(D).

Sec. 121. Minnesota Statutes 1988, section 256.975, subdivision 2, is amended to read:

Subd. 2. **DUTIES.** The board shall carry out the following duties:

(a) to advise the governor and heads of state departments and agencies regarding policy, programs, and services affecting the aging;

(b) to provide a mechanism for coordinating plans and activities of state departments and citizens' groups as they pertain to aging;

(c) to create public awareness of the special needs and potentialities of older persons;

(d) to gather and disseminate information about research and action pro-

New language is indicated by underline, deletions by ~~strikeout~~.

grams, and to encourage state departments and other agencies to conduct needed research in the field of aging;

(e) to stimulate, guide, and provide technical assistance in the organization of local councils on aging;

(f) to provide continuous review of ongoing services, programs and proposed legislation affecting the elderly in Minnesota; ~~and~~

(g) to administer and to make policy relating to all aspects of the older americans act of 1965, as amended, including implementation thereof; ~~and~~

(h) to award grants, enter into contracts, and adopt rules the Minnesota board on aging deems necessary to carry out the purposes of this section.

Sec. 122. Minnesota Statutes 1988, section 256C.28, subdivision 3, is amended to read:

Subd. 3. **DUTIES.** The council shall:

(1) advise the commissioner, the governor, and the legislature on the nature of the issues and disabilities confronting hearing impaired persons in Minnesota;

(2) advise the commissioner ~~and~~, the governor, and the legislature on the development of policies, programs, and services affecting ~~the~~ hearing impaired persons, and on the use of appropriate federal and state money;

~~(2)~~ (3) create a public awareness of the special needs and potential of hearing impaired persons; ~~and~~

~~(3)~~ (4) provide the commissioner ~~and~~, the governor, and the legislature with a review of ongoing services, programs, and proposed legislation affecting ~~the~~ hearing impaired persons;

(5) advise the commissioner, the governor, and the legislature on statutes or rules necessary to ensure that hearing impaired persons have access to benefits and services provided to individuals in Minnesota;

(6) recommend to the commissioner, the governor, and the legislature legislation designed to improve the economic and social conditions of hearing impaired persons in Minnesota;

(7) propose solutions to problems of hearing impaired persons in the areas of education, employment, human rights, human services, health, housing, and other related programs;

(8) recommend to the governor and the legislature any needed revisions in the state's affirmative action program and any other steps necessary to eliminate the underemployment or unemployment of hearing impaired persons in the state's work force;

New language is indicated by underline, deletions by ~~strikeout~~.

(9) work with other state and federal agencies and organizations to promote economic development for hearing impaired Minnesotans; and

(10) coordinate its efforts with other state and local agencies serving hearing impaired persons.

Sec. 123. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

Subd. 4. STAFF. The council may appoint, subject to the approval of the governor, an executive director who must be experienced in administrative activities and familiar with the problems and needs of hearing impaired persons. The council may delegate to the executive director any powers and duties under this section that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by a majority vote of the council. The executive director shall coordinate the provision of necessary support services to the council with the state department of human services.

Sec. 124. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

Subd. 5. POWERS. The council may contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.

Sec. 125. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

Subd. 6. REPORT. The council shall prepare and distribute a report to the commissioner, the governor, and the legislature by December 31 of each even-numbered year. The report must summarize the activities of the council since its prior report, list receipts and expenditures, identify the major problems and issues confronting hearing impaired persons, make recommendations regarding needed policy and program development on behalf of hearing impaired individuals in Minnesota, and list the specific objectives the council seeks to attain during the next biennium.

Sec. 126. Minnesota Statutes 1988, section 256E.03, subdivision 2, is amended to read:

Subd. 2. (a) "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1 to the following groups of persons:

(a) (1) families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18, and their children;

New language is indicated by underline, deletions by ~~strikeout~~.

(b) (2) persons who are under the guardianship of the commissioner of human services as dependent and neglected wards;

(c) (3) adults who are in need of protection and vulnerable as defined in section 626.557;

(d) (4) persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

(e) (5) emotionally disturbed children and adolescents, chronically and acutely mentally ill persons who are unable to provide for their own needs or to independently engage in ordinary community activities;

(f) (6) persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1, who are unable to provide for their own needs or to independently engage in ordinary community activities;

(g) (7) drug dependent and intoxicated persons as defined in section 254A.02, subdivisions 5 and 7, and persons at risk of harm to self or others due to the ingestion of alcohol or other drugs;

(h) (8) parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment; and

(i) (9) other groups of persons who, in the judgment of the county board, are in need of social services.

(b) Except as provided in section 256E.08, subdivision 5, community social services do not include public assistance programs known as aid to families with dependent children, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

Sec. 127. Minnesota Statutes 1988, section 256E.05, subdivision 3, is amended to read:

Subd. 3. **ADDITIONAL DUTIES.** The commissioner shall also:

(a) Provide necessary forms and instructions to the counties for plan format and information;

(b) ~~Identify and then amend or repeal the portions of all applicable department rules which mandate counties to provide specific community social services or programs, unless state or federal law requires the commissioner to mandate a service or program. The commissioner shall be exempt from the rulemaking provisions of chapter 14 in amending or repealing rules pursuant to this clause. However, when the commissioner proposes to amend or repeal any rule under the authority granted by this clause, notice shall be provided by publication in~~

New language is indicated by underline, deletions by ~~strikeout~~.

the State Register. When the commissioner proposes to amend a rule, the notice shall include that portion of the existing rule necessary to provide adequate notice of the nature of the proposed change. On proposing to repeal an entire rule, the commissioner need only publish that fact, giving the exact citation to the rule to be repealed. In all cases, the notice shall contain a statement indicating that interested persons may submit comment on the proposed repeal or amendment for a period of 30 days after publication of the notice. The commissioner shall take no final action until after the close of the comment period. The commissioner's actions shall not be effective until five days after the commissioner publishes notice of adoption in the State Register. If the final action is the same as the action originally proposed, publication may be made by notice in the State Register that the amendment and repeals have been adopted as proposed, and by citing the prior publication. If the final action differs from the action as previously proposed in the State Register, the text which differs from the original proposal shall be included in the notice of adoption together with a citation to the prior State Register publication. The commissioner shall provide to all county boards separate notice of all final actions which become effective under this clause, advising the boards with respect to services or programs which have now become optional, to be provided at county discretion; To the extent possible, coordinate other categorical social service grant applications and plans required of counties so that the applications and plans are included in and are consistent with the timetable and other requirements for the community social services plan in subdivision 2 and section 256E.09;

(c) Provide to the chair of each county board, in addition to notice required pursuant to sections 14.05 to 14.36, timely advance notice and a written summary of the fiscal impact of any proposed new rule or changes in existing rule which will have the effect of increasing county costs for community social services;

(d) Provide training, technical assistance, and other support services to county boards to assist in needs assessment, planning, implementing, and monitoring social services programs in the counties;

(e) Design and implement a method of monitoring and evaluating social services, including site visits that utilize quality control audits to assure county compliance with applicable standards, guidelines, and the county and state social services plans; and

(f) ~~Annually publish a report on community social services which shall reflect the contents of the individual county reports. The report shall be submitted to the governor and the legislature with an evaluation of community social services and recommendations for changes needed to fully implement state social service policies; and~~

(g) Request waivers from federal programs as necessary to implement sections 256E.01 to 256E.12.

Sec. 128. Minnesota Statutes 1988, section 256E.08, subdivision 5, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **COMMUNITY SOCIAL SERVICES FUND.** In the accounts and records of each county there shall be created a community social services fund. All moneys provided for community social services programs under sections 256E.06 and 256E.07 and all other revenues; fees; grants-in-aid, including those from public assistance programs identified in section 256E.03, subdivision 2, paragraph (b), that pay for services such as child care, waived services under the medical assistance programs, alternative care grants, and other services funded by these programs through federal or state waivers; gifts; or bequests designated for community social services purposes shall be identified in the record of the fund and in the report required in subdivision 8. This fund shall be used exclusively for planning and delivery of community social services as defined in section 256E.03, subdivision 2. If county boards have joined for purposes of administering community social services, the county boards may create a joint community social services fund. If a human service board has been established, the human service board shall account for community social services money as required in chapter 402.

Sec. 129. Minnesota Statutes 1988, section 256E.09, subdivision 1, is amended to read:

Subdivision 1. **PLAN PROPOSAL.** ~~In 1988, the county board shall publish a one-year update to its 1987-1988 biennial plan for calendar year 1989, and make it available upon request to all residents of the county.~~ Beginning in 1989, and every two years after that, the county board shall publish and make available upon request to all county residents a proposed biennial community social services plan for the next two calendar years.

Sec. 130. Minnesota Statutes 1988, section 256E.09, subdivision 3, is amended to read:

Subd. 3. **PLAN CONTENT.** The biennial community social services plan published by the county shall include:

(a) A statement of the goals of community social service programs in the county;

(b) Methods used pursuant to subdivision 2 to encourage participation of citizens and providers in the development of the plan and the allocation of money;

(c) Methods used to identify persons in need of service and the social problems to be addressed by the community social service programs, including efforts the county proposes to make in providing for early intervention, prevention and education aimed at minimizing or eliminating the need for services for groups of persons identified in section 256E.03, subdivision 2;

(d) A statement describing how the county will fulfill its responsibilities identified in section 256E.08, subdivision 1, to the groups of persons described in section 256E.03, subdivision 2, and a description of each community social

New language is indicated by underline, deletions by ~~strikeout~~.

service proposed and identification of the agency or person proposed to provide the service;

(e) A statement describing how the county proposes to make the following services available for persons identified by the county as in need of services: daytime developmental achievement services for children; day training and habilitation services for adults; extended employment program services for persons with disabilities; supported employment services as defined in section 252.41, subdivision 8; community-based employment programs as defined in section 129A.01, subdivision 12; subacute detoxification services; and residential services and nonresidential social support services as appropriate for the groups identified in section 256E.03, subdivision 2;

(f) A statement specifying how the county will collaboratively plan the development of supported employment services and community-based employment services with local representatives of public rehabilitation agencies and local education agencies, including, if necessary, how existing day or employment services could be modified to provide supported employment services and community-based employment services;

(g) A statement describing how the county is fulfilling its responsibility to establish a comprehensive and coordinated system of early intervention services as required under section 120.17, subdivisions 11a, 12, and 14;

(g) (h) The amount of money proposed to be allocated to each service;

(h) (i) An inventory of public and private resources including associations of volunteers which are available to the county for social services;

(i) (j) Evidence that serious consideration was given to the purchase of services from private and public agencies; and

(j) (k) Methods whereby community social service programs will be monitored and evaluated by the county.

Sec. 131. [256E.115] SAFE HOUSES.

The commissioner shall have authority to make grants for pilot programs when the legislature authorizes money to encourage innovation in the development of safe house programs to respond to the needs of homeless youth.

Sec. 132. Minnesota Statutes 1988, section 256F.05, subdivision 2, is amended to read:

Subd. 2. **ADDITIONAL MONEY AVAILABLE.** ~~Additional~~ Money appropriated for ~~family-based services~~ permanency planning grants to counties, together with an amount as determined by the commissioner of title IV-B funds distributed to Minnesota according to the Social Security Act, United States Code, title 42, section 621, must be distributed to counties according to the formula in subdivision 3.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 133. Minnesota Statutes 1988, section 256F.05, subdivision 4, is amended to read:

Subd. 4. **PAYMENTS.** The commissioner shall make grant payments to each county whose biennial community social services plan includes a permanency plan under section 256F.04, subdivision 2. The payment must be made in four installments per year. The commissioner may certify the payments for the first three months of a calendar year. Subsequent payments must be made on April + 30, July + 30, and October + 30, of each calendar year. When an amount of title IV-B funds as determined by the commissioner is made available, it shall be reimbursed to counties on October 30.

Sec. 134. **[256F.08] GRANTS FOR PLACEMENT PREVENTION AND FAMILY REUNIFICATION; AMERICAN INDIAN AND MINORITY CHILDREN.**

Subdivision 1. GRANT PROGRAM. Within the limits of funds appropriated for this purpose, the commissioner shall establish a specialized grants program for placement prevention and family reunification for American Indian and minority children.

Subd. 2. REQUEST FOR PROPOSALS. The commissioner shall request proposals for the development and provision of services listed in 256F.07, subdivisions 3 and 3a.

Subd. 3. GRANT APPLICATIONS. Local social services agencies may apply for American Indian and minority children placement prevention and family reunification grants. Application may be made alone or in combination with neighboring local social services agencies.

Subd. 4. FORMS AND INSTRUCTIONS. The commissioner shall provide necessary forms and instructions to the counties to apply for an American Indian and minority child placement prevention and family reunification grant.

Subd. 5. MONITORING. The commissioner shall design and implement methods for monitoring, delivering, and evaluating the effectiveness of placement prevention and family reunification services for American Indian and minority children.

Sec. 135. Minnesota Statutes 1988, section 256H.01, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** For the purposes of sections 256H.01 to ~~265H.19~~ 256H.19, the following terms have the meanings given.

Sec. 136. Minnesota Statutes 1988, section 256H.01, subdivision 2, is amended to read:

Subd. 2. **CHILD CARE SERVICES.** "Child care services" means child care provided in family day care homes, group day care homes, nursery schools,

New language is indicated by underline, deletions by ~~strikeout~~.

day nurseries, child day care centers, ~~play groups,~~ head start, and ~~parent cooperatives,~~ and extended day school age child care programs ~~or~~ in or out of the child's home.

Sec. 137. Minnesota Statutes 1988, section 256H.01, subdivision 7, is amended to read:

Subd. 7. **EDUCATION PROGRAM.** "Education program" means remedial or basic education or English as a second language instruction, ~~high school education,~~ a program leading to a general equivalency or high school diploma, and ~~post-secondary education excluding post-baccalaureate programs and other education and training needs as documented in an employability plan that is developed by an employment and training service provider certified by the commissioner of jobs and training or an individual designated by the county to provide employment and training services.~~ The employability plan must outline education and training needs of a recipient, meet state requirements for employability plans, and meet the requirements of other programs that provide federal reimbursement for child care services. The county must incorporate into a recipient's employability plan an educational plan developed by a post-secondary institution for a nonpriority AFDC recipient who is enrolled or planning to enroll at that institution.

Sec. 138. Minnesota Statutes 1988, section 256H.01, subdivision 8, is amended to read:

Subd. 8. **EMPLOYMENT PROGRAM.** "Employment program" means employment of recipients financially eligible for the child care ~~sliding fee program,~~ ~~vocational assessment,~~ and ~~job readiness and job search activities:~~ assistance, preemployment activities, or other activities approved in an employability plan that is developed by an employment and training service provider certified by the commissioner of jobs and training or an individual designated by the county to provide employment and training services. The plans must meet the requirements of other programs that provide federal reimbursement for child care services.

Sec. 139. Minnesota Statutes 1988, section 256H.01, subdivision 11, is amended to read:

Subd. 11. **INCOME.** "Income" means earned or unearned income received by all family members 16 years or older, including public assistance benefits, unless specifically excluded. The following are excluded from income: scholarships, work study income, and grants that cover costs for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; earned income tax credits; in-kind income such as food stamps, energy assistance, medical assistance, and housing subsidies; income from summer or part-time employment of 16-, 17-, and 18-year-old full-time secondary school students; grant awards under the family subsidy program; and nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 140. Minnesota Statutes 1988, section 256H.01, subdivision 12, is amended to read:

Subd. 12. **PROVIDER.** "Provider" means ~~the~~ a child care license holder or the legal nonlicensed caregiver who operates a family day care home, a group family day care home, a day care center, a nursery school, ~~or~~ a day nursery, an extended day school age child care program; a person exempt from licensure who meets child care standards established by the state board of education; or who functions in the child's home a legal nonlicensed caregiver who is at least 18 years of age.

Sec. 141. Minnesota Statutes 1988, section 256H.02, is amended to read:

256H.02 DUTIES OF COMMISSIONER.

The commissioner shall develop standards for county and human services boards; ~~and post-secondary educational systems~~; to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The commissioner shall maximize the use of federal money under the AFDC employment special needs program in section 256.736, subdivision 8, and other programs that provide federal reimbursement for child care services for recipients of aid to families with dependent children who are in education, training, job search, or other activities allowed under ~~that program~~ those programs. Money appropriated under this section must be coordinated with the AFDC employment special needs program and other programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under the AFDC employment special needs program or other programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand services to AFDC recipients ~~under this section.~~

Sec. 142. Minnesota Statutes 1988, section 256H.03, is amended to read:

256H.03 ALLOCATION OF FUNDS BASIC SLIDING FEE PROGRAM.

Subdivision 1. **COUNTIES; NOTICE OF ALLOCATION; REPORT.** ~~By June 1 of each odd-numbered year, the commissioner shall notify all county and human services boards and post-secondary educational systems of their allocation. If the appropriation is insufficient to meet the needs in all counties, the amount must be prorated among the counties. When the commissioner notifies county and human service boards of the forms and instructions they are to follow in the development of their biennial community social services plans required under section 256E.08, the commissioner shall also notify county and human services boards of their estimated child care fund program allocation for the two years covered by the plan. By June 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 1a. WAITING LIST. Each county that receives funds under this section and section 256H.05 must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy or have requested child care assistance. Counties shall perform a cursory determination of eligibility when a family requests information about child care assistance. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. The waiting list must identify students in need of child care. When money is available counties shall expedite the processing of student applications during key enrollment periods.

Subd. 2. ALLOCATION; LIMITATIONS. ~~Except for set-aside money allocated under sections 256H.04, 256H.05, 256H.06, and 256H.07, the commissioner shall allocate money appropriated~~ The commissioner shall allocate 66 percent of the money appropriated under the child care fund for the basic sliding fee program and shall allocate those funds between the metropolitan area, comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and the area outside the metropolitan area ~~so that no more than 55 percent of the total appropriation goes to either area after excluding allocations for statewide administrative costs. The commissioner shall allocate 50 percent of the money among counties on the basis of the number of families below the poverty level, as determined from the most recent special census, and 50 percent on the basis of caseloads of aid to families with dependent children for the preceding fiscal year, as determined by the commissioner of human services; as follows:~~

(1) 50 percent of the money shall be allocated among the counties on the basis of the number of families below the poverty level, as determined from the most recent census or special census; and

(2) 50 percent of the money shall be allocated among the counties on the basis of the counties' portion of the AFDC caseload for the preceding state fiscal year.

If under the preceding formula, either the seven-county metropolitan area consisting of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties or the area consisting of counties outside the seven-county metropolitan area is allocated more than 55 percent of the basic sliding fee funds, each county's allocation in that area shall be proportionally reduced until the total for the area is no more than 55 percent of the basic sliding fee funds. The amount of the allocations proportionally reduced shall be used to proportionally increase each county's allocation in the other area.

Subd. 2a. ELIGIBLE RECIPIENTS. Families that meet the eligibility requirements under sections 256H.10 and 256H.11 are eligible for child care assistance under the basic sliding fee program. Counties shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses on a reimbursement basis.

Subd. 2b. FUNDING PRIORITY. (a) First priority for child care assist-

New language is indicated by underline, deletions by ~~strikeout~~.

ance under the basic sliding fee program must be given to eligible recipients who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment. Priority for child care assistance under the basic sliding fee program must be given to non-AFDC families for this first priority unless a county can demonstrate that funds available in the AFDC child care program allocation are inadequate to serve all AFDC families needing child care services. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to all other parents who are eligible for the basic sliding fee program.

Subd. 3. **REVIEW OF USE OF FUNDS; REALLOCATION.** ~~One~~ After each quarter, the commissioner shall review the use of ~~child care fund~~ basic sliding fee program and AFDC child care program allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full ~~portion~~ allocation. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

Sec. 143. Minnesota Statutes 1988, section 256H.05, is amended to read:

256H.05 SET-ASIDE MONEY FOR AFDC PRIORITY GROUPS AFDC CHILD CARE PROGRAM.

Subdivision 1. **ALLOCATIONS; USE NOTICE OF ALLOCATION.** Set-aside money for AFDC priority groups must be allocated among the counties based on the average monthly number of caretakers receiving AFDC under the age of 21 and the average monthly number of AFDC cases open 24 or more consecutive months. By June 1 of each year, the commissioner shall notify all county and human services boards of their allocation under the AFDC child care fund program.

Subd. 1a. COUNTY ALLOCATION; LIMITATIONS. The commissioner shall allocate 34 percent of the money appropriated under the child care fund for the AFDC child care program and shall allocate those funds among the counties as follows:

- (1) 50 percent of the funds shall be allocated to the counties based on the average number of AFDC caretakers less than 21 years of age and the average number of AFDC cases which were open 24 or more consecutive months during the preceding fiscal year; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) 50 percent of the funds shall be allocated to the counties based on the average number of AFDC recipients for the preceding state fiscal year. For each fiscal year the average monthly caseload AFDC caseloads shall be based on counts taken at three-month intervals during the 12-month period ending March 31 December 31 of the previous state fiscal year. The commissioner may reallocate quarterly unexpended or unenumerated set-aside money to counties that expend their full allocation. The county shall use the set-aside money for AFDC priority groups and for former AFDC recipients who (1) have had their child care subsidized under the set-aside for AFDC priority groups; (2) continue to require a child care subsidy in order to remain employed; and (3) are on a waiting list for the basic sliding fee program.

Subd. 1b. ELIGIBLE RECIPIENTS. Families eligible for child care assistance under the AFDC child care program are families receiving AFDC and former AFDC recipients who, during their first year of employment, continue to require a child care subsidy in order to retain employment. The commissioner shall designate between 20 to 60 percent of the AFDC child care program as the minimum to be reserved for AFDC recipients in an educational program. If a family meets the eligibility requirements of the AFDC child care program and the caregiver has an approved employability plan that meets the requirements of appropriate federal reimbursement programs, that family is eligible for child care assistance.

Subd. 1c. FUNDING PRIORITY. Priority for child care assistance under the AFDC child care program shall be given to AFDC priority groups who are engaged in an employment or education program consistent with their employability plan. If the AFDC recipient is employed, the AFDC child care disregard shall be applied before the remaining child care costs are subsidized by the AFDC child care program. AFDC recipients leaving AFDC due to their earned income, who have been on AFDC three out of the last six months and who apply for child care assistance under subdivision 1b within the first year after leaving AFDC, shall be entitled to one year of child care subsidies during the first year of employment. AFDC recipients must be put on a waiting list for the basic sliding fee program when they leave AFDC due to their earned income.

Subd. 2. COOPERATION WITH OTHER PROGRAMS. The county shall develop cooperative agreements with the employment and training service provider for coordination of child care funding with employment, training, and education programs for aid to families with dependent children priority groups all AFDC recipients. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan from the employment and training service provider shall, as resources permit, be guaranteed ~~set-aside money~~ for child care assistance from the county of their residence.

Subd. 3. CONTRACTS; OTHER USES ALLOWED. Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3a. AFDC CHILD CARE PROGRAM REALLOCATION. The commissioner shall review the use of child care funds allocated under this section after every quarter. Priority for use of this money shall continue to be given to the AFDC priority groups.

The commissioner may reallocate to other counties AFDC child care program funds which a county has failed to encumber or expend according to the following procedure:

(a) Unexpended or unencumbered funds reserved for recipients in educational programs may be reallocated to counties that have expended their funds for recipients in educational programs.

(b) If any funds reserved for recipients in educational programs remain after this reallocation, or any funds remain unencumbered or unexpended from the entire AFDC child care program, the funds may be reallocated to counties that have expended their full allocation for the AFDC child care program.

(c) If any AFDC child care program funds remain after this reallocation, they may be reallocated to counties who have expended their full allocation for the basic sliding fee program.

Subd. 4. USE OF FUNDS FOR OTHER APPLICANTS. If the commissioner finds, on or after January 1 of a fiscal year, that set-aside money for AFDC priority groups is not being fully utilized, the commissioner may permit counties to use set-aside money for other eligible applicants, as long as priority for use of the money will continue to be given to the AFDC priority groups.

Subd. 5. FEDERAL REIMBURSEMENT. A county may claim Counties shall maximize their federal reimbursement under the AFDC special needs program or other federal reimbursement programs for money spent for persons listed in this section 256H.04, subdivision 1, clause (1) and section 256H.03. The commissioner shall allocate any federal earnings to the county. The county shall use the money to be used to expand child care sliding fee services under this subdivision these sections.

Sec. 144. Minnesota Statutes 1988, section 256H.07, subdivision 1, is amended to read:

Subdivision 1. ALLOCATION; USE. Each post-secondary educational system shall be allocated a portion of the set-aside money for persons listed in section 256H.04, subdivision 1, clause (3), based on the number of students with dependent children enrolled in each system in the preceding fiscal year. The post-secondary educational systems shall allocate their money among institutions under their authority based on the number of students with dependent children enrolled in each institution in the last fiscal year. For the purposes of this subdivision, "students with dependent children" means the sum of all Minnesota residents enrolled in public post-secondary institutions who report dependents on their applications to the state scholarship and grant program. The

New language is indicated by underline, deletions by ~~strikeout~~.

commissioner shall transfer the allocation for each post-secondary institution to the county board of the county in which the institution is located, to be held in an account for students found eligible for child care sliding fee assistance and attending the institution. The higher education coordinating board will administer the non-AFDC post-secondary child care program utilizing the sliding fee scale developed by the department of human services. The board will determine eligibility for the child care subsidy based on family income and family size. For purposes of this determination, "income" means the income amount used to calculate eligibility for state scholarships and grants under section 136A.121. "Family size" means the family size used to calculate eligibility for state scholarships and grants under section 136A.121.

Students receiving subsidies shall:

- (1) choose providers utilizing a licensed or legal unlicensed provider that meets the needs of their family;
- (2) continue to receive a subsidy as long as they are eligible, to the limit of the allocation; and
- (3) receive a subsidy to cover all eligible hours of education and employment.

The higher education coordinating board shall consult with the commissioner to ensure a program comparable to the child care subsidy program administered by the commissioner.

Sec. 145. Minnesota Statutes 1988, section 256H.08, is amended to read:

256H.08 USE OF MONEY.

Money for persons listed in section 256H.04, subdivision 1, clauses (2) and (3) sections 256H.03, subdivision 2a, and 256H.05, subdivision 1b, shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. The county may plan for and provide child care assistance to persons listed in section 256H.04, subdivision 1, clauses (2) and (3), from the regular sliding fee fund to supplement the set-aside funds. Counties may not limit the duration of child care subsidies for a person in an employment or educational program, except when the person is found to be ineligible under the child care fund eligibility standards. Any limitation must be based on a person's employability plan in the case of an AFDC recipient, and county policies included in the child care allocation plan. Financially eligible students who have received child care assistance for one academic year shall be provided child care assistance in the following academic year if funds allocated under section 256H.06 or 256H.07 are available sections 256H.03 and 256H.05. If a student who is receiving AFDC child care assistance under this chapter moves to another county as

New language is indicated by underline, deletions by ~~strikeout~~.

specified in their employability plan, continues to be enrolled in a post-secondary institution, and continues to be eligible for AFDC child care assistance under this chapter, the student must receive continued child care assistance from their county of origin without interruption to the limit of the county's allocation.

Sec. 146. Minnesota Statutes 1988, section 256H.09, is amended to read:

256H.09 REPORTING AND PAYMENTS.

Subdivision 1. **QUARTERLY REPORTS.** Counties and post-secondary educational systems shall submit on forms prescribed by the commissioner a quarterly financial and program activity report which is due 20 calendar days after the end of each quarter. The failure to submit a complete report by the end of the quarter in which the report is due may result in a reduction of child care fund allocations equal to the next quarter's allocation. The financial and program activity report must include:

(1) a detailed accounting of the expenditures and revenues for the program during the preceding quarter by funding source and by eligibility group;

(2) a description of activities and concomitant expenditures that are federally reimbursable under the AFDC employment special needs program and other federal reimbursement programs;

(3) a description of activities and concomitant expenditures of set-aside child care money;

(4) information on money encumbered at the quarter's end but not yet reimbursable, for use in adjusting allocations as provided in ~~section sections~~ 256H.03, subdivision 3, and 256H.05, subdivision 4 1a; 256H.06, subdivision 3; and 256H.07, subdivision 3; and

(5) other data the commissioner considers necessary to account for the program or to evaluate its effectiveness in preventing and reducing participants' dependence on public assistance and in providing other benefits, including improvement in the care provided to children.

Subd. 2. **QUARTERLY PAYMENTS.** ~~The commissioner shall make payments to each county in quarterly installments. The commissioner may certify an advance for the first quarter of the fiscal year. Later payments must be based on actual expenditures as reported in the quarterly financial and program activity report. The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance up to 25 percent of the allocation. Subsequent payments shall be made on a reimbursement basis for reported expenditures, and may be adjusted for anticipated spending patterns. Payments may be withheld if quarterly reports are incomplete or untimely.~~

Subd. 3. **CHILD CARE FUND PLAN.** Effective January 1, 1992, the county will include the plan required under this subdivision in its biennial

New language is indicated by underline, deletions by ~~strikeout~~.

community social services plan required in this section, for the group described in section 256E.03, subdivision 2, paragraph (h). For the period July 1, 1989, to December 31, 1991, the county shall submit separate child care fund plans required under this subdivision for the periods July 1, 1989, to June 30, 1990; and July 1, 1990, to December 31, 1991. The commissioner shall establish the dates by which the county must submit these plans. The county and designated administering agency shall submit to the commissioner an annual child care fund allocation plan. The plan shall include:

(1) a narrative of the total program for child care services, including all policies and procedures that affect eligible families and are used to administer the child care funds;

(2) the number of families that requested a child care subsidy in the previous year, the number of families receiving child care assistance, the number of families on a waiting list, and the number of families projected to be served during the fiscal year;

(3) the methods used by the county to inform eligible groups of the availability of child care assistance and related services;

(4) the provider rates paid for all children by provider type;

(5) the county prioritization policy for all eligible groups under the basic sliding fee program and AFDC child care program;

(6) a report of all funds available to be used for child care assistance, including demonstration of compliance with the maintenance of funding effort required under section 256H.12; and

(7) other information as requested by the department to insure compliance with the child care fund statutes and rules promulgated by the commissioner.

The commissioner shall notify counties within 60 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.

Subd. 4. TERMINATION OF ALLOCATION. The commissioner may withhold, reduce, or terminate the allocation of any county ~~or post-secondary educational system~~ that does not meet the reporting or other requirements of this program. The commissioner shall reallocate to other counties ~~or post-secondary educational systems~~ money so reduced or terminated.

Sec. 147. Minnesota Statutes 1988, section 256H.10, subdivision 3, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **PRIORITIES; ALLOCATIONS.** If a ~~disproportionate amount~~ more than 75 percent of the available money is provided to any one of the groups described in ~~subdivision 1~~ section 256H.03 or 256H.05, the county board shall document to the commissioner the reason the group received a disproportionate share unless approved in the plan. If a county projects that its child care allocation is insufficient to meet the needs of all eligible groups, it may prioritize among the groups that remain to be served after the county has complied with the priority requirements of sections 256H.03 and 256H.05. ~~Counties shall assure that a person receiving child care assistance from the sliding fee program prior to July 1, 1987, continues to receive assistance, providing the person meets all other eligibility criteria. Set-aside money must be prioritized by the state, and counties do not have discretion over the use of this money. Counties that have established a priority must submit the policy in the annual allocation plan.~~

Sec. 148. Minnesota Statutes 1988, section 256H.10, is amended by adding a subdivision to read:

Subd. 5. PROVIDER CHOICE. Parents may choose child care providers as defined under section 256H.01, subdivision 12, that best meet the needs of their family. Counties shall make resources available to parents in choosing quality child care services. Counties may require a parent to sign a release stating their knowledge and responsibilities in choosing a legal provider described under section 256H.01, subdivision 12. When a county knows that a particular provider is unsafe, or that the circumstances of the child care arrangement chosen by the parent are unsafe, the county may deny a child care subsidy. A county may not restrict access to a general category of provider allowed under section 256H.01, subdivision 12.

Sec. 149. Minnesota Statutes 1988, section 256H.11, is amended to read:

256H.11 EMPLOYMENT OR TRAINING ELIGIBILITY.

Subdivision 1. **ASSISTANCE FOR PERSONS SEEKING AND RETAINING EMPLOYMENT.** Persons who are seeking employment and who are eligible for assistance under this section are eligible to receive the equivalent of one month of child care. Employed persons who work at least ten hours a week and receive at least a minimum wage for all hours worked are eligible for continued child care assistance.

Subd. 2. **FINANCIAL ELIGIBILITY REQUIRED.** Persons participating in employment programs, training programs, or education programs are eligible for continued assistance from the child care ~~sliding fee program fund~~, if they are financially eligible under the sliding fee scale set by the commissioner in section 256H.14. ~~Counties shall assure that a person receiving child care assistance from the sliding fee program while attending a post-secondary institution prior to July 1, 1987, continues to receive assistance from the regular sliding fee program, or the set-asides in section 256H.06 or 256H.07, providing the person meets all other eligibility criteria.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 150. Minnesota Statutes 1988, section 256H.12, is amended to read:

256H.12 COUNTY CONTRIBUTION.

Subdivision 1. **COUNTY CONTRIBUTIONS REQUIRED.** In addition to payments from parents, ~~the program must be funded by county contributions. Except for set-aside money,~~ counties shall contribute from county tax or other sources a minimum of 15 percent of the cost of the basic sliding fee program. The commissioner shall recover funds from the county as necessary to bring county expenditures into compliance with this subdivision.

Subd. 2. **FEDERAL MONEY; STATE RECOVERY.** The commissioner shall recover from counties any state or federal money that was spent for persons found to be ineligible. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

Subd. 3. **~~OTHER SOURCES MUST BE MAINTAINED MAINTENANCE OF FUNDING EFFORT.~~** To receive money through this program, each county shall certify, in its annual plan to the commissioner, that the county has not reduced allocations from other federal, state, and county sources, which, in the absence of the child care sliding fee or wage subsidy money fund, would have been available for child care services assistance.

Sec. 151. Minnesota Statutes 1988, section 256H.15, is amended to read:

256H.15 CHILD CARE RATES.

Subdivision 1. SUBSIDY RESTRICTIONS. The county board may limit the subsidy allowed by setting a maximum on the provider child care rate that the county shall subsidize. The maximum rate set by any county shall not be lower than 110 percent or higher than 125 percent of the median rate in that county for like care arrangements in that county for all types of care, including special needs and handicapped care, as determined by the commissioner. If the county sets a maximum rate, it must pay the provider's rate for each child receiving a subsidy, up to the maximum rate set by the county. In order to be reimbursed for more than 110 percent of the median rate, a provider with employees must pay wages for teachers, assistants, and aides that are more than 110 percent of the county average rate for child care workers. If a county does not set a maximum provider rate, it shall pay the provider's rate for every child in care. The maximum state payment is 125 percent of the median provider rate. If the county has not set a maximum provider rate and the provider rate is greater than 125 percent of the median provider rate in the county, the county shall pay the amount in excess of 125 percent of the median provider rate from county funding sources. When the provider charge is greater than the maximum provider rate set by the county, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.

Subd. 2. PROVIDER RATE BONUS FOR ACCREDITATION. Currently

New language is indicated by underline, deletions by ~~strikeout~~.

accredited child care centers shall be paid a five percent bonus above the maximum rate established by the county in subdivision 1, if the center can demonstrate that its staff wages are greater than 110 percent of the average wages in the county for similar care, up to the actual provider rate. A family day care provider shall be paid a five percent bonus above the maximum rate established by the county in subdivision 1, if the provider holds a current child development associate certificate, up to the actual provider rate. A county is not required to review wages under this subdivision unless the county has set a maximum above 110 percent for all providers with employees in their county.

Subd. 3. PROVIDER RATE FOR CARE OF CHILDREN WITH HANDICAPS OR SPECIAL NEEDS. Counties shall reimburse providers for the care of children with handicaps or special needs, at a special rate to be set by the county for care of these children, subject to the approval of the commissioner.

Sec. 152. Minnesota Statutes 1988, section 256H.18, is amended to read:

256H.18 ADMINISTRATIVE EXPENSES.

A county ~~must~~ may not use more than seven percent of its allocation for its administrative expenses under ~~this section, except a county may not use any of its allocation of the set-aside funds under subdivisions 3b and 3c for administrative expenses~~ the basic sliding fee program. A county may use up to four percent of the funds transferred to it under subdivision 3d for administrative expenses.

Sec. 153. Minnesota Statutes 1988, section 256H.20, subdivision 3, is amended to read:

Subd. 3. PROGRAM SERVICES. The commissioner may make grants to public or private nonprofit entities to fund child care resource and referral programs. Child care resource and referral programs must serve a defined geographic area.

Subd. 3a. GRANT REQUIREMENTS AND PRIORITY. Priority for awarding resource and referral grants shall be given in the following order:

(1) start up resource and referral programs in areas of the state where they do not exist; and

(2) improve resource and referral programs.

Resource and referral programs shall meet the following requirements:

(a) Each program shall identify all existing child care services through information provided by all relevant public and private agencies in the areas of service, and shall develop a resource file of the services which shall be maintained and updated at least quarterly. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, preschool, and extended care programs; and programs for school age children.

New language is indicated by underline, deletions by ~~strikeout~~.

The resource file must include: the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, special needs services, and transportation available to the program. The file may also include program information and special needs services program features.

(b) Each program shall establish a referral process which responds to parental need for information and which fully recognizes confidentiality rights of parents. The referral process must afford parents maximum access to all referral information. This access must include telephone referral available for no less than 20 hours per week.

Each child care resource and referral agency shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.

(c) Each program shall maintain ongoing documentation of requests for service. All child care resource and referral agencies must maintain documentation of the number of calls and contacts to the child care information and referral agency or component. A program ~~may~~ shall collect and maintain the following information:

- (1) ages of children served;
- (2) time category of child care request for each child;
- (3) special time category, such as nights, weekends, and swing shift; and
- (4) reason that the child care is needed.

(d) Each program shall ~~have~~ make available the following information as an educational aid to parents:

(1) information on aspects of evaluating the quality and suitability of child care services, including licensing regulation, financial assistance available, child abuse reporting procedures, appropriate child development information;

(2) information on available parent, early childhood, and family education programs in the community.

(e) On or after one year of operation a program ~~may~~ shall provide technical assistance to employers and existing and potential providers of all types of child care services ~~and employers~~. This assistance shall include:

(1) information on all aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

(2) information and resources which help existing child care providers to maximize their ability to serve the children and parents of their community;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) dissemination of information on current public issues affecting the local and state delivery of child care services;

(4) facilitation of communication between existing child care providers and child-related services in the community served;

(5) recruitment of licensed providers; and

(6) options, and the benefits available to employers utilizing the various options, to expand child care services to employees.

Services prescribed by this section must be designed to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources.

(f) Child care resource and referral information must be provided to all persons requesting services and to all types of child care providers and employers.

(g) Public or private entities may apply to the commissioner for funding. The maximum amount of money which may be awarded to any entity for the provision of service under this subdivision is \$60,000 per year. A local match of up to 25 percent is required.

Sec. 154. [256H.21] CHILD CARE SERVICES GRANT DEFINITIONS.

Subdivision 1. DEFINITIONS. As used in sections 256H.20 to 256H.23, the words defined in this section shall have the meanings given them.

Subd. 2. CHILD. "Child" means a person 12 years old or younger, or a person age 13 or 14 who is handicapped, as defined in section 120.03.

Subd. 3. CHILD CARE. "Child care" means the care of a child by someone other than a parent or legal guardian outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 4. CHILD CARE SERVICES. "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, head start, and extended day school age child care programs.

Subd. 5. CHILD CARE WORKER. "Child care worker" means a person who cares for children for compensation, including a licensed provider of child care services, an employee of a provider, a person who has applied for a license as a provider, or a person who meets the standards established by the state board of education.

Subd. 6. COMMISSIONER. "Commissioner" means the commissioner of human services.

Subd. 7. FACILITY IMPROVEMENT EXPENSES. "Facility improvement expenses" means funds for building improvements, equipment, toys, and

New language is indicated by underline, deletions by ~~strikeout~~.

supplies needed to establish, expand, or improve a licensed child care facility or a child care program under the jurisdiction of the state board of education.

Subd. 8. INTERIM FINANCING. “Interim financing” means funds to carry out such activities as are necessary for family day care homes, group family day care homes, and child care centers to receive and maintain state licensing, to expand an existing program or to improve program quality, and to provide operating funds for a period of six consecutive months after a family day care home, group family day care home, or child care center becomes licensed or satisfies standards of the state board of education. Interim financing may not exceed a period of 18 months.

Subd. 9. MINI-GRANTS. “Mini-grants” means child care grants for facility improvements that are less than \$1,000. Mini-grants include, but are not limited to, improvements to meet licensing requirements, improvements to expand a child care facility or program, toys and equipment, start-up costs, staff training, and development costs.

Subd. 10. RESOURCE AND REFERRAL PROGRAM. “Resource and referral program” means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. Services may include parent education, technical assistance for providers, staff development programs, and referrals to social services.

Subd. 11. STAFF TRAINING OR DEVELOPMENT EXPENSES. “Staff training or development expenses” include the cost to a child care worker of tuition, transportation, required materials and supplies, and wages for a substitute while the child care worker is engaged in a training program.

Subd. 12. TRAINING PROGRAM. “Training program” means child development courses offered by an accredited post-secondary institution or similar training approved by a county board or the department of human services. To qualify as a training program under this section, a course of study must teach specific skills that meet licensing requirements or requirements of the state board of education.

Sec. 155. [256H.22] CHILD CARE SERVICES GRANTS.

Subdivision 1. GRANTS ESTABLISHED. The commissioner shall award grants to develop child care services, including facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. Child care services grants may include mini-grants up to \$1,000. The commissioner shall develop a grant application form, inform county social service agencies about the availability of child care services grants, and set a date by which applications must be received by the commissioner.

The commissioner may renew grants to existing resource and referral agencies that have met state standards and have been designated as the child care

New language is indicated by underline, deletions by ~~strikeout~~.

resource and referral service for a particular geographical area. The recipients of renewal grants are exempt from the proposal review process.

Subd. 2. DISTRIBUTION OF FUNDS. (a) The commissioner shall allocate grant money appropriated for child care service (development and resource and referral services) among the development regions designated by the governor under section 462.385, as follows:

(1) 50 percent of the child care service development grant appropriation shall be allocated to the metropolitan area; and

(2) 50 percent of the child care service development grant appropriation shall be allocated to greater Minnesota counties.

(b) The following formulas shall be used to allocate grant appropriations among the counties:

(1) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each county to the total number of children under 12 years of age in all counties; and

(2) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each county to the number of licensed child care spaces currently available in each county.

(c) Out of the amount allocated for each development region and county, the commissioner shall award grants based on the recommendation of the grant review advisory task force. In addition, the commissioner shall award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses. The commissioner shall award no more than 50 percent of the money for resource and referral services to maintain or improve an existing resource and referral until all regions are served by resource and referral programs.

(d) Any funds unobligated may be used by the commissioner to award grants to proposals that received funding recommendations by the advisory task force but were not awarded due to insufficient funds.

Subd. 3. CHILD CARE REGIONAL ADVISORY COMMITTEES. Child care regional advisory committees shall review and make recommendations to the commissioner on applications for service development grants under this section. The commissioner shall appoint the child care regional advisory committees in each governor's economic development regions. People appointed under this subdivision must represent the following constituent groups: family child care providers, group center providers, parent users, health services, social services, public schools, and other citizens with demonstrated interest in child care issues. Members of the advisory task force with a direct financial interest in a pending grant proposal may not provide a recommendation or participate

New language is indicated by underline, deletions by ~~strikeout~~.

in the ranking of that grant proposal. Committee members may be reimbursed for their actual travel expenses for up to six committee meetings per year. The child care regional advisory committees shall complete their reviews and forward their recommendations to the commissioner by the date specified by the commissioner.

Subd. 4. PURPOSES FOR WHICH A CHILD CARE SERVICES GRANT MAY BE AWARDED. The commissioner may award grants for any of the following purposes:

(1) for creating new licensed day care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;

(2) for improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling. In awarding grants for training, priority must be given to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;

(3) for supportive child development services including, but not limited to, in-service training, curriculum development, consulting specialist, resource centers, and program and resource materials;

(4) for carrying out programs including, but not limited to, staff, supplies, equipment, facility renovation, and training;

(5) for interim financing; and

(6) for carrying out the resource and referral program services identified in section 256H.20, subdivision 3.

Subd. 5. FUNDING PRIORITIES; FACILITY IMPROVEMENT AND INTERIM FINANCING. In evaluating applications for funding and making recommendations to the commissioner, the grant review advisory task force shall rank and give priority to:

(1) new programs or projects, or the expansion or improvement of existing programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;

(2) new programs and projects, or the expansions or enrichment of existing programs or projects that serve sick children, infants or toddlers, children with special needs, and children from low-income families;

(3) unlicensed providers who wish to become licensed; and

(4) improvement of existing programs.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. FUNDING PRIORITIES; TRAINING GRANTS. In evaluating applications for training grants and making recommendations to the commissioner, the grant review advisory task force shall give priority to:

(1) applicants who will work in facilities caring for sick children, infants, toddlers, children with special needs, and children from low-income families;

(2) applicants who will work in geographic areas where there is a shortage of child care;

(3) unlicensed providers who wish to become licensed;

(4) child care programs seeking accreditation and child care providers seeking certification; and

(5) entities that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the entity.

Subd. 7. ELIGIBLE GRANT RECIPIENTS. Eligible recipients of child care grants are licensed providers of child care, or those in the process of being licensed, resource and referral programs, or corporations or public agencies, or any combination thereof. With the exception of mini-grants, priority for child care grants shall be given to grant applicants as follows:

(1) public and private nonprofit agencies;

(2) employer-based child care centers;

(3) for-profit child care centers; and

(4) family day care providers.

Subd. 8. GRANT MATCH REQUIREMENTS. Child care grants for facility improvements, interim financing, resource and referral, and staff training and development require a 25 percent local match by the grant applicant. A local match is not required for a mini-grant.

Subd. 9. CHILD CARE MINI-GRANTS. Mini-grants for child care service development must be used by the grantee for facility improvements, including, but not limited to, improvements to meet licensing requirements, improvements to expand the facility, toys and equipment, start-up costs, interim financing, or staff training and development. Priority for child care mini-grants shall be given to grant applicants as follows:

(1) family day care providers;

(2) public and private nonprofit agencies;

(3) employer-based child care centers; and

(4) for-profit child care centers.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 10. ADVISORY TASK FORCE. The commissioner shall convene a statewide advisory task force which shall advise the commissioner on grants and other child care issues. The statewide advisory task force shall review and make recommendations to the commissioner on child care resource and referral grants and on statewide child care training grants. Members of the advisory task force with a direct financial interest in a resource and referral or a statewide training proposal may not provide a recommendation or participate in the ranking of that grant proposal. Each regional grant review committee formed under subdivision 3, shall appoint a representative to the advisory task force. The commissioner may convene meetings of the task force as needed. Terms of office and removal from office are governed by the appointing body. The commissioner may compensate members for their expenses of travel to meetings of the task force. The members of the child care advisory task force shall also meet once with the interagency advisory committee on child care under section 256H.25.

Subd. 11. ADVISORY COMMITTEE COSTS. The commissioner may use money appropriated for services under this section for administrative expenses associated with advisory committees and task forces authorized by this section.

Sec. 156. [256H.23] OTHER AUTHORIZATION TO MAKE GRANTS.

Subdivision 1. AUTHORITY. In addition to the commissioner's authority to make child care services grants, the county board is authorized to provide child care services, or to make grants from the community social service fund, special tax revenue, or its general fund, or other sources to any municipality, corporation, or combination thereof, for the cost of providing technical assistance and child care services. The county board is also authorized to contract for services with any licensed day care facility, as the board deems necessary or proper to carry out the purposes of this section.

The county board may also make grants to or contract with any municipality, licensed child care facility, or resource and referral program, or corporation or combination thereof, for any of the following purposes:

(1) creating new licensed day care facilities and expanding existing facilities including, but not limited to, supplies, equipment, and facility renovation and remodeling;

(2) improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling. In awarding grants for training, counties must give priority to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;

(3) supportive child development services, including, but not limited to, in-service training, curriculum development, consulting specialists, resource centers, and program and resource materials;

(4) carrying out programs, including, but not limited to, staff, supplies, equipment, facility renovation, and training;

New language is indicated by underline, deletions by ~~strikeout~~.

(5) interim financing; and

(6) carrying out the resource and referral program services identified in section 256H.20, subdivision 3.

Subd. 2. DONATED MATERIALS AND SERVICES; MATCHING SHARE OF COST. For the purposes of this section, donated professional and volunteer services, program materials, equipment, supplies, and facilities may be approved as part of a matching share of the cost, provided that total costs shall be reduced by the costs charged to parents if a sliding fee scale has been used.

Subd. 3. BIENNIAL PLAN. The county board shall biennially develop a plan for the distribution of money for child care services as part of the community social services plan described in section 256E.09. All licensed child care programs shall be given written notice concerning the availability of money and the application process.

Sec. 157. [256H.24] DUTIES OF COMMISSIONER.

In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) by September 1, 1990, and by September 1 of each subsequent even-numbered year, survey and report on all components of the child care system, including, but not limited to, availability of licensed child care slots, the number of children in various kinds of child care settings, staff wages, rate of staff turnover, qualifications of child care workers, cost of child care by type of service and ages of children, and child care availability through school systems;

(2) by September 1, 1990, and September 1 of each subsequent even-numbered year, survey and report on the extent to which existing child care services fulfill the need for child care, giving particular attention to the need for part-time care and for care of infants, sick children, children with special needs, low-income children, toddlers, and school-age children;

(3) administer the child care fund, including the sliding fee program authorized under sections 256H.01 to 256H.19;

(4) monitor the child care resource and referral programs established under section 256H.20; and

(5) encourage child care providers to participate in a nationally recognized accreditation system for early childhood programs. The commissioner shall reimburse licensed child care providers for one-half of the direct cost of accreditation fees, upon successful completion of accreditation.

Sec. 158. [256H.25] INTERAGENCY ADVISORY COMMITTEE ON CHILD CARE.

Subdivision 1. MEMBERSHIP. By January 1, 1990, the commissioner of

New language is indicated by underline, deletions by ~~strikeout~~.

the state planning agency shall convene and chair an interagency advisory committee on child care. In addition to the commissioner, members of the committee are the commissioners of each of the following agencies and departments: health, human services, jobs and training, public safety, education, and the higher education coordinating board. The purpose of the committee is to improve the quality and quantity of child care and the coordination of child care related activities among state agencies.

Subd. 2. DUTIES. The committee shall advise its member agencies on matters related to child care policy and planning. Specifically, the committee shall:

- (1) develop a consistent policy on issues related to child care;
- (2) advise the member agencies on implementing policies and developing rules that are consistent with the committee's policy on child care;
- (3) advise the member agencies on state efforts to increase the supply and improve the quality of child care facilities and options; and
- (4) perform other advisory tasks related to improving child care options throughout the state.

Subd. 3. MEETINGS. The committee shall meet as often as necessary to perform its duties. The committee shall meet at least once per year with the members of the child care advisory task force.

Sec. 159. [256H.26] CHILD CARE INFORMATION SERVICE.

The commissioner shall establish, on a pilot project basis, a toll-free information service for child care providers, potential providers, and parents to assist callers to find existing child care services at the state or local level and to facilitate expansion and marketing of child care services. The telephone must be staffed during regular business hours to respond promptly to questions and during regular business hours to respond promptly to questions and concerns. The information and assistance must be made available free to all callers. The commissioner shall report to the legislature by January 1, 1991 on the effectiveness of this service and shall recommend how and by whom the operation should be administered. The commissioner shall consult with local resource and referral agencies, both public and private, in making its recommendations. The commissioner may use money appropriated for child care resource and referral grants for the administrative costs incurred under this section.

Sec. 160. Minnesota Statutes 1988, section 257.071, subdivision 7, is amended to read:

Subd. 7. RULES. By December 31, 1988 1989, the commissioner shall revise Minnesota Rules, parts 9545.0010 to 9545.0269 9545.0260, the rules setting standards for family and group family foster care. The commissioner shall:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) require that, as a condition of licensure, foster care providers attend training on the importance of protecting cultural heritage within the meaning of Laws 1983, chapter 278, the Indian Child Welfare Act, Public Law Number 95-608, and the Minnesota Indian family preservation act, sections 257.35 to 257.357; and

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures.

Sec. 161. Minnesota Statutes 1988, section 257.55, subdivision 1, is amended to read:

Subdivision 1. **PRESUMPTION.** A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child; or

New language is indicated by underline, deletions by ~~strikeout~~.

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this clause to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

(f) Evidence of statistical probability of paternity based on blood testing establishes that the likelihood that the man is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater.

Sec. 162. Minnesota Statutes 1988, section 257.57, subdivision 1, is amended to read:

Subdivision 1. A child, the child's biological mother, or a man presumed to be the child's father under section 257.55, subdivision 1, clause (a), (b), or (c) may bring an action:

(a) At any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c); or

(b) Within three years after the child's birth for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c) only if the action is brought within a reasonable time after the person bringing the action has obtained knowledge of relevant facts, but in no event later than three years after the child's birth. However, if the presumed father was divorced from the child's mother after service by publication, and, if, on or before the 280th day after the judgment and decree of divorce or dissolution became final, he did not know that the child was born during the marriage or within 280 days after the marriage was terminated, the action is not barred until one year after the child reaches the age of majority. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Sec. 163. Minnesota Statutes 1988, section 257.62, subdivision 5, is amended to read:

Subd. 5. **POSITIVE TEST RESULTS.** (a) If the results of the blood tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is more than 92 percent or greater, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

(b) If the results of blood tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50

New language is indicated by underline, deletions by ~~strikeout~~.

percent), is 99 percent or greater, the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

Sec. 164. [259.44] REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.

The commissioner of human services shall provide reimbursement of up to \$2,000 to the adoptive parent or parents for costs incurred in adopting a child with special needs. The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676.

Sec. 165. Minnesota Statutes 1988, section 259.47, subdivision 5, is amended to read:

Subd. 5. **CHARGES.** ~~Agencies~~ The commissioner, the commissioner's agents, and licensed child-placing agencies may require a reasonable expense reimbursement for providing services required in this section. Reimbursements received by the commissioner according to this subdivision shall be deposited in the general fund.

Sec. 166. [259.471] POSTADOPTION SERVICE GRANTS PROGRAM.

Subdivision 1. PURPOSE. The commissioner of human services shall establish and supervise a postadoption service grants program to be administered by local social service agencies for the purpose of preserving and strengthening adoptive families. The program will provide financial assistance to adoptive parents to meet the special needs of an adopted child that cannot be met by other resources available to the family.

Subd. 2. ELIGIBILITY CRITERIA. A child may be certified by the local social service agency as eligible for a postadoption service grant after a final decree of adoption and before the child's 18th birthday if:

(a) The child was a ward of the commissioner or a Minnesota licensed child placing agency before adoption;

(b) The child had special needs at the time of adoption. For the purposes of this section, "special needs" means a child who had a physical, mental, emotional, or behavioral disability at the time of an adoption or has a preadoption background to which the current development of such disabilities can be attributed; and

(c) The adoptive parents have exhausted all other available resources. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.

New language is indicated by underline, deletions by strikeout.

Subd. 3. CERTIFICATION STATEMENT. The local social service agency shall certify a child's eligibility for a postadoption service grant in writing to the commissioner. The certification statement shall include:

(1) a description and history of the special needs upon which eligibility is based; and

(2) applicable supporting documentation including:

(i) the child's individual service plan;

(ii) medical, psychological, or special education evaluations;

(iii) documentation that all other resources have been exhausted; and

(iv) an estimate of the costs necessary to meet the special needs of the child.

Subd. 4. COMMISSIONER REVIEW. The commissioner shall review the facts upon which eligibility is based and shall award postadoption service grants to eligible adoptive parents to the extent funds are appropriated consistent with subdivision 5.

Subd. 5. GRANT PAYMENTS. The amount of the postadoption service grant payment shall be based on the special needs of the child and the determination that other resources to meet those special needs are not available. The amount of any grant payments shall be based on the severity of the child's disability and the effect of the disability on the family and must not exceed \$10,000 annually.

Permissible expenses that may be paid from grants shall be limited to:

(1) medical expenses not covered by the family's health insurance or medical assistance;

(2) therapeutic expenses, including individual and family therapy; and

(3) nonmedical services, items, or equipment required to meet the special needs of the child.

The grants under this section shall not be used for maintenance for out-of-home placement of the child in substitute care.

Sec. 167. Minnesota Statutes 1988, section 259.49, subdivision 2, is amended to read:

259.49 ACCESS TO ADOPTION RECORDS ORIGINAL BIRTH CERTIFICATE INFORMATION.

Subd. 2. SEARCH. Within six months after receiving notice of the request of the adopted person, the commissioner of human services shall make complete and reasonable efforts to notify each parent identified on the original birth

New language is indicated by underline, deletions by ~~strikeout~~.

certificate of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the genetic parents named on the original birth certificate of the adopted person. The contact shall not be by mail and shall be by an employee or agent of the licensed child placing agency which processed the pertinent adoption or some other licensed child placing agency designated by the commissioner of human services. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

(a) The nature of the information requested by the adopted person;

(b) The date of the request of the adopted person;

(c) The right of the parent to file, within 120 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth certificate should not be disclosed;

(d) The right of the parent to file a consent to disclosure with the commissioner of health at any time; and

(e) The effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth certificate should not be disclosed.

Sec. 168. Minnesota Statutes 1988, section 260.251, subdivision 1, is amended to read:

Subdivision 1. **CARE, EXAMINATION, OR TREATMENT.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a county welfare board, or

(2) whenever legal custody is transferred to a person other than the county welfare board, but under the supervision of the county welfare board,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The court shall order, and the county welfare board shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the county welfare board shall require, reimbursement from the child ~~to reimburse the county~~ for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the county welfare board shall require, the parents to ~~reimburse the county,~~ in the manner and to whom the court may direct, such sums as will cover in whole or in part contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the county welfare board and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian ~~or child over the age of 18~~ who fails to pay ~~this sum~~ without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed ~~against any of them~~ to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Sec. 169. Minnesota Statutes 1988, section 268.08, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY CONDITIONS.** An individual shall be eligi-

New language is indicated by underline, deletions by ~~strikeout~~.

ble to receive benefits with respect to any week of unemployment only if the commissioner finds that the individual:

(1) has registered for work at and thereafter has continued to report to an employment office, or agent of the office, in accordance with rules the commissioner may adopt; except that the commissioner may by rule waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.24;

(2) has made a claim for benefits in accordance with rules as the commissioner may adopt;

(3) was able to work and was available for work, and was actively seeking work. The individual's weekly benefit amount shall be reduced one-fifth for each day the individual is unable to work or is unavailable for work. Benefits shall not be denied by application of this clause to an individual who is in training with the approval of the commissioner, is a dislocated worker as defined in section 268.975, subdivision 3, who is in training approved by the commissioner, or in training approved pursuant to section 236 of the Trade Act of 1974, as amended.

An individual is deemed unavailable for work with respect to any week which occurs in a period when the individual is a full-time student in attendance at, or on vacation from an established school, college, or university unless a majority of the wage credits earned in the base period were for services performed during weeks in which the student was attending school as a full-time student.

An individual serving as a juror shall be considered as available for work and actively seeking work on each day the individual is on jury duty; and

(4) has been unemployed for a waiting period of one week during which the individual is otherwise eligible for benefits under sections 268.03 to 268.24. However, payment for the waiting week, not to exceed \$20, shall be made to the individual after the individual has qualified for and been paid benefits for four weeks of unemployment in a benefit year which period of unemployment is terminated because of the individual's return to employment. No individual is required to serve a waiting period of more than one week within the one-year period subsequent to filing a valid claim and commencing with the week within which the valid claim was filed.

Sec. 170. Minnesota Statutes 1988, section 268.31, is amended to read:

268.31 DEVELOPMENT OF YOUTH EMPLOYMENT OPPORTUNITIES.

(a) To the extent of available funding, the commissioner of jobs and train-

New language is indicated by underline, deletions by ~~strikeout~~.

ing shall establish a program to employ individuals from the ages of 14 years up to 22 years. Available money may be used to operate this program on a full calendar year basis, to provide transitional services, link basic skills training and remedial education to job training and school completion, and for support services. The amount spent on support services in any one fiscal year may not exceed 15 percent of the total annual appropriation for this program. Individuals employed in this program will be placed in service with departments, agencies, and instrumentalities of the state, county, local governments, school districts, with nonprofit organizations, and private sector employers. The maximum number of hours that an individual may be employed in a position supported under this program is 480 hours. Program funds may not be used for private sector placements. Program operators must use the targeted jobs tax credit, other federal, state, and local government resources, as well as private sector resources to fund private sector placements. The commissioner shall cooperate with the commissioner of human services in determining and implementing the most effective means of disregarding a youth's earnings from family income for purposes of the aid to families with dependent children program, to the extent permitted by the federal government.

(b) Upon request of the commissioner of the department of natural resources, the commissioner will contract for or provide available services for remedial skills, life skills, and career counseling activities to youth in the Minnesota conservation corps program.

(c) The commissioner shall evaluate the services provided under this section. The evaluation shall include information on the effectiveness of program services in promoting the employability of young people. In order to measure the long-term effectiveness of the program, the evaluation shall include follow-up information on each participant.

Sec. 171. [268.912] HEAD START PROGRAM.

The department of jobs and training is the state agency responsible for administering the head start program. The commissioner of jobs and training may make grants to public or private nonprofit agencies for the purpose of providing supplemental funds for the federal head start program.

Sec. 172. [268.913] DEFINITIONS.

Subdivision 1. SCOPE. As used in sections 268.914 to 268.916, the terms defined in this section have the meanings given them.

Subd. 2. PROGRAM ACCOUNT 20. "Program account 20" means the federally designated and funded account limited to training activities.

Subd. 3. PROGRAM ACCOUNT 22. "Program account 22" means the federally designated and funded account for basic services.

Subd. 4. PROGRAM ACCOUNT 26. "Program account 26" means the

New language is indicated by underline, deletions by ~~strikeout~~.

federally designated and funded account that can only be used to provide special services to handicapped diagnosed children.

Subd. 5. PROGRAM ACCOUNT 23. "Program account 23" means the federally designated and funded account for all day services.

Subd. 6. START-UP COSTS. "Start-up costs" means one-time costs incurred in expanding services to additional children.

Sec. 173. [268.914] DISTRIBUTION OF APPROPRIATION.

(a) The commissioner of jobs and training shall distribute money appropriated for that purpose to head start program grantees to expand services to additional low-income children. Money must be allocated to each project head start grantee in existence on the effective date of this act. Migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A head start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20 to 26 at the start of the fiscal year. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner shall notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must notify the commissioner of the number of additional low-income children it will be able to serve. For any grantee that cannot serve additional children to its full allocation, the commissioner shall reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.

(b) Up to 11 percent of the funds appropriated annually may be used to provide grants to local head start agencies to provide funds for innovative programs designed either to target head start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal head start regulations. The commissioner shall award funds for innovative programs under this paragraph on a competitive basis.

Sec. 174. [268.915] FEDERAL REQUIREMENTS.

Grantees and the commissioner shall comply with federal regulations governing the federal head start program, except for innovative programs funded under section 268.914, paragraph (b), which may operate differently than federal head start regulations, and except that when a state statute or regulation conflicts with a federal statute or regulation, the state statute or regulation prevails.

Sec. 175. [268.916] REPORTS.

New language is indicated by underline, deletions by ~~strikeout~~.

Each grantee shall submit an annual report to the commissioner on the format designated by the commissioner, including program information report data. By January 1 of each year, the commissioner shall prepare an annual report to the health and human services committees of the legislature concerning the uses and impact of head start supplemental funding, including a summary of innovative programs and the results of innovative programs and an evaluation of the coordination of head start programs with employment and training services provided to AFDC recipients.

Sec. 176. [268.971] HOSPITALITY HOST PROGRAM.

Subdivision 1. ESTABLISHMENT. A hospitality host older worker tourism program is established in the department of jobs and training to assist economically disadvantaged older workers to gain employment in the promotion of the tourism industry in Minnesota and to become self-sufficient. The objectives of the program are to:

(1) assist in the diversification of industry in rural areas by stimulating and promoting tourism;

(2) create full-time and part-time employment for low-income persons 55 years old or older;

(3) raise the income of older persons living in poverty; and

(4) promote tourism in selected local areas throughout the state, thereby improving local economies.

Subd. 2. DEFINITIONS. (a) SCOPE. As used in this section, the terms defined in this section have the meanings given them.

(b) COMMISSIONER. "Commissioner" means the commissioner of the department of jobs and training.

(c) OLDER WORKER. "Older worker" means an economically disadvantaged person 55 years or older.

(d) ECONOMICALLY DISADVANTAGED. "Economically disadvantaged" means a person having an income of 125 percent or less of the federal poverty income guidelines. In determining income, the federal Job Training Partnership Act definition of family and family income will prevail.

(e) PROGRAM. "Program" means the hospitality host older worker program created in subdivision 1.

(f) COORDINATING AGENCY. "Coordinating agency" means the Arrowhead economic opportunity agency.

Subd. 3. DISTRIBUTION AND USE OF STATE MONEY. Money allocated to the coordinating agency by the commissioner must be used for activities consistent with the objectives of the program including, but not limited to:

New language is indicated by underline, deletions by ~~strikeout~~.

outreach, selection of eligible participants, program sites, individual work sites, classroom training, on-the-job training opportunities, and program marketing. Program funds shall be used to provide training-related costs to enrollees during orientation and classroom training segments. Program funds shall be used to subsidize up to 50 percent of enrollee wages during contracted on-the-job training periods with the employer being responsible for the remainder. Salaries upon employment shall be at least the state or federal minimum wage, whichever is higher.

Subd. 4. RESPONSIBILITIES OF COORDINATING AGENCY. The commissioner shall enter into written agreement with the coordinating agency for the design, delivery, and general administration of the program. The commissioner shall set program goals and objectives, and monitor the program.

Subd. 5. REPORTS. The coordinating agency shall submit an annual report to the commissioner one year from the effective date of this act and annually thereafter. In addition, the coordinating agency shall submit to the commissioner such other reports as required to document the status and progress of the program. The annual report must include: information on the number and types of jobs created; status of program sites; wages paid program participants; types of services provided by programs; the retention of program participants; and other information to assess the progress and status of the program.

Sec. 177. [268.975] DEFINITIONS.

Subdivision 1. TERMS. For the purposes of sections 268.975 to 268.98, the following terms have the meanings given them.

Subd. 2. COMMISSIONER. "Commissioner" means the commissioner of jobs and training.

Subd. 3. DISLOCATED WORKER. "Dislocated worker" means an individual who:

(1) has been terminated or has received a notice of termination of employment as a result of a plant closing or any substantial layoff at a plant, facility, or enterprise located in the state;

(2) was a resident of the state at the time of termination of employment or at the time of receiving the notification of termination of employment; and

(3) is eligible for or has exhausted unemployment compensation and is unlikely to return to the previous industry or occupation.

Subd. 4. ELIGIBLE ORGANIZATION. "Eligible organization" means a local government unit, nonprofit organization, community action agency, business organization or association, or labor organization that has applied for a prefeasibility grant under section 268.978.

Subd. 5. LOCAL GOVERNMENT UNIT. "Local government unit" means a statutory or home rule charter city, county, or town.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. PLANT CLOSING. “Plant closing” means the announced or actual permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for (a) 50 or more employees excluding employees who work less than 20 hours per week; or (b) at least 500 employees who in the aggregate work at least 20,000 hours per week, exclusive of hours of overtime.

Subd. 7. PREFEASIBILITY STUDY GRANT; GRANT. “Prefeasibility study grant” or “grant” means the grant awarded under section 268.978.

Subd. 8. SUBSTANTIAL LAYOFF. “Substantial layoff” means a reduction in the work force, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for (a) at least 50 employees excluding those employees that work less than 20 hours a week; or (b) at least 500 employees who in the aggregate work at least 20,000 hours per week, exclusive of hours of overtime.

Sec. 178. [268.976] EARLY WARNING SYSTEM.

Subdivision 1. EARLY WARNING INDICATORS. The commissioner, in cooperation with the commissioners of revenue and trade and economic development, shall establish and oversee an early warning system to identify industries and businesses likely to experience large losses in employment including a plant closing or a substantial layoff, by collecting and analyzing information which may include, but not be limited to, products and markets experiencing declining growth rates, companies and industries subject to competition from production in low wage counties, changes in ownership, layoff and employment patterns, payments of unemployment compensation contributions, and state tax payments. The commissioner may request the assistance of businesses, business organizations, and trade associations in identifying businesses, industries, and specific establishments that are likely to experience large losses in employment. The commissioner may request information and other assistance from other state agencies for the purposes of this subdivision.

Subd. 2. NOTICE. The commissioner shall encourage those business establishments considering a decision to effect a plant closing, substantial layoff or relocation of operations located in this state to give notice of that decision as early as possible to the commissioner, the employees of the affected establishment, any employee organization representing the employees, and the local government unit in which the affected establishment is located. This notice shall be in addition to any notice required under the Worker Adjustment and Retraining Notification Act, United States Code, title 29, section 2101.

Subd. 3. EMPLOYER RESPONSIBILITY. An employer providing notice of a plant closing, substantial layoff, or relocation of operations under the Worker Adjustment and Retraining Notification Act, United States Code, title 29, section 2101, or under subdivision 2 must report to the commissioner the names, addresses, and occupations of the employees who will be or have been terminated.

New language is indicated by underline, deletions by strikethrough.

Sec. 179. [268.977] **RAPID RESPONSE PROGRAM.**

Subdivision 1. PROGRAM ESTABLISHMENT. (a) The commissioner shall establish a rapid response program to assist employees, employers, business organizations or associations, labor organizations, local government units, and community organizations to quickly and effectively respond to announced or actual plant closings and substantial layoffs.

(b) The program must include or address at least the following:

(1) within five working days after becoming aware of an announced or actual plant closing or substantial layoff, establish on-site contact with the employer, employees, labor organizations if there is one representing the employees, and leaders of the local government units and community organizations to provide coordination of efforts to formulate a communitywide response to the plant closing or substantial layoff, provide information on the public and private service and programs that might be available, inform the affected parties of the prefeasibility study grants under section 268.978, and collect any information required by the commissioner to assist in responding to the plant closing or substantial layoff;

(2) provide ongoing technical assistance to employers, employees, business organizations or associations, labor organizations, local government units, and community organizations to assist them in reacting to or developing responses to plant closings or substantial layoffs;

(3) establish and administer the prefeasibility study grant program under section 268.978 to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs;

(4) work with employment and training service providers, employers, business organizations or associations, labor organizations, local government units, and community organizations in providing training, education, community support service, job search programs, job clubs, and other services to address the needs of potential or actual dislocated workers;

(5) coordinate with providers of economic development related financial and technical assistance services so that communities that are experiencing plant closings or substantial layoffs have immediate access to economic development related services; and

(6) collect and make available information on programs that might assist dislocated workers and the communities affected by plant closings or substantial layoffs.

Subd. 2. APPLICABILITY. Notwithstanding section 268.975, subdivisions 6 and 8, the commissioner may waive the threshold requirements for finding a plant closing or substantial layoff in special cases where the governor's job training council recommends waiver to the commissioner following a finding by

New language is indicated by underline, deletions by ~~strikeout~~.

the council that the number of workers dislocated as a result of a plant closing or substantial layoff would have a substantial impact on the community or labor market where the closure or layoff occurs and, in the absence of intervention through the rapid response program, would overwhelm the capacity of other programs to provide effective assistance.

Sec. 180. [268.978] PREFEASIBILITY STUDIES.

Subdivision 1. PREFEASIBILITY STUDY GRANTS. (a) The commissioner may make grants for up to \$10,000 to eligible organizations to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs. The alternatives may include employee ownership, other new ownership, new products or production processes, or public financial or technical assistance to keep a plant open. Two or more eligible organizations may jointly apply for a grant under this section.

(b) Interested organizations shall apply to the commissioner for the grants. As part of the application process, applicants must provide a statement of need for a grant, information relating to the workforce at the plant, the area's unemployment rate, the community's and surrounding area's labor market characteristics, information of efforts to coordinate the community's response to the plant closing or substantial layoff, a timetable of the prefeasibility study, a description of the organization applying for the grant, a description of the qualifications of persons conducting the study, and other information required by the commissioner.

(c) The commissioner shall respond to the applicant within five working days of receiving the organization's application. The commissioner shall inform each organization that applied for but did not receive a grant the reasons for the grant not being awarded. The commissioner may request further information from those organizations that did not receive a grant, and the organization may reapply for the grant.

Subd. 2. PREFEASIBILITY STUDY. (a) The prefeasibility study must explore the current and potential viability, profitability, and productivity of the plant that may close or experience a substantial layoff and alternative uses for the plant. The study is not intended to be a major examination of each possible alternative, but rather is meant to quickly determine if further action or examination is feasible and should be fully explored.

(b) The prefeasibility study must contain:

(1) a description of the plant's present products, production techniques, management structure, and history;

(2) a brief discussion of the feasibility of the various alternatives for ownership, production technique, and products;

(3) an estimate of the financing required to keep the plant open and the potential sources of that financing;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) a description of the employer's, employees', and community's efforts to maintain the operation of the plant; and

(5) other information the commissioner may require.

Subd. 3. REPORTS. (a) The commissioner shall report monthly to the program subcommittee of the governor's job training council on the grants made and studies completed during the previous month.

(b) The commissioner shall provide an annual report to the governor, legislature, and the governor's job training council on the administration of the prefeasibility study grant program. The report must also include details of actions taken as a result of a grant.

Sec. 181. [268.979] DISLOCATED WORKER COORDINATION.

The commissioner shall coordinate the actions taken by state agencies and public post-secondary educational institutions to respond to or address the specific needs of dislocated workers and to provide services to dislocated workers including education and retraining. The commissioner shall also assist local government units, community groups, business associations or organizations, labor organizations, and others in coordinating their efforts in providing services to dislocated workers.

Sec. 182. [268.98] PERFORMANCE STANDARDS.

The commissioner shall establish performance standards for the programs and activities administered or funded through the rapid response program under section 268.977. The commissioner may use existing federal performance standards or, if the commissioner determines that the federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the rapid response program are effectively administered.

Sec. 183. Minnesota Statutes 1988, section 326.78, subdivision 2, is amended to read:

Subd. 2. ISSUANCE OF LICENSES AND CERTIFICATES. The commissioner may issue licenses to employers ~~and certificates to employees~~ who meet the criteria in sections 326.70 to 326.82 and the commissioner's rules. Licenses and certificates shall be valid for at least 12 months, except that the initial certificate will be issued to expire one year after the completion date on the approved training course diploma.

Sec. 184. Minnesota Statutes 1988, section 327C.02, subdivision 2, is amended to read:

Subd. 2. MODIFICATION OF RULES. The park owner must give the resident at least 60 days notice in writing of any rule change. A rule adopted or amended after the resident initially enters into a rental agreement may be enforced

New language is indicated by underline, deletions by ~~strikeout~~.

against that resident only if the new or amended rule is reasonable and is not a substantial modification of the original agreement. Any security deposit increase is a substantial modification of the rental agreement. A reasonable rent increase made in compliance with section 327C.06 is not a substantial modification of the rental agreement and is not considered to be a rule for purposes of section 327C.01, subdivision 8. A rule change necessitated by government action is not a substantial modification of the rental agreement. A rule change requiring all residents to maintain their homes, sheds and other appurtenances in good repair and safe condition shall not be deemed a substantial modification of a rental agreement. If a part of a resident's home, shed or other appurtenance becomes so dilapidated that repair is impractical and total replacement is necessary, the park owner may require the resident to make the replacement in conformity with a generally applicable rule adopted after the resident initially entered into a rental agreement with the park owner.

In any action in which a rule change is alleged to be a substantial modification of the rental agreement, a court may consider the following factors in limitation of the criteria set forth in section 327C.01, subdivision 11:

(a) any significant changes in circumstances which have occurred since the original rule was adopted and which necessitate the rule change; and

(b) any compensating benefits which the rule change will produce for the residents.

Sec. 185. Minnesota Statutes 1988, section 357.021, subdivision 2, is amended to read:

Subd. 2. **FEE AMOUNTS.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of \$30, except that in an action for marriage dissolution, the fee is ~~\$55~~ \$75.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of \$30.

The party requesting a trial by jury shall pay \$30.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under sections 106A.005 to 106A.811, except the provisions therein as to appeals.

New language is indicated by underline, deletions by ~~strikeout~~.

(2) Certified copy of any instrument from a civil or criminal proceeding \$5, plus 25 cents per page after the first page and \$3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena \$3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, \$5.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, \$5.

(6) Filing and entering a satisfaction of judgment, partial satisfaction or assignment of judgment, \$5.

(7) Certificate as to existence or nonexistence of judgments docketed, \$1 for each name certified to and \$3 for each judgment certified to.

(8) Filing and indexing trade name; or recording notary commission; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians or optometrists, \$5.

(9) For the filing of each partial, final, or annual account in all trusteeships, \$10.

(10) All other services required by law for which no fee is provided such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Sec. 186. Minnesota Statutes 1988, section 357.021, subdivision 2a, is amended to read:

Subd. 2a. **CERTAIN FEE PURPOSES.** Of the marriage dissolution fee collected pursuant to subdivision 1, the court administrator shall pay ~~\$35~~ \$55 to the state treasurer to be deposited in the special revenue fund to be used as follows: ~~\$15~~ \$35 for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96; and \$20 is appropriated to the commissioner of corrections for the purpose of funding emergency shelter services and support services to battered women, on a matching basis with local money for 20 percent of the costs and state money for 80 percent. Of the ~~\$15~~ \$35 for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96, ~~\$6.75~~ \$16.75 is appropriated to the commissioner of corrections and ~~\$8.25~~ \$18.25 is appropriated to the commissioner of jobs and training. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 187. Minnesota Statutes 1988, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. **TERM OF LICENSE; FEE.** The court administrator shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, the court administrator shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the district court seal attached, and make a record of the date of issuance. The license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, a judge of the county court or a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. The court administrator shall collect from the applicant a fee of ~~\$45~~ \$65 for administering the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports of marriage required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the court administrator for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A court administrator who knowingly issues or signs a marriage license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed \$1,000.

Sec. 188. Minnesota Statutes 1988, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. **DISPOSITION OF LICENSE FEE.** Of the marriage license fee collected pursuant to subdivision 1b, the court administrator shall pay ~~\$30~~ \$50 to the state treasurer to be deposited in the special revenue fund to be used as follows: ~~\$6.75~~ \$16.75 is appropriated to the commissioner of corrections for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36, and ~~\$23.25~~ \$33.25 is appropriated to the commissioner of jobs and training for displaced homemaker programs under section 268.96. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established.

Sec. 189. Minnesota Statutes 1988, section 518.54, subdivision 6, is amended to read:

Subd. 6. **INCOME.** "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, unemployment compensation, annuity, military and naval retirement, pension and disability payments. Benefits received under sections 256.72 to 256.87 and chapter 256D are not income under this section.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 190. Minnesota Statutes 1988, section 518.551, is amended by adding a subdivision to read:

Subd. 5a. ORDER FOR COMMUNITY SERVICES. If the court finds that the obligor earns \$400 or less per month and does not have the ability to provide support based on the guidelines and factors under subdivision 5, the court may order the obligor to perform community services to fulfill the obligor's support obligation. In ordering community services under this subdivision, the court shall consider whether the obligor has the physical capability of performing community services, and shall order community services that are appropriate for the obligor's abilities.

Sec. 191. Minnesota Statutes 1988, section 518.551, subdivision 10, is amended to read:

Subd. 10. ADMINISTRATIVE PROCESS FOR CHILD AND MEDICAL SUPPORT PILOT PROJECT ORDERS. A pilot project An administrative process is established to obtain, modify, and enforce child and medical support orders and maintenance through administrative process, to evaluate the efficiency of the administrative process. The pilot project shall begin when the procedures have been established and end on June 30, 1989.

During the pilot project, The commissioner of human services may designate counties to participate in the administrative process established by this section. All proceedings for obtaining, modifying, or enforcing child and medical support orders and maintenance and adjudicating uncontested parentage proceedings, required to be conducted in Dakota county counties designated by the commissioner of human services in which Dakota the county human services agency is a party or represents a party to the action must be conducted by an administrative law judge from the office of administrative hearings, except for the following proceedings:

- (1) adjudication of paternity contested parentage;
- (2) motions to set aside a paternity adjudication or declaration of parentage;
- (3) evidentiary hearing on contempt motions; and
- (4) motions to sentence or to revoke the stay of a jail sentence in contempt proceedings.

An administrative law judge may hear a stipulation reached on a contempt motion, but any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a county or district judge.

For the purpose of this ~~pilot project process~~, all powers, duties, and responsibilities conferred on judges of the ~~county or~~ district court to obtain and enforce child and medical support obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceed-

New language is indicated by underline, deletions by ~~strikeout~~.

ings, including the power to issue orders to show cause and to issue bench warrants for failure to appear.

During fiscal year 1988 Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of Dakota the county human services agency, the Dakota county attorney, and the clerk of the Dakota county court administrator shall jointly establish procedures and the county shall provide hearing facilities for the implementation of implementing this pilot project process in a county.

Nonattorney employees of ~~Dakota county human services~~ the public agency responsible for child support in the counties designated by the commissioner, acting at the direction of the county attorney, may prepare, sign, serve, and file complaints and motions for obtaining, modifying, or enforcing child and medical support orders and maintenance and related documents, appear at prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law.

For the purpose of this pilot project, The hearings shall be conducted under the conference contested case rules adopted by the chief administrative law judge. Any discovery required in a proceeding shall be conducted under the rules of family court and the rules of civil procedure. rules of the office of administrative hearings, Minnesota Rules, parts 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, as adopted by the chief administrative law judge. All other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure and chapter 518. The administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge shall be are enforceable by the contempt powers of the county or and district courts.

~~The administrative law judge shall make a report to the chief administrative law judge or the chief administrative law judge's designee, stating findings of fact and conclusions and recommendations concerning the proposed action, in accordance with sections 14.48 to 14.56. The chief administrative law judge or a designee shall render the final decision and order in accordance with sections 14.61 and 14.62. The decision and order of the chief administrative law judge or a designee shall be a final agency decision for purposes of sections 14.63 to 14.69.~~

Sec. 192. Minnesota Statutes 1988, section 518.611, subdivision 4, is amended to read:

Subd. 4. **EFFECT OF ORDER.** Notwithstanding any law to the contrary, the order is binding on the employer, trustee, or other payor of the funds when service under subdivision 2 has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. An employer or other payor of funds in this state is required to withhold

New language is indicated by underline, deletions by ~~strikeout~~.

income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2, paragraph (b) and section 518.613 and shall remit, within ten days of the date the obligor is paid the remainder of the income, the amounts withheld to the public authority. The payor shall identify on the remittance information the date the obligor is paid the remainder of the income. Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party. An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld.

Sec. 193. Minnesota Statutes 1988, section 518.613, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Notwithstanding any provision of section 518.611, subdivision 2 or 3, to the contrary, whenever an obligation for child support or maintenance, enforced by the public authority, is initially determined and ordered or modified by the court in a county in which this section applies, the amount of child support or maintenance ordered by the court must be withheld from the income, regardless of source, of the person obligated to pay the support.

Sec. 194. Minnesota Statutes 1988, section 518.613, subdivision 2, is amended to read:

Subd. 2. **ORDER; COLLECTION SERVICES.** Every order for child support must include the obligor's social security number and the name and address of the obligor's employer or other payor of funds. Upon entry of the order for support or maintenance, the court shall mail a copy of the court's automatic income withholding order and the provisions of section 518.611 and this section to the obligor's employer or other payor of funds and to the public agency authority responsible for child support enforcement. An obligee who is not a recipient of public assistance shall apply for the collection services of the public authority when an order for support is entered unless the requirements of this section have been waived under subdivision 7. No later than January 1, 1990, the supreme court shall develop a standard automatic income withholding form to be used by all Minnesota courts. This form shall be made a part of any order for support or decree by reference.

Sec. 195. Minnesota Statutes 1988, section 518.613, subdivision 4, is amended to read:

Subd. 4. **APPLICATION.** On and after August 1, ~~1987~~, and prior to August 1, 1989, this section applies in a county selected under Laws 1987, chapter 403, article 3, section 93 and in a county that chooses to have this section apply by resolution of a majority vote of its county board. On and after

New language is indicated by underline, deletions by ~~strikeout~~.

November 1, 1990, this section applies to all child support and maintenance obligations that are initially ordered or modified on and after November 1, 1990, and that are being enforced by the public authority.

Sec. 196. Minnesota Statutes 1988, section 518.613, is amended by adding a subdivision to read:

Subd. 6. NOTICE OF SERVICES. The department of human services shall prepare and make available to the courts a form notice of child support and maintenance collection services available through the public authority responsible for child support enforcement, including automatic income withholding under this section. Promptly upon the filing of a petition for dissolution of marriage or legal separation by parties who have a minor child, the court administrator shall send the form notice to the petitioner and respondent at the addresses given in the petition. The rulemaking provisions of chapter 14 shall not apply to the preparation of the form notice.

Sec. 197. Minnesota Statutes 1988, section 518.613, is amended by adding a subdivision to read:

Subd. 7. WAIVER. (a) The court may waive the requirements of this section if the court finds that there is no arrearage in child support or maintenance as of the date of the hearing, that it would not be contrary to the best interests of the child, and: (1) one party demonstrates and the court finds that there is good cause to waive the requirements of this section or to terminate automatic income withholding on an order previously entered under this section; or (2) all parties reach a written agreement that provides for an alternative payment arrangement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. If the court waives the requirements of this section:

(1) in all cases where the obligor is at least 30 days in arrears, withholding must be carried out pursuant to section 518.611;

(2) the obligee may at any time and without cause request the court to issue an order for automatic income withholding under this section; and

(3) the obligor may at any time request the public authority to begin withholding pursuant to this section, by serving upon the public authority the request and a copy of the order for child support or maintenance. Upon receipt of the request, the public authority shall serve a copy of the court's order and the provisions of section 518.611 and this section on the obligor's employer or other payor of funds. The public authority shall notify the court that withholding has begun at the request of the obligor pursuant to this clause.

(b) For purposes of this subdivision, "parties" includes the public authority in cases when it is a party pursuant to section 518.551, subdivision 9.

Sec. 198. Minnesota Statutes 1988, section 540.08, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

540.08 INJURY TO CHILD OR WARD; SUIT BY PARENT OR GUARDIAN.

A parent may maintain an action for the injury of a minor son or daughter. A general guardian may maintain an action for an injury to the ward. A guardian of a dependent, neglected, or delinquent child, appointed by a court having jurisdiction, may maintain an action for the injury of the child. If no action is brought by the father or mother, an action for the injury may be brought by a guardian ad litem, either before or after the death of the parent. Before a parent receives property as a result of the action, the parent shall file a bond as the court prescribes and approves as security therefor. In lieu of this bond, upon petition of the parent, the court may order that the property received be invested in securities issued by the United States, which shall be deposited pursuant to the order of the court, or that the property be invested in a savings account, savings certificate, or certificate of deposit, in a bank, savings and loan association, or trust company, or an annuity or other form of structured settlement, subject to the order of the court. A copy of the court's order and the evidence of the deposit shall be filed with the court administrator. Money or assets in an account established by the court under this section are not available to the minor child or the child's parent or guardian until released by the court to the child or the child's parent or guardian. No settlement or compromise of the action is valid unless it is approved by a judge of the court in which the action is pending.

Sec. 199. Minnesota Statutes 1988, section 609.378, is amended to read:

609.378 NEGLECT OR ENDANGERMENT OF A CHILD.

Subdivision 1. PERSONS GUILTY OF NEGLECT OR ENDANGERMENT. The following people are guilty of neglect or endangerment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(a) **NEGLECT.** (1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and ~~which~~ the deprivation substantially harms the child's physical or emotional health ~~or~~ ~~(b)~~ is guilty of neglect of a child. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or ~~foster parent~~ caretaker who knowingly permits the continuing physical or sexual abuse of a child; is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) ENDANGERMENT. A parent, legal guardian, or caretaker who endan-

New language is indicated by underline, deletions by ~~strikeout~~.

gers the child's person or health by intentionally causing or permitting a child to be placed in a situation likely to substantially harm the child's physical or mental health or cause the child's death is guilty of child endangerment. This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

Subd. 2. DEFENSES. It is a defense to a prosecution under ~~clause (b) subdivision 1, paragraph (a), clause (2), or paragraph (b)~~, that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation.

If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment shall constitute "health care" as used in clause (a):

Sec. 200. Minnesota Statutes 1988, section 626.556, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to (†) mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care

New language is indicated by underline, deletions by ~~strikeout~~.

of the child; ~~or (2) in lieu of medical care; except that there is a duty to report if a lack of medical care may cause imminent and serious danger to the child's health. This section does not~~ impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, or medical care, a duty to provide that care. Neglect also means "medical neglect" as defined in section 260.015, subdivision ~~40~~ 2a, clause ~~(e)~~ (5).

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

Sec. 201. Minnesota Statutes 1988, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **DETERMINATIONS.** Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

(1) an assault, as defined in section 609.02, subdivision 10, or any physical contact not exempted by section 609.379, where the assault or physical contact is either severe or recurring and causes either injury or significant risk of injury to the child;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) neglect as defined in subdivision 2, paragraph (c); or

(3) sexual abuse as defined in subdivision 2, paragraph (a).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in imminent and serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

Sec. 202. Minnesota Statutes 1988, section 626.558, is amended to read:

626.558 MULTIDISCIPLINARY CHILD PROTECTION TEAM.

Subdivision 1. **ESTABLISHMENT OF THE TEAM.** A county may establish a multidisciplinary child protection team ~~comprised of~~ that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, and representatives of health and education. ~~In addition,~~ representatives of mental health or other appropriate human service agencies, and parent groups may be added to the child protection team.

Subd. 2. **DUTIES OF TEAM.** A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency to better enable the agency to carry out its child protection functions under section 626.556 and the community social services act. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation ~~must~~ may be performed by a committee or subcommittee of the team ~~composed of the team members representing social human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; health care; education; and other necessary agencies;~~ and persons directly involved in an individual case as ~~determined~~ designated by the case consultation committee. Case consultation is a case review process that results in recommendations about services to be provided to the identified children and family other members performing case consultation.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2a. **JUVENILE PROSTITUTION OUTREACH PROGRAM.** A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for juveniles who are engaging in prostitution. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. The county may finance these services by means of the penalty assessment authorized by section 609.3241. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 3. **INFORMATION SHARING.** (a) ~~The local welfare agency may make available to the case consultation committee of the team or subcommittee, all records collected and maintained by the agency under section 626.556 and in connection with case consultation. Any member of the A case consultation committee or subcommittee member may share information acquired in the member's professional capacity with the committee or subcommittee to assist the committee in its function case consultation.~~

(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties, are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.

New language is indicated by underline, deletions by ~~strikeout~~.

A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.

Sec. 203. **[626.5593] PEER REVIEW OF LOCAL AGENCY RESPONSE.**

Subdivision 1. ESTABLISHMENT. By January 1, 1991, the commissioner of human services shall establish a pilot program for peer review of local agency responses to child maltreatment reports made under section 626.556. The peer review program shall examine agency assessments of maltreatment reports and delivery of child protection services in at least two counties. The commissioner shall designate the local agencies to be reviewed, and shall appoint a peer review panel composed of child protection workers, as defined in section 626.559, and law enforcement personnel who are responsible for investigating reports of child maltreatment under section 626.556, subdivision 10, within the designated counties.

Subd. 2. DUTIES. The peer review panel shall meet at least quarterly to review case files representative of child maltreatment reports that were investigated or assessed by the local agency. These cases shall be selected randomly from local welfare agency files by the commissioner. Not public data, as defined in section 13.02, subdivision 8, may be shared with panel members in connection with a case review.

The panel shall review each case for compliance with relevant laws, rules, agency policies, appropriateness of agency actions, and case determinations. The panel shall issue a report to the designated agencies after each meeting which includes findings regarding the agency's compliance with relevant laws, rules, policies, case practice, and any recommendations to be considered by the agency. The panel shall also issue a semiannual report concerning its activities. This semiannual report shall be available to the public, but may not include any information that is classified as not public data.

Subd. 3. REPORT TO LEGISLATURE. By January 1, 1992, the commissioner shall report to the legislature regarding the activities of the peer review panel, compliance findings, barriers to the effective delivery of child protection services, and recommendations for the establishment of a permanent peer review system for child protection services.

Subd. 4. FUNDS. The commissioner may use funds allocated for child protection services, training, and grants to pay administrative expenses associated with the peer review panel pilot program created by this section.

Sec. 204. Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended by Laws 1987, chapter 75, section 1, and by Laws 1988, chapter 689, article 2, section 238, is amended to read:

Subdivision 1. **RESTRICTED CONSTRUCTION OR MODIFICATION.** Through June 30, 1990, the following construction or modification may not be commenced:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied prior to the date of enactment of this act if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site prior to the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems

New language is indicated by underline, deletions by ~~strikeout~~.

agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building; ~~or~~

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice county that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota; or

(10) a project to replace a 130-bed or less hospital if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds.

Sec. 205. Laws 1988, chapter 689, article 2, section 248, is amended to read:

Sec. 248. LOCAL INCOME ASSISTANCE FROM FEDERAL FOOD STAMPS.

To the extent of available appropriations, the commissioner of human services shall contract with community outreach programs to encourage participation in the food stamp program of eligible low-income households, including, but not limited to, seniors, disabled persons, farmers, veterans, unemployed workers, low-income working heads of households, battered women residing in shelters, migrant workers, refugee families with children, and ~~other eligible individuals who are homeless.~~ For purposes of this section, "homeless" means that the individual lacks a fixed and regular nighttime residence or has a primary nighttime residence that is:

(1) a publicly supervised or privately operated shelter, including a welfare hotel or congregate shelter, designed to provide temporary living accommodations;

(2) an institution that provides a temporary residence for individuals who will be institutionalized;

(3) a temporary accommodation in the residence of another individual; or

(4) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The commissioner shall seek federal reimbursement for state money used for grants and contracts under this section. Federal money received is appropriated to the commissioner for purposes of this section. The commissioner shall convene an advisory committee to help establish criteria for awarding grants, to make recommendations regarding grant proposals, to assist in the development of training and educational materials, and to participate in the evaluation of grant programs. The grantees shall provide training for program workers, offer technical assistance, and prepare educational materials. Grantees must demonstrate that grants were used to increase participation in the food stamp program

New language is indicated by underline, deletions by ~~strikeout~~.

by creating new outreach activities, and not by replacing existing activities. No more than five percent of the appropriation for community outreach programs shall be used by the commissioner for the department's administrative costs. The rulemaking requirements of Minnesota Statutes, chapter 14 do not apply to the procedures used by the commissioner to request and evaluate grant proposals and to award grants and contracts under this section. Distribution of grant money must begin within three months after any transfer of funds from the commissioner of health to the commissioner of human services.

Sec. 206. Laws 1988, chapter 689, article 2, section 269, subdivision 2, is amended to read:

Subd. 2. Section 248 is repealed effective July 1, ~~1990~~ 1991.

Sec. 207. Laws 1988, chapter 719, article 8, section 32, is amended to read:

Sec. 32. TRANSFER OF COUNTY FOOD STAMP QUALITY CONTROL SYSTEM EMPLOYEES.

(a) All positions covered by the Minnesota merit system located in Crow Wing county family social service center and in the Redwood county welfare department classified as food stamp corrective action specialist I and II and as financial assistant supervisor I, if the positions supervise food stamp corrective action specialists, are transferred to the department of human services and become state civil service positions.

(b) All incumbent employees affected by this transfer, who choose to transfer to state civil service positions in the department of human services, must be transferred with no reduction in salary. Salaries of individual employees who transfer must be adjusted to the minimum salary or to the nearest equal or higher step on the state compensation plan for their class, whichever is greater.

(c) Existing sick leave and vacation accruals for an employee who transfers must be transferred to the department of human services and the employee shall accrue additional vacation and sick leave under the provisions of the appropriate state collective bargaining agreement based on the employee's years of service in either Crow Wing county family service center or in the Redwood county welfare department.

(d) If an employee who transfers chooses to retain the county coverage for employee and dependent health, dental, and life insurance, the department of human services shall reimburse the employee for one month of continued enrollment in the health, dental, and life insurance plans in an amount equal to what their former county employer would have paid for the coverage had the employee remained a county employee, until the employee is eligible for coverage under the state insurance plans.

(e) ~~Classification seniority for an employee who transfers must be calculated according to the provisions of the appropriate state collective bargaining agree-~~

New language is indicated by underline, deletions by ~~strikeout~~.

ment based upon the employee's years of service in the county merit system. The state must negotiate with the exclusive representative for the bargaining unit to which food stamp quality control employees are transferring regarding their classification seniority. For purposes of calculating classification seniority for employees transferring into state service, a transferred employee must retain the same seniority ranking the employee had within the employee's current classification within the county relative to the other employees with that classification within the county. Classification seniority for classifications outside of the bargaining unit into which the employee is transferring must be calculated according to the provisions of the appropriate state collective bargaining agreement based upon the employee's years of service in the county merit system.

Sec. 208. REPORT ON INHALANT ABUSE DEMONSTRATION PROJECT.

The commissioner shall prepare a report on the outcome of the inhalant abuse demonstration project in Minnesota Statutes, section 254A.145, to be presented to the legislature by February 1, 1991. In that report, the commissioner shall include information on the effectiveness of the chemical dependency treatment system for children under 14 years of age, particularly children who are inhalant abusers, and shall issue recommendations for the appropriate provision of services for this population group.

Sec. 209. PLANNING GRANT.

The commissioner of human services is authorized to award, for the biennium ending June 30, 1991, a planning grant to a public or private agency or program experienced in working with youth and inhalant/chemical abuse, in order to establish a treatment program for children under age 12 identified as inhalant abusers. This treatment program shall evaluate clients, provide treatment and aftercare services, and coordinate services provided with existing agencies. The agency or program receiving the planning grant must report program results and recommendations to the commissioner of human services by February 15, 1991.

Sec. 210. COMMUNITY ACTION PROGRAM LEGISLATIVE TASK FORCE.

Subdivision 1. PURPOSE. On this 25th anniversary of the Economic Opportunity Act of 1964, the legislature recognizes the need to evaluate how Minnesota can, through community action programs, meet the needs of its low-income residents and provide them with opportunities to escape poverty. With the population of low-income residents increasing, and federal financial support for community action programs decreasing, the legislature must evaluate the ability of community action programs to serve low-income residents. The purpose of the task force is to chart a course for community action programs to ensure that the needs of low-income residents are met.

Subd. 2. MEMBERSHIP. There is established a legislative task force consisting of five members of the house of representatives appointed by the speaker of the house and five members of the senate appointed by the senate majority leader. At least two members should be of the minority caucus.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. CHAIR. The members of the task force shall elect one member to serve as chair of the task force.

Subd. 4. STAFF. The task force shall use legislative staff to carry out its duties.

Subd. 5. DUTIES. The task force shall examine the role and future of community action programs in Minnesota. At least three hearings shall be held in the area of Minnesota outside the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. Community action programs shall organize regional presentations as well as selected tours for the task force. The task force shall examine and make recommendations on how community action programs can better address the needs of Minnesota's low-income residents. The task force shall also examine programs, advocacy efforts, funding trends, and local initiatives to reduce poverty, as well as the state's role in supporting community action programs in Minnesota. The task force shall submit a report on its findings and recommendations to the legislature by January 15, 1990.

Sec. 211. RULES FOR DROP-IN CARE.

By April 1, 1990, the commissioner of human services must adopt permanent rules to amend Minnesota Rules, part 9503.0075, to bring that rule part into conformity with the requirements of section 245A.14, subdivision 6.

Sec. 212. RULES PROVIDING VARIANCES.

The commissioner of human services is authorized to amend Minnesota Rules, part 9503.0170, subpart 6, item D, to permit variances from the staff distribution requirements of part 9503.0040, subpart 2, item D; to permit variances from the age category grouping requirements of part 9503.0040, subpart 3, item B, subitem (1); and to permit variances from the transportation requirements of part 9503.0150, item E. Variance requests submitted to the commissioner according to the amendments authorized in this section must comply in all respects with the provisions of part 9503.0170, subpart 6, items A to C. The commissioner's authority to adopt rules under this section expires on April 1, 1990.

Sec. 213. SUPPORTIVE RESIDENTIAL PROGRAMS REPORT.

Subdivision 1. SUPPORTIVE RESIDENTIAL PROGRAM REGULATION RECOMMENDATION. By February 1, 1990, the commissioners of health and human services shall jointly make a recommendation to the legislature on the regulation and licensure of facilities and programs that provide housing services and provide or coordinate supportive services or health supervision services to residents. The recommendations must address:

(1) the existing use of residential arrangements with a lodging, hotel, or food service license under Minnesota Statutes, chapter 157;

(2) existing county board and local human service agency administrative or

New language is indicated by underline, deletions by ~~strikeout~~.

certification standards for board and lodging houses or supportive living residences;

(3) county referral and placement practices for persons who, in addition to food or lodging services, need assistance with health or supportive services;

(4) the status of persons in these facilities with respect to the vulnerable adults abuse reporting act and their need for referral to protective services or social services for assessment prior to placement by the county or referral to the residence by the county;

(5) the applicability of laws governing the rights of patients and residents specified in Minnesota Statutes, section 144.651, and the rights of tenants in housing;

(6) a determination as to the need for and degree of regulation of these services;

(7) recommendations for repeal or revision of existing facility and program statutes and regulations; and

(8) a fiscal analysis of the current costs associated with the provision of supportive programs and facilities, recommendations for methods for maximizing all funding sources used for these services, and an analysis of the costs for licensure and regulation.

Subd. 2. CONSULTATION WITH AFFECTED PARTIES. In developing the recommendations, the commissioners may consult other state departments and agencies, the interagency board for quality assurance established under Minnesota Statutes, section 144A.31, counties and other affected political subdivisions, advocacy groups, representatives or owners of facilities and programs, lodging houses and assisted or supportive living services, and service consumers.

Subd. 3. COUNTY REPORTING. No later than September 1, 1989, and annually after that date, the county board or human services board in each county shall report to the commissioner of human services the names and addresses of the owners and operators of all facilities and programs with which the county has a negotiated rate agreement and which are not licensed under Minnesota Statutes, chapter 144, 144A, or 245A. The report must identify the amount of the negotiated rate for each facility or program, services other than the provision of lodging that the owner or operator is responsible for coordinating or providing, the number of persons receiving services, and the per unit cost for the services. No later than September 1, 1989, the county board or human services agency in each county shall also provide the commissioner of human services with a copy of any administrative standards or certification standards adopted by or used by the county for board and lodging facilities and supervised living residences that are in addition to or different from those contained in Minnesota Rules, chapter 4625, or that are for facilities and programs not licensed under Minnesota Statutes, chapter 144, 144A, or 245A.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 214. LICENSURE EXCLUSIONS.

Until July 1, 1990, Minnesota Statutes, sections 245A.01 to 245A.16, do not apply to board and lodging establishments licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness and who have refused an appropriate residential program offered by a county agency.

Sec. 215. STUDY; BOND REQUIREMENT FOR HEARING INSTRUMENT SELLERS.

The commissioner of health shall study issues relating to the requirement in Minnesota Statutes, section 153A.16, that hearing instruments obtain a surety bond. The study must address the availability of bonds, the costs of obtaining the bonds, and the underwriter financial requirements for obtaining bonds. The commissioner of health shall report to the legislature by January 1, 1990, with the results of the study and the commissioner's recommendations, including findings and recommendations on whether other mechanisms are available to protect purchasers of hearing instrument products and services.

Sec. 216. STUDY OF EXEMPTIONS TO REGISTRATION WITH THE BOARD OF UNLICENSED MENTAL HEALTH SERVICE PROVIDERS.

The commissioner of human services, in consultation with the board of unlicensed mental health service providers, shall study and report to the legislature by February 15, 1990, on whether any of the persons exempted from registration by reason of their employment in a program licensed by the commissioner of human services should be required to register with the board.

Sec. 217. IRIS COORDINATING COMMITTEE.

Subdivision 1. MEMBERSHIP. The coordinating committee for the inventory, referral, and intake system (IRIS) required under Minnesota Statutes, section 268.86, subdivision 10, consists of the commissioners or their designees of the departments of human services, administration, and jobs and training; a representative of the information policy office; two members of the senate appointed under the rules of the senate; and two members of the house of representatives appointed under the rules of the house.

Subd. 2. DUTIES. The IRIS coordinating committee shall:

- (1) monitor the implementation of IRIS;
- (2) oversee a delivery system study to determine the scope and nature of the current delivery system problems;
- (3) oversee the development of a strategic plan for human service delivery which must include, in addition to planned improvements in delivery systems, information system objectives and policy requirements accomplished through IRIS; and

New language is indicated by underline, deletions by ~~strikeout~~.

(4) evaluate the IRIS prototype pilot project conducted jointly by the department of human services and the department of jobs and training.

Subd. 3. REPORT. The IRIS coordinating committee shall report to the legislature every six months beginning July 1, 1989, on the activities of the committee.

Subd. 4. EXPIRATION. The IRIS coordinating committee expires on July 1, 1991, or six months after full implementation of IRIS, whichever occurs later.

Sec. 218. INSTRUCTION TO REVISOR.

In Minnesota Statutes 1989 Supplement and subsequent editions of the statutes, the revisor of statutes shall change the words "resident" and "patient," wherever they appear in Minnesota Statutes, sections 246.50 to 246.55, to "client."

Sec. 219. REPEALER.

Subdivision 1. HEALTH DEPARTMENT HOSPITAL INFORMATION. Minnesota Rules, parts 4650.0162 and 4650.0164, are repealed.

Subd. 2. HUMAN SERVICES LICENSING. Laws 1987, chapter 403, article 5, section 1, is repealed.

Subd. 3. CHEMICAL DEPENDENCY FUND. Section 254B.09, subdivision 3, is repealed effective the day following final enactment. Section 254B.10 is repealed effective July 1, 1989.

Subd. 4. PERMANENCY PLANNING. Minnesota Statutes 1988, section 256F.05, subdivision 1, is repealed.

Subd. 5. CHILD SUPPORT. Minnesota Statutes 1988, section 518.613, subdivision 5; and 256.87, subdivision 4, are repealed. Laws 1988, chapter 719, article 8, section 34, is repealed.

Subd. 6. CHILD CARE. Minnesota Statutes 1988, sections 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivisions 2, 3, and 4; and 256H.13, are repealed.

Subd. 7. STATE FACILITY COST OF CARE. Minnesota Statutes, section 246.50, subdivisions 3a, 4a, and 9, are repealed.

Sec. 220. EFFECTIVE DATE.

Subdivision 1. HEALTH DEPARTMENT ADMINISTRATION. Sections 3 to 6 are effective the day following final enactment.

Subd. 2. HUMAN SERVICES LICENSING. Sections 62, 82, 83, 85, 210, and 211 are effective the day following final enactment.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. CHEMICAL DEPENDENCY FUND. Sections 105, 106, and 108 to 110 are effective the day following final enactment.

Subd. 4. HEAD START. Sections 171 to 175 are effective the day following final enactment.

Subd. 5. HOSPITALITY HOST PROGRAM. Section 176 is effective the day following final enactment.

Subd. 6. CHILD SUPPORT: Section 162 is effective the day following final enactment and applies to actions brought after January 1, 1986. Section 197 is effective the day following final enactment and applies to support and maintenance orders entered or modified before, on, or after the effective date.

Subd. 7. CHILD MORTALITY REVIEW PANELS. Section 112 is effective the day following final enactment.

Subd. 8. LEAD ABATEMENT. Section 19 is effective the day following final enactment.

Subd. 9. BOARD OF SOCIAL WORK. Section 40 is effective the day following final enactment.

Subd. 10. MARRIAGE AND DISSOLUTION FEES. Sections 185 to 188 are effective the day following final enactment.

Subd. 11. MARRIAGE AND FAMILY THERAPISTS. Section 42 is effective retroactively to December 28, 1988.

Subd. 12. COURT-SUPERVISED SETTLEMENT ACCOUNTS. Section 198 is effective the day following final enactment and applies to issues concerning the availability of funds that arise on and after the effective date.

Subd. 13. REPEALER SECTION. Section 219, subdivisions 3 and 5, are effective the day following final enactment.

ARTICLE 3

HEALTH CARE AND MEDICAL ASSISTANCE

Section 1. Minnesota Statutes 1988, section 62A.045, is amended to read:

62A.045 ~~PAYMENTS TO~~ PAYMENTS ON BEHALF OF WELFARE RECIPIENTS.

No policy of accident and sickness insurance regulated under this chapter; vendor of risk management services regulated under section 60A.23; nonprofit health service plan corporation regulated under chapter 62C; health maintenance organization regulated under chapter 62D; or self-insured plan regulated

New language is indicated by underline, deletions by ~~strikeout~~.

under chapter 62E shall contain any provision denying or reducing benefits because services are rendered to ~~an insured or dependent a~~ person who is eligible for or receiving medical assistance benefits pursuant to chapter 256B or 256D or services pursuant to section 252.27; 256.936; 260.251, subdivision 1a; 261.27; or 393.07, subdivision 1 or 2.

Notwithstanding any law to the contrary, when a person covered under a policy of accident and sickness insurance, risk management plan, nonprofit health service plan, health maintenance organization, or self-insured plan receives medical benefits according to any statute listed in this section, payment for covered services or notice of denial for services billed by the provider must be issued directly to the provider. If a person was receiving medical benefits through the department of human services at the time a service was provided, the provider must indicate this benefit coverage on any claim forms submitted by the provider to the insurer for those services. If the commissioner of human services notifies the insurer that the commissioner has made payments to the provider, payment for benefits or notices of denials issued by the insurer must be issued directly to the commissioner. Submission by the department to the insurer of the claim on a department of human services claim form is proper notice and shall be considered proof of payment of the claim to the provider, and supersedes any contract requirements of the insurer relating to the form of submission. Liability to the insured for coverage is satisfied to the extent that payments for those benefits are made by the insurer to the provider or the commissioner.

Sec. 2. Minnesota Statutes 1988, section 62A.046, is amended to read:

62A.046 COORDINATION OF BENEFITS.

(1) No group contract providing coverage for hospital and medical treatment or expenses issued or renewed after August 1, 1984, which is responsible for secondary coverage for services provided, may deny coverage or payment of the amount it owes as a secondary payor solely on the basis of the failure of another group contract, which is responsible for primary coverage, to pay for those services.

(2) A group contract which provides coverage of a claimant as a dependent of a parent who has legal responsibility for the dependent's medical care pursuant to a court order under section 518.171 must make payments directly to the provider of care. In such cases, liability to the insured is satisfied to the extent of benefit payments made to the provider.

(3) This section applies to an insurer, a vendor of risk management services regulated under section 60A.23, a nonprofit health service plan corporation regulated under chapter 62C and a health maintenance organization regulated under chapter 62D. Nothing in this section shall require a secondary payor to pay the obligations of the primary payor nor shall it prevent the secondary payor from recovering from the primary payor the amount of any obligation of the primary payor that the secondary payor elects to pay.

New language is indicated by underline, deletions by ~~strikeout~~.

(4) Payments made by an enrollee or by the commissioner on behalf of an enrollee in the children's health plan under section 256.936, or a person receiving benefits under chapter 256B or 256D, for services that are covered by the policy or plan of health insurance shall, for purposes of the deductible, be treated as if made by the insured.

(5) The commissioner of human services shall recover payments made by the children's health plan from the responsible insurer, for services provided by the children's health plan and covered by the policy or plan of health insurance.

Sec. 3. [144.0723] CLIENT REIMBURSEMENT CLASSIFICATIONS; PROCEDURES FOR RECONSIDERATION.

Subdivision 1. CLIENT REIMBURSEMENT CLASSIFICATIONS. The commissioner of health shall establish reimbursement classifications based upon the assessment of each client in intermediate care facilities for the mentally retarded conducted after December 31, 1988, under section 256B.501, subdivision 3g, or under rules established by the commissioner of human services under section 256B.501, subdivision 3j. The reimbursement classifications established by the commissioner must conform to the rules established by the commissioner of human services to set payment rates for intermediate care facilities for the mentally retarded beginning on or after October 1, 1990.

Subd. 2. NOTICE OF CLIENT REIMBURSEMENT CLASSIFICATION. The commissioner of health shall notify each client and intermediate care facility for the mentally retarded in which the client resides of the reimbursement classification established under subdivision 1. The notice must inform the client of the classification that was assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, and the opportunity to request a reconsideration of the classification. The notice of classification must be sent by first-class mail. The individual client notices may be sent to the client's intermediate care facility for the mentally retarded for distribution to the client. The facility must distribute the notice to the client's case manager and to the client or to the client's representative. This notice must be distributed within three working days after the facility receives the notices from the department. For the purposes of this section, "representative" includes the client's legal representative as defined in Minnesota Rules, part 9525.0015, subpart 18, the person authorized to pay the client's facility expenses, or any other individual designated by the client.

Subd. 3. REQUEST FOR RECONSIDERATION. The client, client's representative, or the intermediate care facility for the mentally retarded may request that the commissioner reconsider the assigned classification. The request for reconsideration must be submitted in writing to the commissioner within 30 days after the receipt of the notice of client classification. The request for reconsideration must include the name of the client, the name and address of the facility in which the client resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested

New language is indicated by underline, deletions by ~~strikeout~~.

classification. The documentation accompanying the reconsideration request is limited to documentation establishing that the needs of the client at the time of the assessment resulting in the disputed classification justify a change of classification.

Subd. 4. ACCESS TO INFORMATION. Upon written request, the intermediate care facility for the mentally retarded must give the client's case manager, the client, or the client's representative a copy of the assessment form and the other documentation that was given to the department to support the assessment findings. The facility shall also provide access to and a copy of other information from the client's record that has been requested by or on behalf of the client to support a client's reconsideration request. A copy of any requested material must be provided within three working days after the facility receives a written request for the information. If the facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment. Notwithstanding this section, any order issued by the commissioner under this subdivision must require that the facility immediately comply with the request for information and that as of the date the order is issued, the facility shall forfeit to the state a \$100 fine the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues.

Subd. 5. FACILITY'S REQUEST FOR RECONSIDERATION. (a) In addition to the information required in subdivision 3, a reconsideration request from an intermediate care facility for the mentally retarded must contain the following information:

(1) the date the reimbursement classification notices were received by the facility;

(2) the date the classification notices were distributed to the client's case manager and to the client or to the client's representative; and

(3) a copy of a notice sent to the client's case manager, and to the client or client's representative that tells the client or the client's representative (i) that a reconsideration of the client's reimbursement classification is being requested; (ii) the reason for the request; (iii) that the client's rate may change if the request is approved by the department; (iv) that copies of the facility's request and supporting documentation are available for review; and (v) that the client also has the right to request a reconsideration.

(b) If the facility fails to provide this information with the reconsideration request, the request must be denied, and the facility may not make further reconsideration requests on that specific reimbursement classification.

Subd. 6. RECONSIDERATION. The commissioner's reconsideration must be made by individuals not involved in reviewing the assessment that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under subdivisions 3 and 5. If necessary for evaluating the reconsideration request,

New language is indicated by underline, deletions by ~~strikeout~~.

the commissioner may conduct on-site reviews. At the commissioner's discretion, the commissioner may review the reimbursement classifications assigned to all clients in the facility. Within 15 working days after receiving the request for reconsideration, the commissioner shall affirm or modify the original client classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the status of the client at the time of the assessment. The client and the intermediate care facility for the mentally retarded shall be notified within five working days after the decision is made. The commissioner's decision under this subdivision is the final administrative decision of the agency.

Subd. 7. AUDIT AUTHORITY. The department of health may audit assessments of clients in intermediate care facilities for the mentally retarded. The audits may be conducted at the facility, and the department may conduct the audits on an unannounced basis.

Subd. 8. RULEMAKING. The commissioner of health shall adopt rules necessary to implement these provisions.

Sec. 4. Minnesota Statutes 1988, section 144.50, is amended by adding a subdivision to read:

Subd. 7. RESIDENTS WITH AIDS OR HEPATITIS. Boarding care homes and supervised living facilities licensed by the commissioner of health must accept as a resident a person who is infected with the human immunodeficiency virus or the hepatitis B virus unless the facility cannot meet the needs of the person under Minnesota Rules, part 4665.0200, subpart 5, or part 4655.1500, subpart 2, or the person is otherwise not eligible for admission to the facility under state laws or rules.

Sec. 5. Minnesota Statutes 1988, section 144.651, subdivision 2, is amended to read:

Subd. 2. DEFINITIONS. For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. "Patient" also means a minor who is admitted to a residential program as defined in section 253C.01. For purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving mental health treatment on an outpatient basis or in a community support program or other community-based program. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and ~~board and~~ boarding care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age.

Sec. 6. Minnesota Statutes 1988, section 144A.01, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3a. "Certified" means certified for participation as a provider in the Medicare or Medicaid programs under title XVIII or XIX of the Social Security Act.

Sec. 7. Minnesota Statutes 1988, section 144A.01, is amended by adding a subdivision to read:

Subd. 4a. "Emergency" means a situation or physical condition that creates or probably will create an immediate and serious threat to a resident's health or safety.

Sec. 8. Minnesota Statutes 1988, section 144A.04, subdivision 7, is amended to read:

Subd. 7. **MINIMUM NURSING STAFF REQUIREMENT.** Notwithstanding the provisions of Minnesota Rules, part 4655.5600, the minimum staffing standard for nursing personnel in certified nursing homes is as follows:

(a) The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day.

(b) For purposes of this subdivision, "hours of nursing personnel" means the paid, on-duty, productive nursing hours of all nurses and nursing assistants, calculated on the basis of any given 24-hour period. "Productive nursing hours" means all on-duty hours during which nurses and nursing assistants are engaged in nursing duties. Examples of nursing duties may be found in Minnesota Rules, parts 4655.5900, 4655.6100, and 4655.6400. Not included are vacations, holidays, sick leave, in-service classroom training, or lunches. Also not included are the nonproductive nursing hours of the in-service training director. In homes with more than 60 licensed beds, the hours of the director of nursing are excluded. "Standardized resident day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as found in Minnesota Rules, part 9549.0059, subpart 2, calculated on the basis of a facility's census for any given day.

(c) Calculation of nursing hours per standardized resident day is performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for that same period.

(d) A nursing home that is issued a notice of noncompliance under section 144A.10, subdivision 5, for a violation of this subdivision, shall be assessed a civil fine of \$300 for each day of noncompliance, subject to section 144A.10, subdivisions 7 and 8.

Sec. 9. Minnesota Statutes 1988, section 144A.04, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 8. RESIDENTS WITH AIDS OR HEPATITIS. A nursing home must accept as a resident a person who is infected with the human immunodeficiency virus or the hepatitis B virus unless the facility cannot provide appropriate care for the person under Minnesota Rules, part 4655.1500, subpart 2, or the person is otherwise not eligible for admission under state laws and rules.

Sec. 10. Minnesota Statutes 1988, section 144A.04, is amended by adding a subdivision to read:

Subd. 9. CARDIOPULMONARY RESUSCITATION TRAINING. Effective October 1, 1989, a nursing home must have on duty at all times at least one staff member who is trained in single rescuer adult cardiopulmonary resuscitation and who has completed the initial training or a refresher course within the previous two years.

Sec. 11. Minnesota Statutes 1988, section 144A.071, subdivision 3, is amended to read:

Subd. 3. EXCEPTIONS. The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

New language is indicated by underline, deletions by ~~strikeout~~.

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;

(g) to license or certify beds in a new facility constructed to replace a facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the

New language is indicated by underline, deletions by ~~strikeout~~.

appraised value of the facility or \$200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) ~~the hospital in which the nursing home beds were originally located ceases to function as an acute care facility, or necessary support services for nursing homes as required for licensure under sections 144A.02 to 144A.10, such as dietary service, physical plant, housekeeping, physical therapy, occupational therapy, and administration, are no longer available from the original hospital site;~~ and (2) the relocation of nursing home beds under this clause should not exceed a radius of six miles;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside

New language is indicated by underline, deletions by ~~strikeout~~.

the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; or

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause; or

(r) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 12. Minnesota Statutes 1988, section 144A.073, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given them:

(a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.

(b) "Renovation" means extensive remodeling of, or construction of an addition to, a facility on an existing site with a total cost exceeding ten percent of the appraised value of the facility or \$200,000, whichever is less.

(c) "Replacement" means the demolition ~~and~~ or reconstruction of all or part of an existing facility.

(d) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.

Sec. 13. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 6b. FINES FOR FEDERAL CERTIFICATION DEFICIENCIES. If the commissioner determines that a nursing home or certified boarding care home does not meet a requirement of section 1919(b), (c), or (d), of the Social Security Act, or any regulation adopted under that section of the Social Security Act, the nursing home or certified boarding care home may be assessed a civil fine for each day of noncompliance and until a notice of correction is received by the commissioner under subdivision 7. Money collected because of these fines must be applied to the protection of the health or property of residents of nursing facilities the commissioner finds deficient. A fine for a specific deficiency may not exceed \$500 for each day of noncompliance. The commissioner shall adopt rules establishing a schedule of fines.

Sec. 14. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 6c. OVERLAP OF FINES. If a nursing home is subject to fines under both subdivisions 6 and 6b for the same requirement, condition, situation, or practice, the commissioner shall assess either the fine provided by subdivision 6 or the fine provided by subdivision 6b.

Sec. 15. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 6d. SCHEDULE OF FINES. (a) The schedule of fines for noncompliance with correction orders issued to nursing homes that was adopted under the provisions of section 144A.10, subdivision 6, and in effect on May 1, 1989, is effective until repealed, modified, or superseded by rule.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) By September 1, 1990, the commissioner shall amend the schedule of fines to increase to \$250 the fines for violations of section 144.561, subdivisions 18, 20, 21, 22, 27, and 30, and for repeated violations.

(c) The commissioner shall adopt rules establishing the schedule of fines for deficiencies in the requirements of section 1919(b), (c), and (d), of the Social Security Act, or regulations adopted under that section of the Social Security Act.

Sec. 16. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 8a. FINE FOR MISALLOCATION OF NURSING STAFF. Upon issuing a correction order to a nursing home under subdivision 4 for a violation of Minnesota Rules, part 4655.5600, because of nursing staff performing duties such as washing wheelchairs or beds of discharged residents, or other housekeeping or laundry duties not related to the direct nursing care of residents, the commissioner shall impose a civil fine of \$500 per day. A fine under this subdivision accrues in accordance with subdivision 6 and is subject to subdivision 8 for purposes of recovery and hearings.

Sec. 17. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 8b. RESIDENT ADVISORY COUNCIL. Each nursing home or boarding care home shall establish a resident advisory council and a family council, unless fewer than three persons express an interest in participating. If one or both councils do not function, the nursing home or boarding care home shall document its attempts to establish the council or councils at least once each calendar year. This subdivision does not alter the rights of residents and families provided by section 144.651, subdivision 27. A nursing home or boarding care home that is issued a notice of noncompliance with a correction order for violation of this subdivision shall be assessed a civil fine of \$100 for each day of noncompliance.

Sec. 18. [144A.103] PENALTY FOR DEATH OF A RESIDENT.

Subdivision 1. DEFINITIONS. For purposes of this section, "abuse" and "neglect" have the meanings given in section 626.557, subdivision 2, paragraphs (d) and (e).

Subd. 2. PENALTY. Whenever the commissioner substantiates that a situation existed that constituted abuse or neglect by a nursing home and that could foreseeably result in death or injury to a resident, and the abuse or neglect contributed to the resident's death, the nursing home must be assessed a civil fine of \$1,000. The assessment of a fine under this section does not preclude the use of any other remedy.

Subd. 3. RECOVERY OF FINES; HEARING. A nursing home that is assessed a fine under this section must pay the fine no later than 15 days after

New language is indicated by underline, deletions by ~~strikeout~~.

receipt of the notice of assessment. The assessment shall be stayed if the nursing home makes a written request for a hearing on the assessment within 15 days after receipt of the notice of assessment. After submission of a timely request, a hearing must be conducted as a contested case hearing under chapter 14 no later than 30 days after the request. If a nursing home does not pay the fine as required by this section, the commissioner of health shall notify the commissioner of human services, who shall deduct the amount of the fine from reimbursement payments due or to be due the nursing home under chapter 256B.

Sec. 19. [144A.105] SUSPENSION OF ADMISSIONS.

Subdivision 1. CIRCUMSTANCES FOR SUSPENSIONS. The commissioner of health may suspend admissions to a nursing home or certified boarding care home when:

(1) the commissioner has issued a penalty assessment or the nursing home has a repeated violation for noncompliance with section 144A.04, subdivision 7, or the portion of Minnesota Rules, part 4655.5600, subpart 2, that establishes minimum nursing personnel requirements;

(2) the commissioner has issued a penalty assessment or the nursing home or certified boarding care home has repeated violations for not maintaining a sufficient number or type of nursing personnel to meet the needs of the residents, as required by Minnesota Rules, parts 4655.5100 to 4655.6200;

(3) the commissioner has determined that an emergency exists;

(4) the commissioner has initiated proceedings to suspend, revoke, or not renew the license of the nursing home or certified boarding care home; or

(5) the commissioner determines that the remedy of denial of payment, as provided by subparagraph 1919(h)(2)(A)(i) of the Social Security Act, is to be imposed under section 1919(h) of the Social Security Act, or regulations adopted under that section of the Social Security Act.

Subd. 2. ORDER. If the commissioner suspends admissions under subdivision 1, the commissioner shall notify the nursing home or certified boarding care home, by written order, that admissions to the nursing home or certified boarding care home will be suspended beginning at a time specified in the order. The suspension is effective no earlier than 48 hours after the nursing home or certified boarding care home receives the order, unless the order is due to an emergency under subdivision 1, clause (3). The order may be served on the administrator of the nursing home or certified boarding care home, or the designated agent in charge of the home, by personal service or by certified or registered mail with a return receipt of delivery. The order shall specify the reasons for the suspension, the corrective action required to be taken by the nursing home or certified boarding care home, and the length of time the suspension will be in effect. The nursing home or certified boarding care home shall not admit any residents after the effective time of the order. In determining the length of time for the

New language is indicated by underline, deletions by ~~strikeout~~.

suspension, the commissioner shall consider the reasons for the suspension, the performance history of the nursing home, and the needs of the residents.

Subd. 3. CONFERENCE. After receiving the order for suspension, the nursing home or certified boarding care home may request a conference with the commissioner to present reasons why the suspension should be modified or should not go into effect. The request need not be in writing. If a conference is requested within 24 hours after receipt of the order, the commissioner shall hold the conference before the effective time of the suspension, unless the order for suspension is due to an emergency under subdivision 1, clause (3). If a conference is not requested within 24 hours after receipt of the order, the nursing home or certified boarding care home may request a conference and the commissioner shall schedule the conference as soon as practicable. The conference may be held in person or by telephone. After a conference, the commissioner may affirm, rescind, or modify the order.

Subd. 4. CORRECTION. The nursing home or certified boarding care home shall notify the commissioner, in writing, when any required corrective action has been completed. The commissioner may verify the corrective action by inspection under section 144A.10. The commissioner may extend the initial suspension period by written notice to the nursing home or certified boarding care home.

Subd. 5. NOTIFICATION OF COMMISSIONER OF HUMAN SERVICES. Whenever the commissioner suspends admissions to a nursing home or certified boarding care home, the commissioner shall notify the commissioner of human services of the order and of any modifications to the order.

Subd. 6. HEARING. A nursing home or certified boarding care home may appeal from an order for suspension of admissions issued under subdivision 1. To appeal, the nursing home or certified boarding care home shall file with the commissioner a written notice of appeal. The appeal must be received by the commissioner within ten days after the date of receipt of the order for suspension by the nursing home or certified boarding care home. Within 15 calendar days after receiving an appeal, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement of the parties. Regardless of any appeal, the order for suspension of admissions remains in effect until final resolution of the appeal.

Sec. 20. Minnesota Statutes 1988, section 144A.11, is amended by adding a subdivision to read:

Subd. 2a. NOTICE TO RESIDENTS. Within five working days after proceedings are initiated by the commissioner to revoke, suspend, or not renew a nursing home license, the controlling person of the nursing home or a designee must provide to the commissioner and the ombudsman for older Minnesotans the names of residents and the names and addresses of the residents' guardians, representatives, and designated family contacts. The controlling person or designees must provide updated information each month until the proceeding is

New language is indicated by underline, deletions by ~~strikeout~~.

concluded. If the controlling person or designee fails to provide the information within this time, the nursing home is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the facility immediately comply with the request for information and that as of the date of the issuance of the correction order, the facility shall forfeit to the state a \$100 fine the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues. Information provided under this subdivision may be used by the commissioner or the ombudsman only for the purpose of providing affected consumers information about the status of the proceedings. Within ten working days after the commissioner initiates proceedings to revoke, suspend, or not renew a nursing home license, the commissioner of health shall send a written notice of the action and the process involved to each resident of the nursing home and the resident's legal guardian, representative, or designated family contact. The commissioner shall provide the ombudsman with monthly information on the department's actions and the status of the proceedings.

Sec. 21. Minnesota Statutes 1988, section 144A.11, subdivision 3, is amended to read:

Subd. 3. **HEARING.** No nursing home license may be suspended or revoked, and renewal may not be denied, without a hearing held as a contested case in accordance with chapter 14. The hearing must commence within 60 days after the proceedings are initiated. If the controlling person designated under section 144A.03, subdivision 2, as an agent to accept service on behalf of all of the controlling persons of the nursing home has been notified by the commissioner of health that the facility will not receive an initial license or that a license renewal has been denied, the controlling person or a legal representative on behalf of the nursing home may request and receive a hearing on the denial. This hearing shall be held as a contested case in accordance with chapter 14.

Sec. 22. Minnesota Statutes 1988, section 144A.12, subdivision 1, is amended to read:

Subdivision 1. **INJUNCTIVE RELIEF.** In addition to any other remedy provided by law, the commissioner of health may bring an action in the district court in Ramsey or Hennepin county or in the district in which a nursing home is located to enjoin a controlling person or an employee of the nursing home from illegally engaging in activities regulated by sections 144A.01 to 144A.16. A temporary restraining order may be granted by the court in the proceeding if continued activity by the controlling person or employee would create an imminent risk of harm to a resident of the facility.

Sec. 23. Minnesota Statutes 1988, section 144A.15, subdivision 1, is amended to read:

Subdivision 1. **PETITION, NOTICE.** In addition to any other remedy provided by law, the commissioner of health may petition the district court in Ramsey or Hennepin county or in the district in which a nursing home or

New language is indicated by underline, deletions by ~~strikeout~~.

certified boarding care home is located for an order directing the controlling persons of the nursing home or certified boarding care home to show cause why the commissioner of health or a designee should not be appointed receiver to operate the facility. The petition to the district court shall contain proof by affidavit that the commissioner of health has either commenced license suspension or revocation proceedings, suspended or revoked a license, or decided not to renew the nursing home license, or that violations of section 1919(b), (c), or (d), of the Social Security Act, or the regulations adopted under that section, or violations of state law or rules, create an emergency. The order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy to the nursing home administrator and to the persons designated as agents by the controlling persons to accept service on their behalf pursuant to section 144A.03, subdivision 2.

Sec. 24. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

Subd. 2a. EMERGENCY PROCEDURE. If it appears from the petition filed under subdivision 1, or from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath when the court determines that this is necessary, that there is probable cause to believe that an emergency exists in a nursing home or certified boarding care home, the court shall issue a temporary order for appointment of a receiver within five days after receipt of the petition. Notice of the petition shall be served personally on the nursing home administrator and on the persons designated as agents by the controlling persons to accept service on their behalf according to section 144A.03, subdivision 2. A hearing on the petition shall be held within five days after notice is served unless the administrator or designated agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.

Sec. 25. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

Subd. 6. RATE RECOMMENDATION. The commissioner may recommend to the commissioner of human services a review of the rates for a nursing home or boarding care home that participates in the medical assistance program that is in involuntary receivership, and that has needs or deficiencies documented by the department of health. If the commissioner of health determines that a review of the rate under section 256B.431 is needed, the commissioner shall provide the commissioner of human services with:

(1) a copy of the order or determination that cites the deficiency or need; and

(2) the commissioner's recommendation for additional staff and additional annual hours by type of employee and additional consultants, services, supplies, equipment, or repairs necessary to satisfy the need or deficiency.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 26. [144A.135] TRANSFER AND DISCHARGE APPEALS.

The commissioner shall establish a mechanism for hearing appeals on transfers and discharges of residents by nursing homes or boarding care homes licensed by the commissioner. The commissioner may adopt permanent rules to implement this section.

Sec. 27. [144A.155] PLACEMENT OF MONITOR.

Subdivision 1. AUTHORITY. The commissioner may place a person to act as a monitor in a nursing home or certified boarding care home in any of the circumstances listed in clause (1) or (2):

(1) in any situation for which a receiver may be appointed under section 144A.15; or

(2) when the commissioner determines that violations of sections 144.651, 144A.01 to 144A.16, 626.557, or section 1919(b), (c), or (d), of the Social Security Act, or rules or regulations adopted under those provisions, require extended surveillance to enforce compliance or protect the health, safety, or welfare of the residents.

Subd. 2. DUTIES OF MONITOR. The monitor shall observe the operation of the home, provide advice to the home on methods of complying with state and federal rules and regulations, where documented deficiencies from the regulations exist, and periodically shall submit a written report to the commissioner on the ways in which the home meets or fails to meet state and federal rules and regulations.

Subd. 3. SELECTION OF MONITOR. The commissioner may select as monitor an employee of the department or may contract with any other individual to serve as a monitor. The commissioner shall publish a notice in the State Register that requests proposals from individuals who wish to be considered for placement as monitors, and that sets forth the criteria for selecting individuals as monitors. The commissioner shall maintain a list of individuals who are not employees of the department who are interested in serving as monitors. The commissioner may contract with those individuals determined to be qualified.

Subd. 4. PAYMENT OF MONITOR. A nursing home or certified boarding care home in which a monitor is placed shall pay to the department the actual costs associated with the placement, unless payment would create an undue hardship for the home.

Sec. 28. Minnesota Statutes 1988, section 144A.61, is amended to read:

144A.61 NURSING ASSISTANT TRAINING.

Subdivision 1. PURPOSE AUTHORITY. The purpose of this section and section 144A.611 is to improve the quality of care provided to patients of nursing homes by assuring that approved programs for the training of nursing assistants are established as necessary throughout the state. The commissioner

New language is indicated by underline, deletions by ~~strikeout~~.

of health, in consultation with the commissioner of human services, shall implement the provisions of Public Law Number 100-203, the Omnibus Budget Reconciliation Act of 1987, that relate to training and competency evaluation programs, testing, and the establishment of a registry for nursing assistants in nursing homes and boarding care homes certified for participation in the medical assistance or Medicare programs. The commissioner of health may adopt permanent rules that may be necessary to implement Public Law Number 100-203 and provisions of this section. The commissioner of health may contract with outside parties for the purpose of implementing the provisions of this section. At the request of the commissioner, the board of nursing may establish training and competency evaluation standards; review, evaluate, and approve curricula; review and approve training programs; and establish a registry of nursing assistants.

Subd. 2. **NURSING ASSISTANTS.** For the purposes of this section and section 144A.611 "nursing assistant" means a nursing home or certified boarding care home employee, including a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of ~~direct patient care~~ nursing or nursing-related services under the supervision of a registered nurse. "Nursing assistant" includes nursing assistants employed by nursing pool companies but does not include a licensed health professional. The commissioner of ~~education~~ health may, by rule, establish categories of nursing assistants who are not required to comply with the educational requirements of this section and section 144A.611.

Subd. 3. **CURRICULA; ~~TEST.~~** ~~The commissioner of state director of vocational technical education shall develop curricula and a test to be used for nursing assistant training programs for employees of nursing homes and boarding care homes. The curricula, as reviewed, approved, and evaluated by the board of nursing, shall be utilized by all facilities, institutions, or programs offering nursing assistant training programs. The test may be given by any technical institute or community college in accordance with instructions from the commissioner of education. The commissioner of education may prescribe a fee for the administration of the test not to exceed \$30.~~

Subd. 3a. **COMPETENCY EVALUATION PROGRAM.** The commissioner of health shall approve the competency evaluation program. A test must be administered to nursing assistants who complete an approved training program and desire to be listed in the nursing assistant registry. The tests may only be administered by technical institutes and community colleges.

Subd. 4. **TECHNICAL ASSISTANCE.** ~~The commissioner of state director of vocational technical education shall, upon request, provide necessary and appropriate technical assistance in the development of nursing assistant training programs.~~

Subd. 6. **TRAINING PROGRAM.** Each nursing assistant hired to work in a nursing home on or after January 1, 1979, ~~shall~~ but before January 1, 1990,

New language is indicated by underline, deletions by ~~strikeout~~.

must have successfully completed an approved nursing assistant training program or shall be enrolled in the first available approved training program which is scheduled to commence within 60 days of the date of the assistant's employment. Approved training programs shall be offered at the location most reasonably accessible to the enrollees in each class.

Subd. 6a. NURSING ASSISTANTS HIRED IN 1990 AND AFTER. Each nursing assistant hired to work in a nursing home or in a certified boarding care home on or after January 1, 1990, must have successfully completed an approved nursing assistant training program and competency evaluation within four months from the date of employment.

Subd. 7. **VIOLATION, PENALTY.** Violation of this section ~~and section 144A.611~~ by a nursing home or certified boarding care home shall be grounds for the issuance of a correction order ~~to the nursing home by the state commissioner of health.~~ Under the provisions of sections 144.653 or 144A.10, the failure of the nursing home or certified boarding care home to correct the deficiency or deficiencies specified in comply with the correction order shall result in the assessment of a fine in accordance with the schedule of fines promulgated by rule of the state commissioner of health the amount of \$300.

Subd. 8. **EXCEPTIONS.** Employees of nursing homes conducted in accordance with the teachings of the body known as the Church of Christ, Scientist, shall be exempt from the requirements of this section and section 144A.611.

Sec. 29. Minnesota Statutes 1988, section 144A.611, is amended to read:

144A.611 REIMBURSABLE EXPENSES PAYABLE TO NURSING ASSISTANTS.

Subdivision 1. NURSING HOMES AND CERTIFIED BOARDING CARE HOMES. The actual costs of tuition and reasonable expenses for ~~that approved program deemed by the commissioner of education to be minimally necessary to protect the health and welfare of nursing home residents the nursing assistant training program approved under section 144A.61~~, which are paid to nursing home assistants pursuant to subdivision 2, ~~shall be~~ are a reimbursable expense for nursing homes and certified boarding care homes under the provisions of chapter 256B and the rules promulgated thereunder.

Subd. 2. **NURSING ASSISTANTS.** A nursing assistant who has completed an approved training program shall be reimbursed by the nursing home or certified boarding care home for actual costs of tuition and reasonable expenses for the training program 90 days after the date of employment, or upon completion of the approved training program, whichever is later.

Subd. 3. **RULES.** The commissioner of human services shall promulgate any rules necessary to implement the provisions of this section. The rules shall include, but not be limited to:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) Provisions designed to prevent reimbursement by the commissioner under this section and section 144A.61 to a nursing home, certified boarding care home, or a nursing assistant for the assistant's simultaneous training in more than one approved program;

(b) Provisions designed to prevent reimbursement by the commissioner under this section and section 144A.61 to more than one nursing home or certified boarding care home for the training of any individual nursing assistant; and

(c) Provisions permitting the reimbursement by the commissioner to nursing homes, certified boarding care homes, and nursing assistants for the retraining of a nursing assistant after an absence from the labor market of not less than five years 24 months.

Sec. 30. Minnesota Statutes 1988, section 145.61, subdivision 5, is amended to read:

Subd. 5. "Review organization" means a nonprofit organization acting according to clause (k) or a committee whose membership is limited to professionals and administrative staff, except where otherwise provided for by state or federal law, and which is established by a hospital, by a clinic, by one or more state or local associations of professionals, by an organization of professionals from a particular area or medical institution, by a health maintenance organization as defined in chapter 62D, by a nonprofit health service plan corporation as defined in chapter 62C or, by a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., or by a medical review agent established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), or by the department of human services, to gather and review information relating to the care and treatment of patients for the purposes of:

(a) evaluating and improving the quality of health care rendered in the area or medical institution;

(b) reducing morbidity or mortality;

(c) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) developing and publishing guidelines showing the norms of health care in the area or medical institution;

(e) developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations;

(g) acting as a professional standards review organization pursuant to United States Code, title 42, section 1320c-1 et seq.;

New language is indicated by underline, deletions by ~~strikeout~~.

(h) determining whether a professional shall be granted staff privileges in a medical institution or whether a professional's staff privileges should be limited, suspended or revoked; or

(i) reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers or health maintenance organizations and their insureds or enrollees;

(2) professional licensing boards acting under their powers including disciplinary, license revocation or suspension procedures and health providers licensed by them when the matter is referred to a review committee by the professional licensing board;

(3) professionals and their patients concerning diagnosis, treatment or care, or the charges or fees therefor;

(4) professionals and health insurance carriers or health maintenance organizations concerning a charge or fee for health care services provided to an insured or enrollee;

(5) professionals or their patients and the federal, state, or local government, or agencies thereof; or

(j) providing underwriting assistance in connection with professional liability insurance coverage applied for or obtained by dentists, or providing assistance to underwriters in evaluating claims against dentists;

(k) acting as a medical review agent under section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b); or

(l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service.

Sec. 31. Minnesota Statutes 1988, section 145.63, is amended to read:

145.63 LIMITATION ON LIABILITY FOR SPONSORING ORGANIZATIONS, REVIEW ORGANIZATIONS, AND MEMBERS OF REVIEW ORGANIZATIONS.

Subdivision 1. **MEMBERS.** No review organization and no person who is a member or employee of, who acts in an advisory capacity to or who furnishes counsel or services to, a review organization shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance by the person of any duty, function, or activity of such review organization, unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby. No review organization and no person shall be liable for damages or other relief in any action by

New language is indicated by underline, deletions by ~~strikeout~~.

reason of the performance of the review organization or person of any duty, function, or activity as a review organization or a member of a review committee or by reason of any recommendation or action of the review committee when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person or the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made, except that any corporation designated as a review organization under the Code of Federal Regulations, title 42, section 466 (1983) shall be subject to actions for damages or other relief by reason of any failure of a person, whose care or treatment is required to be scrutinized or reviewed by the review organization, to receive medical care or treatment as a result of a determination by the review organization that medical care was unnecessary or inappropriate.

Subd. 2. **ORGANIZATIONS.** No state or local association of professionals or organization of professionals from a particular area shall be liable for damages or other relief in any action brought by a person whose activities have been or are being scrutinized or reviewed by a review organization established by the association or organization, unless the association or organization was motivated by malice towards the person affected by the review or scrutiny.

Sec. 32. Minnesota Statutes 1988, section 214.06, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128. For members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by health-related licensing boards must be credited to the special revenue fund. ~~Any balance remaining in the special revenue fund at the end of each fiscal year, after payment of health-related licensing board expenses including salaries, attorney general fees, and indirect costs, must be credited to the public health fund.~~

Sec. 33. Minnesota Statutes 1988, section 256.936, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section the following terms shall have the meanings given them:

(a) "Eligible persons" means children who are one year of age or older but less than ~~nine~~ 18 years of age who have gross family incomes that are equal to or

New language is indicated by underline, deletions by ~~strikeout~~.

less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance under chapter 256B or general assistance medical care under chapter 256D and who are not otherwise insured for the covered services. The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes ~~nine~~ 18 years old.

(b) "Covered services" means children's health services.

(c) "Children's health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, orthodontic services, medical transportation services, personal care assistant and case management services, hospice care services, nursing home or intermediate care facilities services, and ~~mental health and~~ chemical dependency services.

(d) "Eligible providers" means those health care providers who provide children's health services to medical assistance ~~clients~~ recipients under rules established by the commissioner for that program. Reimbursement under this section shall be at the same rates and conditions established for medical assistance.

(e) "Commissioner" means the commissioner of human services.

(f) "Gross family income" for farm and nonfarm self-employed means income calculated using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in reported depreciation, carryover loss, and net operating loss amounts that apply to the business in which the family is currently engaged. Applicants shall report the most recent financial situation of the family if it has changed from the period of time covered by the federal income tax form. The report may be in the form of percentage increase or decrease.

Sec. 34. Minnesota Statutes 1988, section 256.936, subdivision 2, is amended to read:

Subd. 2. **PLAN ADMINISTRATION.** The children's health plan is established to promote access to appropriate primary health care to assure healthy children. The commissioner shall establish an office for the state administration of this plan. The plan shall be used to provide children's health services for eligible persons. Payment for these services shall be made to all eligible providers. The commissioner may adopt rules to administer this section. The commissioner shall establish marketing efforts to encourage potentially eligible persons to receive information about the program and about other medical care programs administered or supervised by the department of human services. A toll-free telephone number must be used to provide information about medical programs and to promote access to the covered services. The commissioner must make a quarterly assessment of the expected expenditures for the covered services and the appropriation. Based on this assessment the commissioner may

New language is indicated by underline, deletions by ~~strikeout~~.

limit enrollments and target former aid to families with dependent children recipients. If sufficient money is not available to cover all costs incurred in one quarter, the commissioner may seek an additional authorization for funding from the legislative advisory committee.

Sec. 35. Minnesota Statutes 1988, section 256.936, subdivision 4, is amended to read:

Subd. 4. **ENROLLMENT FEE.** An annual enrollment fee of \$25, not to exceed \$150 per family, is required from eligible persons for children's health services. Enrollment fees ~~must be deposited in the public health fund and are appropriated~~ dedicated to the commissioner for the children's health plan program. The commissioner shall make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance.

Sec. 36. [256.9685] **ESTABLISHMENT OF INPATIENT HOSPITAL PAYMENT SYSTEM.**

Subdivision 1. AUTHORITY. The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.

Subd. 2. FEDERAL REQUIREMENTS. If it is determined that a provision of this section or section 256.9686, 256.969, or 256.9695 conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the medicare limitations.

Sec. 37. [256.9686] **DEFINITIONS.**

Subdivision 1. SCOPE. For purposes of this section and sections 256.9685, 256.969, and 256.9695, the following terms and phrases have the meanings given.

Subd. 2. BASE YEAR. "Base year" means a hospital's fiscal year that is recognized by the Medicare program or a hospital's fiscal year specified by the commissioner if a hospital is not required to file information by the Medicare program from which cost and statistical data are used to establish medical assistance and general assistance medical care payment rates.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. CASE MIX INDEX. "Case mix index" means a hospital's distribution of relative values among the diagnostic categories.

Subd. 4. CHARGES. "Charges" means the usual and customary payment requested of the general public.

Subd. 5. COMMISSIONER. "Commissioner" means the commissioner of human services.

Subd. 6. HOSPITAL. "Hospital" means a facility licensed under sections 144.50 to 144.58 or an out-of-state facility licensed under the requirements of that state in which it is located.

Subd. 7. MEDICAL ASSISTANCE. "Medical assistance" means the program established under chapter 256B and Title XIX of the Social Security Act. Medical assistance includes general assistance medical care established under chapter 256D, unless otherwise specifically stated.

Subd. 8. RATE YEAR. "Rate year" means a calendar year from January 1 to December 31.

Subd. 9. RELATIVE VALUE. "Relative value" means the average allowable cost of inpatient services provided within a diagnostic category divided by the average allowable cost of inpatient services provided in all diagnostic categories.

Sec. 38. Minnesota Statutes 1988, section 256.969, is amended to read:

256.969 INPATIENT HOSPITALS PAYMENT RATES.

Subdivision 1. **ANNUAL HOSPITAL COST INDEX.** The commissioner of human services shall develop a prospective payment system for inpatient hospital service under the medical assistance and general assistance medical care programs. Rates established for licensed hospitals for rate years beginning during the fiscal biennium ending June 30, 1987, shall not exceed an annual hospital cost index for the final rate allowed to the hospital for the preceding year not to exceed five percent in any event. The annual hospital cost index shall be obtained from an independent source representing and shall represent a statewide weighted average of inflation historical and projected cost change estimates determined for expense categories to include wages and salaries, employee benefits, medical and professional fees, raw food, medical supplies, pharmaceuticals, utilities, repairs and maintenance, insurance other than including malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect the regional differences within the state and include a one percent increase to reflect changes in technology. The annual hospital cost index shall be published 30 days before the start of each calendar quarter and shall be applicable to all hospitals whose fiscal years start on or during the calendar quarter. Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient

New language is indicated by underline, deletions by strikeout.

accuracy of the hospital cost index is achieved. The hospital cost index shall be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.

Subd. 2. **RATES FOR INPATIENT HOSPITALS DIAGNOSTIC CATEGORIES.** On July 1, 1984, The commissioner shall begin to utilize use to the extent possible existing diagnostic classification systems, including the system used by the Medicare program to determine the relative values of inpatient services and case mix indices. The commissioner may incorporate the grouping of hospitals with similar characteristics for uniform rates upon the development and implementation of the diagnostic classification system. Prior to implementation of the diagnostic classification system, the commissioner shall report the proposed grouping of hospitals to the senate health and human services committee and the house health and welfare committee. The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed and shall not be determined on a hospital specific basis. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative value determinations shall not include property cost data, Medicare crossover data, and data from the transferring hospital on transfer discharges, except data on transfer discharges with a burn diagnostic classification or data on transfer discharges for the patient's convenience that have been reported by the hospital to the commissioner by the October 1 preceding the rate year. The computation of the base year cost per admission and the computation of the relative values of the diagnostic categories must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs and days recognized in outlier payments beyond that point. Claims paid for care provided on or after August 1, 1985, shall be adjusted to reflect a recomputation of rates, unless disapproved by the federal Health Care Financing Administration. The state shall pay the state share of the adjustment for care provided on or after August 1, 1985, up to and including June 30, 1987, whether or not the adjustment is approved by the federal Health Care Financing Administration. The commissioner may reconstitute recategorize the diagnostic categories classifications and recalculate relative values and case mix indices to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period. After May 1, 1986, acute care hospital billings under the medical assistance and general assistance medical care programs must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments with inpatient hospitals that have individual patient lengths of stay in excess of 30 days regardless of diagnosis-related group. For purposes of establishing interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance and general assistance medical care reimbursement for treatment of mental illness shall be reimbursed based

New language is indicated by underline, deletions by ~~strikeout~~.

upon diagnosis classifications. The commissioner may selectively contract with hospitals for services within the diagnostic classifications relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to utilize a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Effective July 1, 1988, the commissioner shall limit the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index described in subdivision 1. When computing budgeted pass-through cost payments, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc. consistent with the quarter of the hospital's fiscal year end. In final settlement of pass-through cost payments, the commissioner shall use the hospital cost index for the month in which the hospital's fiscal year ends compared to the same month one year earlier.

Subd. 2a. AUDIT ADJUSTMENTS TO INPATIENT HOSPITAL RATES. Inpatient hospital rates established under subdivision 2 using 1981 historical medicare cost-report data may be adjusted based on the findings of audits of hospital billings and patient records performed by the commissioner that identify billings for services that were not delivered or never ordered. The audit findings may be based on a statistically valid sample of billings of the hospital. After the audits are complete, the commissioner shall adjust rates paid in subsequent years to reflect the audit findings and recover payments in excess of the adjusted rates or reimburse hospitals when audit findings indicate that underpayments were made to the hospital.

Subd. 2b. OPERATING PAYMENT RATES. In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.

Subd. 2c. PROPERTY PAYMENT RATES. For each hospital's first two consecutive fiscal years beginning on or after July 1, 1988, the commissioner shall limit the annual increase in property payment rates for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index derived from the methodology in effect on the day before the effective date of this section. When computing budgeted and settlement property payment rates, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc., consistent with the quarter of the hospital's fiscal

New language is indicated by underline, deletions by ~~strikeout~~.

year end. For admissions occurring on or after January 1, 1991, the commissioner shall obtain property data from an updated base year and establish property payment rates per admission for each hospital. Property payment rates shall be derived from data from the same base year that is used to establish operating payment rates. The property information shall include cost categories not subject to the hospital cost index and shall reflect the cost-finding methods and allowable costs of the Medicare program in effect during the base year.

The property payment rate per admission shall be adjusted for positive percentage change differences in the net book value of hospital property and equipment by increasing the property payment rate per admission 85 percent of the percentage change from the base year through the most recent year ending prior to the rate year for which required information is available. The percentage change shall be derived from equivalent audited information in both years and shall be adjusted to account for changes in generally accepted accounting principles, reclassification of assets, allocations to non-hospital areas, and fiscal years. The cost, audit, and charge data used to establish property rates shall only reflect inpatient services covered by medical assistance and shall not include operating cost information. To be eligible for the property payment rate per admission adjustment, the hospital must provide the necessary information to the commissioner, in a format specified by the commissioner, by the October 1 preceding the rate year. The commissioner shall adjust rates for the rate year beginning January 1, 1991, to ensure that all hospitals are subject to the hospital cost index limitation for two complete years.

Subd. 3. ~~SPECIAL CONSIDERATIONS.~~ (a) In determining the rate the commissioner of human services will take into consideration whether the following circumstances exist:

- (1) minimal medical assistance and general assistance medical care utilization;
- (2) unusual length of stay experience; and
- (3) disproportionate numbers of low-income patients served.

(b) To the extent of available appropriations, the commissioner shall provide supplemental grants directly to a hospital described in section 256B.031, subdivision 4, paragraph (a); that receives medical assistance payments through a county-managed health plan that serves only residents of the county. The payments must be designed to compensate for actuarially demonstrated higher health care costs within the county, for the population served by the plan, that are not reflected in the plan's rates under section 256B.031, subdivision 4.

(c) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

- (d) Indian health service facilities are exempt from the rate establishment

New language is indicated by underline, deletions by ~~strikeout~~.

methods required by this section and section 256D.03, subdivision 4, and shall be reimbursed at the facility's usual and customary charges to the general public.

(e) Out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule and hospitals affected by this paragraph shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.

(f) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have rates established as provided in paragraph (e) or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not be affected by negotiated rates.

(g) For inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989; hospitals with 100 or fewer medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 30 percent. Hospitals with more than 100 but fewer than 250 medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 20 percent for inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989. This provision applies only to hospitals that have 100 or fewer licensed beds on March 1, 1988.

Subd. 3a. PAYMENTS. Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. To establish interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual

New language is indicated by underline, deletions by ~~strikeout~~.

hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party liability, for admissions occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation is not applicable and shall not be calculated to include general assistance medical care services. Services that have rates established under subdivision 6a, paragraph (a), clause (5) or (6), must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

Subd. 4. APPEALS BOARD. An appeals board shall be established for purposes of hearing reports for changes in the rate per admission. The appeals board shall consist of two public representatives, two representatives of the hospital industry, and one representative of the business or consumer community. The appeals board shall advise the commissioner on adjustments to hospital rates under this section.

Subd. 4a. REPORTS. If, under this section or section 256.9685, 256.9686, or 256.9695, a hospital is required to report information to the commissioner by a specified date, the hospital must report the information on time. If the hospital does not report the information on time, the commissioner may determine the information that will be used and may disregard the information that is reported late. If the Medicare program does not require or does not audit information that is needed to establish medical assistance rates, the commissioner may, after consulting the affected hospitals, require reports to be provided, in a format specified by the commissioner, that are based on allowable costs and cost-finding methods of the Medicare program in effect during the base year. The commissioner may require any information that is necessary to implement

New language is indicated by underline, deletions by ~~strikeout~~.

this section and sections 256.9685, 256.9686, and 256.9695 to be provided by a hospital within a reasonable time period.

Subd. 5. APPEAL RIGHTS. ~~Nothing in this section supersedes the contested case provisions of chapter 14, the administrative procedure act.~~

Subd. 5a. AUDITS AND ADJUSTMENTS. Inpatient hospital rates and payments must be established under this section and sections 256.9685, 256.9686, and 256.9695. The commissioner may adjust rates and payments based on the findings of audits of payments to hospitals, hospital billings, costs, statistical information, charges, or patient records performed by the commissioner or the Medicare program that identify billings, costs, statistical information, or charges for services that were not delivered, never ordered, in excess of limits, not covered by the medical assistance program, paid separately from rates established under this section and sections 256.9685, 256.9686, and 256.9695, or for charges that are not consistent with other payor billings. Charges to the medical assistance program must be less than or equal to charges to the general public. Charges to the medical assistance program must not exceed the lowest charge to any other payor. The audit findings may be based on a statistically valid sample of hospital information that is needed to complete the audit. If the information the commissioner uses to establish rates or payments is not audited by the Medicare program, the commissioner may require an audit using Medicare principles and may adjust rates and payments to reflect any subsequent audit.

Subd. 6. RULES. The commissioner of human services shall promulgate emergency and permanent rules to implement a system of prospective payment for inpatient hospital services pursuant to chapter 14, the administrative procedure act. Notwithstanding section 14.53, emergency rule authority authorized by Laws 1983, chapter 312, article 5, section 9, subdivision 6, shall extend to August 1, 1985.

Subd. 6a. SPECIAL CONSIDERATIONS. (a) In determining the payment rates, the commissioner shall consider whether the following circumstances exist:

(1) MINIMAL MEDICAL ASSISTANCE USE. Minnesota hospitals with 30 or fewer annualized admissions of Minnesota medical assistance recipients in the base year, excluding Medicare crossover admissions, may have the base year operating rates, as adjusted by the case mix index, and property payment rates established at the 70th percentile of hospitals in the peer group in effect during the base year as established by the Minnesota department of health for use by the rate review program. Rates within a peer group shall be adjusted for differences in fiscal years and outlier percentage payments before establishing the 70th percentile. The operating payment rate portion of the 70th percentile shall be adjusted by the hospital cost index. To have rates established under this paragraph, the hospital must notify the commissioner in writing by November 1 of the year preceding the rate year. This paragraph shall be applied to all payment rates of the affected hospital.

(2) UNUSUAL COST OR LENGTH OF STAY EXPERIENCE. The commissioner shall establish day and cost outlier thresholds for each diagnostic

New language is indicated by underline, deletions by strikeout.

category established under subdivision 2 at two standard deviations beyond the geometric mean length of stay or allowable cost. Payment for the days and cost beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost calculated by dividing the operating payment rate per admission, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment, by the arithmetic mean length of stay for the diagnostic category. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the geometric mean length of stay or allowable cost, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative percentage outlier payment to a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.

(3) DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED. For admissions occurring on or after July 1, 1989, the medical assistance disproportionate population adjustment shall comply with federal law at fully implemented rates. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For admissions occurring on or after January 1, 1991, the disproportionate population adjustment shall be derived from base year Medicare cost report data and may be adjusted by data reflecting actual claims paid by the department.

(4) SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS. Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.

(5) SPECIAL RATES. The commissioner may establish special rate-setting methodologies, including a per day operating and property payment system, for hospice, ventilator dependent, and other services on a hospital and recipient

New language is indicated by underline, deletions by ~~strikeout~~.

specific basis taking into consideration such variables as federal designation, program size, and admission from a medical assistance waiver or home care program. The data and rate calculation method shall conform to the requirements of paragraph (7), except that hospice rates shall not exceed the amount allowed under federal law and payment shall be secondary to any other medical assistance hospice program. Rates and payments established under this paragraph must meet the requirements of section 256.9685, subdivisions 1 and 2, and must not exceed payments that would otherwise be made to a hospital in total for rate year admissions under subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The cost and charges used to establish rates shall only reflect inpatient medical assistance covered services. Hospital and claims data that are used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.

(6) REHABILITATION DISTINCT PARTS. Units of hospitals that are recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating and property payment rates and the disproportionate population adjustment established separately from other inpatient hospital services, based on the methods of subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The commissioner may establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.

(7) NEONATAL TRANSFERS. For admissions occurring on or after July 1, 1989, neonatal diagnostic category transfers shall have operating and property payment rates established at receiving hospitals which have neonatal intensive care units on a per day payment system that is based on the cost finding methods and allowable costs of the Medicare program during the base year. Other neonatal diagnostic category transfers shall have rates established according to paragraph (8). The rate per day for the neonatal service setting within the hospital shall be determined by dividing base year neonatal allowable costs by neonatal patient days. The operating payment rate portion of the rate shall be adjusted by the hospital cost index and the disproportionate population adjustment. The cost and charges used to establish rates shall only reflect inpatient services covered by medical assistance. Hospital and claims data used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.

(8) TRANSFERS. Except as provided in paragraphs (5) and (7), operating and property payment rates for admissions that result in transfers and transfers shall be established on a per day payment system. The per day payment rate shall be the sum of the adjusted operating and property payment rates determined in subdivisions 2b and 2c, divided by the arithmetic mean length of stay for the diagnostic category. Each admission that results in a transfer and each

New language is indicated by underline, deletions by ~~strikeout~~.

transfer is considered a separate admission to each hospital, and the total of the admission and transfer payments to each hospital must not exceed the total per admission payment that would otherwise be made to each hospital under paragraph (2) and subdivisions 2b and 2c.

(b) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

(c) Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at the facility's usual and customary charges to the general public. This exemption is not effective for payments under general assistance medical care.

(d) Except as provided in paragraph (a), clauses (1) and (3), out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule. Hospitals affected by this paragraph shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.

(e) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have operating and property rates established at the average of statewide and local trade area rates or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not include data from hospitals that have rates established under this paragraph. Payments, including third party liability, established under this paragraph may not exceed the charges on a claim specific basis for inpatient services that are covered by medical assistance.

(f) Medical assistance inpatient payment rates must include the cost incurred by hospitals to pay the department of health for metabolic disorder testing of newborns who are medical assistance recipients, if the cost is not recognized by another payment source.

(g) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988 for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

New language is indicated by underline, deletions by ~~strikeout~~.

(h) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988 for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

Sec. 39. [256.9695] APPEALS OF RATES; PROHIBITED PRACTICES FOR HOSPITALS; TRANSITION RATES.

Subdivision 1. APPEALS. A hospital may appeal a decision arising from the application of standards or methods under section 256.9685, 256.9686, or 256.969, if an appeal would result in a change to the hospital's payment rate or payments. Both overpayments and underpayments that result from the submission of appeals shall be implemented. Regardless of any appeal outcome, relative values shall not be recalculated. The appeal shall be heard by an administrative law judge according to sections 14.48 to 14.56, or upon agreement by both parties, according to a modified appeals procedure established by the commissioner and the office of administrative hearings. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect or not according to law.

(a) To appeal a payment rate or payment determination or a determination made from base year information, the hospital shall file a written appeal request to the commissioner within 60 days of the date the payment rate determination was mailed. The appeal request shall specify: (i) the disputed items; (ii) the authority in federal or state statute or rule upon which the hospital relies for each disputed item; and (iii) the name and address of the person to contact regarding the appeal. A change to a payment rate or payments that results from a successful appeal to the Medicare program of the base year information establishing rates for the rate year beginning in 1991 and after is a prospective adjustment to subsequent rate years. After December 31, 1990, payment rates shall not be adjusted for appeals of base year information that affect years prior to the rate year beginning January 1, 1991. Facts to be considered in any appeal of base year information are limited to those in existence at the time the payment rates of the first rate year were established from the base year information. In the case of Medicare settled appeals, the 60-day appeal period shall begin on the mailing date of the notice by the Medicare program or the date the medical assistance payment rate determination notice is mailed, whichever is later.

(b) To appeal a payment rate or payment change that results from a difference in case mix between the base year and a rate year, the procedures and require-

New language is indicated by underline, deletions by ~~strikeout~~.

ments of paragraph (a) apply. However, the appeal must be filed with the commissioner within 60 days after the end of a rate year. A case mix appeal must apply to the cost of services to all medical assistance patients that received inpatient services from the hospital during the rate year appealed. For this paragraph, hospital means a facility holding the provider number as an inpatient service facility.

Subd. 2. PROHIBITED PRACTICES. (a) Hospitals that have a provider agreement with the department may not limit medical assistance admissions to percentages of certified capacity or to quotas unless patients from all payors are limited in the same manner. This requirement does not apply to certified capacity that is unavailable due to contracts with payors for specific occupancy levels.

(b) Hospitals may not transfer medical assistance patients to or cause medical assistance patients to be admitted to other hospitals without the explicit consent of the receiving hospital when service needs of the patient are available and within the scope of the transferring hospital. The transferring hospital is liable to the receiving hospital for patient charges and ambulance services without regard to medical assistance payments plus the receiving hospital's reasonable attorney fees if found in violation of this prohibition.

Subd. 3. TRANSITION. Except as provided in section 256.969, subdivision 6a, paragraph (a), clause (3), the commissioner shall establish a transition period for the calculation of payment rates from the effective date of this section to December 31, 1990, as follows:

(a) Changes resulting from section 256.969, subdivision 6a, paragraph (a), clauses (1), (2), (4), (5), (6), and (8), shall not be implemented.

(b) Rates established for hospital fiscal years beginning on or after July 1, 1989, shall not be adjusted for the one percent technology factor included in the hospital cost index.

(c) Operating payment rates shall be indexed from the hospital's most recent fiscal year ending prior to January 1, 1991, by prorating the hospital cost index methodology in effect on January 1, 1989. Payments made for admissions occurring after July 1, 1990, shall not include the one percent technology factor.

(d) Property and pass-through payment rates shall be maintained at the most recent payment rate effective for June 1, 1990. However, all hospitals are subject to the hospital cost index limitation of subdivision 2c, for two complete fiscal years. Property and pass-through costs shall be retroactively settled through December 31, 1990. The laws in effect on the day before the effective date of this section apply to the retroactive settlement from the effective date of this section to December 31, 1990.

Subd. 4. STUDY. The commissioner shall contract for an evaluation of the inpatient and outpatient hospital payment systems. The study shall include recommendations concerning:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) more effective methods of assigning operating and property payment rates to specific services or diagnoses;

(2) effective methods of cost control and containment;

(3) fiscal impacts of alternative payment systems;

(4) the relationships of the use of and payment for inpatient and outpatient hospital services;

(5) methods to relate reimbursement levels to the efficient provision of services; and

(6) methods to adjust reimbursement levels to reflect cost differences between geographic areas.

The commissioner shall report the findings to the legislature by January 15, 1991, along with recommendations for implementation.

Subd. 5. RULES. The commissioner of human services shall adopt permanent rules to implement this section and sections 256.9685, 256.9686, and 256.969 under chapter 14, the administrative procedure act.

Sec. 40. Minnesota Statutes 1988, section 256B.031, subdivision 5, is amended to read:

Subd. 5. **FREE CHOICE LIMITED.** (a) The commissioner may require recipients of aid to families with dependent children to enroll in a prepaid health plan and receive services from or through the prepaid health plan, with the following exceptions:

(1) recipients who are refugees and whose health services are reimbursed 100 percent by the federal government ~~for the first 24 months after entry into the United States;~~ and

(2) recipients who are placed in a foster home or facility. If placement occurs before the seventh day prior to the end of any month, the recipient will be disenrolled from the recipient's prepaid health plan effective the first day of the following month. If placement occurs after the seventh day before the end of any month, that recipient will be disenrolled from the prepaid health plan on the first day of the second month following placement. The prepaid health plan must provide all services set forth in subdivision 2 during the interim period.

Enrollment in a prepaid health plan is mandatory only when recipients have a choice of at least two prepaid health plans.

(b) Recipients who become eligible on or after December 1, 1987, must choose a health plan within 30 days of the date eligibility is determined. At the time of application, the local agency shall ask the recipient whether the recipient has a primary health care provider. If the recipient has not chosen a health plan

New language is indicated by underline, deletions by ~~strikeout~~.

within 30 days but has provided the local agency with the name of a primary health care provider, the local agency shall determine whether the provider participates in a prepaid health plan available to the recipient and, if so, the local agency shall select that plan on the recipient's behalf. If the recipient has not provided the name of a primary health care provider who participates in an available prepaid health plan, commissioner shall randomly assign the recipient to a health plan.

(c) If possible, the local agency shall ask whether the recipient has a primary health care provider and the procedures under paragraph (b) shall apply. If a recipient does not choose a prepaid health plan by this date, the commissioner shall randomly assign the recipient to a health plan.

(d) The commissioner shall request a waiver from the federal Health Care Financing Administration to limit a recipient's ability to change health plans to once every six or 12 months. If such a waiver is obtained, each recipient must be enrolled in the health plan for a minimum of six or 12 months. A recipient may change health plans once within the first 60 days after initial enrollment.

(e) Women who are receiving medical assistance due to pregnancy and later become eligible for aid to families with dependent children are not required to choose a prepaid health plan until 60 days postpartum. An infant born as a result of that pregnancy must be enrolled in a prepaid health plan at the same time as the mother.

(f) If third-party coverage is available to a recipient through enrollment in a prepaid health plan through employment, through coverage by the former spouse, or if a duty of support has been imposed by law, order, decree, or judgment of a court under section 518.551, the obligee or recipient shall participate in the prepaid health plan in which the obligee has enrolled provided that the commissioner has contracted with the plan.

Sec. 41. Minnesota Statutes 1988, section 256B.04, subdivision 14, is amended to read:

Subd. 14. **COMPETITIVE BIDDING.** When determined to be effective, economical, and feasible, the commissioner shall may utilize volume purchase through competitive bidding and negotiation under the provisions of chapter ~~16~~ 16B, to provide the following items under the medical assistance program including but not limited to the following:

- (1) eyeglasses;
- (2) oxygen. The commissioner shall provide for oxygen needed in an emergency situation on a short-term basis, until the vendor can obtain the necessary supply from the contract dealer;
- (3) hearing aids and supplies; and
- (4) durable medical equipment, including but not limited to:

New language is indicated by underline, deletions by ~~strikeout~~.

- (a) hospital beds;
- (b) commodes;
- (c) glide-about chairs;
- (d) patient lift apparatus;
- (e) wheelchairs and accessories;
- (f) oxygen administration equipment;
- (g) respiratory therapy equipment;
- (h) electronic diagnostic, therapeutic and life support systems;
- (5) ~~wheelchair~~ special transportation services; and
- (6) drugs.

Sec. 42. Minnesota Statutes 1988, section 256B.04, is amended by adding a subdivision to read:

Subd. 17. PRENATAL CARE OUTREACH. (a) The commissioner of human services shall award a grant to an eligible organization to conduct a statewide media campaign promoting early prenatal care. The goals of the campaign are to increase public awareness of the importance of early and continuous prenatal care and to inform the public about public and private funds available for prenatal care.

(b) In order to receive a grant under this section, an applicant must:

- (1) have experience conducting prenatal care outreach;
- (2) have an established statewide constituency or service area; and
- (3) demonstrate an ability to accomplish the purposes in this subdivision.

(c) Money received under this subdivision may be used for purchase of materials and supplies, staff fees and salaries, consulting fees, and other goods and services necessary to accomplish the goals of the campaign. Money may not be used for capital expenditures.

Sec. 43. Minnesota Statutes 1988, section 256B.055, subdivision 7, is amended to read:

Subd. 7. AGED, BLIND, OR DISABLED PERSONS. Medical assistance may be paid for a person who meets the categorical eligibility requirements of the supplemental security income program and the other eligibility requirements of this section. The methodology for calculating ~~disregards and deductions from~~ income must be as specified in section 256D.37, subdivisions 6 to 14 the same methodology used for calculating income for the supplemental security income program except as specified otherwise by state or federal law, rule or regulation.

New language is indicated by underline, deletions by ~~strikeout~~.

Effective February 1, 1989, and to the extent allowed by federal law the commissioner shall deduct state and federal income taxes and federal insurance contributions act payments withheld from the individual's earned income in determining eligibility under this subdivision.

Sec. 44. Minnesota Statutes 1988, section 256B.055, subdivision 8, is amended to read:

Subd. 8. **MEDICALLY NEEDED PERSONS WITH EXCESS INCOME OR ASSETS.** Medical assistance may be paid for a person who, except for the amount of income or assets, would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children, and who meets the other eligibility requirements of this section. However, in the case of families and children ~~who meet the categorical eligibility requirements for aid to families with dependent children,~~ the methodology for calculating assets shall be as specified in section 256.73, subdivision 2, except that the exclusion for an automobile shall be as in subdivision 3, clause (g), as long as acceptable to the health care financing administration, and the methodology for calculating deductions from earnings for child care and work expenses shall be as specified in section 256.74, subdivision 1.

Sec. 45. Minnesota Statutes 1988, section 256B.056, subdivision 3, is amended to read:

Subd. 3. **ASSET LIMITATIONS.** To be eligible for medical assistance, a person must not individually own more than \$3,000 in ~~cash or liquid~~ assets, or if a member of a household with two family members (husband and wife, or parent and child), the household must not own more than \$6,000 in ~~cash or liquid~~ assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. For residents of long-term care facilities, the accumulation of the clothing and personal needs allowance pursuant to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. ~~Cash and liquid assets may include a prepaid funeral contract and insurance policies with cash surrender value. The value of the following shall not be included:~~ The value of the items in paragraphs (a) to (i) are not considered in determining medical assistance eligibility.

- (a) The homestead; is not considered.
- (b) Household goods and personal effects ~~with a total equity value of \$2,000 or less;~~ are not considered.
- (c) Personal property used as a regular abode by the applicant or recipient; is not considered.
- (d) A lot in a burial plot for each member of the household; is not considered.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) Capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income; are not considered.

(f) For a period of six months, insurance settlements to repair or replace damaged, destroyed, or stolen property; are not considered.

(g) One motor vehicle that is licensed pursuant to chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e, and that is used primarily for the person's benefit; and (h) other items which may be required by federal law or statute is not considered.

To be excluded, the vehicle must have a market value of less than \$4,500; be necessary to obtain medically necessary health services; be necessary for employment; be modified for operation by or transportation of a handicapped person; or be necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. The equity value of other motor vehicles is counted against the ~~cash or liquid~~ asset limit.

(h) Life insurance policies and assets designated as burial expenses, according to the standards and restrictions of the supplemental security income (SSI) program.

(i) Other items which may be excluded by federal law are not considered.

Sec. 46. Minnesota Statutes 1988, section 256B.056, subdivision 4, is amended to read:

Subd. 4. **INCOME.** To be eligible for medical assistance, a person must not have, or anticipate receiving, semiannual income in excess of ~~44~~ 120 percent of the income standards by family size used in the aid to families with dependent children program, except that families and children may have an income up to 133-1/3 percent of the AFDC income standard. Notwithstanding any laws or rules to the contrary, in computing income to determine eligibility of persons who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Numbers 94-566, section 503; 99-272; and 99-509.

Sec. 47. Minnesota Statutes 1988, section 256B.056, subdivision 5, is amended to read:

Subd. 5. **EXCESS INCOME.** A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 4. The person shall elect to have the medical expenses deducted monthly at the beginning of a one-month budget period or at the beginning of ~~the a~~ six-month budget period; ~~or who is a pregnant woman or~~

New language is indicated by underline, deletions by ~~strikeout~~.

infant up to one year of age who meets the requirements of section 256B.055, subdivisions 1 to 9, except that her anticipated income is in excess of the income standards by family size used in the aid to families with dependent children program; but is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant up to one year of age with respect to this clause shall be without regard to the asset standards specified in subdivisions 2 and 4. For persons who reside in licensed nursing homes, regional treatment centers, or medical institutions, the income over and above that required in section 256B.35 for personal needs allowance is to be applied to the cost of institutional care. In addition, income may be retained by an institutionalized person (a) to support dependents in the amount that, together with the income of the spouse and child under age 18, would provide net income equal to the medical assistance standard for the family size of the dependents excluding the person residing in the facility; or (b) for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if the person was not living together with a spouse or child under age 21 at the time the person entered a long-term care facility; if the person has expenses of maintaining a residence in the community; and if a physician certifies that the person is expected to reside in the long-term care facility on a short-term basis. For purposes of this section, persons are determined to be residing in licensed nursing homes, regional treatment centers, or medical institutions if the persons are expected to remain for a period expected to last longer than three months. The commissioner of human services may establish a schedule of contributions to be made by the spouse of a nursing home resident to the cost of care. The commissioner shall seek applicable waivers from the Secretary of Health and Human Services to allow persons eligible for assistance on a spend-down basis under this subdivision to elect to pay the monthly spend-down amount to the local agency in order to maintain eligibility on a continuous basis for medical assistance and to simplify payment to health care providers. If the local agency has not received payment of the spend-down amount by the 15th day of the month, the recipient is ineligible for this option for the following month. The commissioner may seek a waiver of the requirement of the Social Security Act that all requirements be uniform statewide, to phase in this option over a six-month period.

Sec. 48. [256B.057] ELIGIBILITY; INCOME AND ASSET LIMITATIONS FOR SPECIAL CATEGORIES.

Subdivision 1. PREGNANT WOMEN AND INFANTS. An infant less than one year of age or a pregnant woman, as certified in writing by a physician or nurse midwife, is eligible for medical assistance if countable family income is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. CHILDREN. A child one through seven years of age in a family whose countable income is less than 100 percent of the federal poverty guidelines for the same family size is eligible for medical assistance. Eligibility for children under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.

Subd. 3. QUALIFIED MEDICARE BENEFICIARIES. A person who is entitled to Part A Medicare benefits, whose income is equal to or less than 85 percent of the federal poverty guidelines, and whose assets are no more than twice the asset limit used to determine eligibility for the supplemental security income program, is eligible for medical assistance reimbursement of Part A and Part B premiums, Part A and Part B coinsurance and deductibles, and cost-effective premiums for enrollment with a health maintenance organization or a competitive medical plan under section 1876 of the Social Security Act. The income limit shall be increased to 90 percent of the federal poverty guidelines on January 1, 1990; to 95 percent on January 1, 1991; and to 100 percent on January 1, 1992. Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person were a medical assistance recipient with Medicare coverage. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.

Sec. 49. [256B.057] AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.

When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally-appointed guardian or conservator, five percent of the recipient's gross monthly income up to \$100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member; and

New language is indicated by underline, deletions by ~~strikeout~~.

(6) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized spouse that are not medical assistance covered expenses and that are not subject to payment by a third party.

For purposes of clause (5), family member includes only minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse if the sibling resides with the community spouse.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 50. [256B.058] TREATMENT OF INCOME OF INSTITUTIONALIZED SPOUSE.

Subdivision 1. INCOME NOT AVAILABLE. The income described in subdivisions 2 and 3 shall be deducted from an institutionalized spouse's monthly income and is not considered available for payment of the monthly costs of an institutionalized person in the institution after the person has been determined eligible for medical assistance.

Subd. 2. MONTHLY INCOME ALLOWANCE FOR COMMUNITY SPOUSE. (a) For an institutionalized spouse with a spouse residing in the community, monthly income may be allocated to the community spouse as a monthly income allowance for the community spouse. Beginning with the first full calendar month the institutionalized spouse is in the institution, the monthly income allowance is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution as long as the income is made available to the community spouse.

(b) The monthly income allowance is the amount by which the community spouse's monthly maintenance needs allowance under paragraphs (c) and (d)

New language is indicated by underline, deletions by ~~strikeout~~.

exceeds the amount of monthly income otherwise available to the community spouse.

(c) The community spouse's monthly maintenance needs allowance is the lesser of \$1,500 or 122 percent of the monthly federal poverty guideline for a family of two plus an excess shelter allowance. The excess shelter allowance is for the amount of shelter expenses that exceed 30 percent of 122 percent of the federal poverty guideline line for a family of two. Shelter expenses are the community spouse's expenses for rent, mortgage payments including principal and interest, taxes, insurance, required maintenance charges for a cooperative or condominium that is the community spouse's principal residence, and the standard utility allowance under section 5(c) of the federal Food Stamp Act of 1977. If the community spouse has a required maintenance charge for a cooperative or condominium, the standard utility allowance must be reduced by the amount of utility expenses included in the required maintenance charge.

If the community or institutionalized spouse establishes that the community spouse needs income greater than the monthly maintenance needs allowance determined in this paragraph due to exceptional circumstances resulting in significant financial duress, the monthly maintenance needs allowance may be increased to an amount that provides needed additional income.

(d) The percentage of the federal poverty guideline used to determine the monthly maintenance needs allowance in paragraph (c) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes. The \$1,500 maximum must be adjusted January 1, 1990, and every January 1 after that by the same percentage increase in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers.

(e) If a court has entered an order against an institutionalized spouse for monthly income for support of the community spouse, the community spouse's monthly income allowance under this subdivision shall not be less than the amount of the monthly income ordered.

Subd. 3. FAMILY ALLOWANCE. (a) A family allowance determined under paragraph (b) is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution.

(b) The family allowance is equal to one-third of the amount by which 122 percent of the monthly federal poverty guideline for a family of two exceeds the monthly income for that family member.

(c) For purposes of this subdivision, the term family member only includes a minor or dependent child, dependent parent, or dependent sibling of the institutionalized or community spouse if the sibling resides with the community spouse.

New language is indicated by underline, deletions by strikeout.

(d) The percentage of the federal poverty guideline used to determine the family allowance in paragraph (b) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes.

Subd. 4. TREATMENT OF INCOME. (a) No income of the community spouse will be considered available to an eligible institutionalized spouse, beginning the first full calendar month of institutionalization, except as provided in this subdivision.

(b) In determining the income of an institutionalized spouse or community spouse, after the institutionalized spouse has been determined eligible for medical assistance, the following rules apply.

(1) For income that is not from a trust, availability is determined according to items (i) to (v), unless the instrument providing the income otherwise specifically provides:

(i) if payment is made solely in the name of one spouse, the income is considered available only to that spouse;

(ii) if payment is made in the names of both spouses, one-half of the income is considered available to each;

(iii) if payment is made in the names of one or both spouses together with one or more other persons, the income is considered available to each spouse according to the spouse's interest, or one-half of the joint interest is considered available to each spouse if each spouse's interest is not specified;

(iv) if there is no instrument that establishes ownership, one-half of the income is considered available to each spouse; and

(v) either spouse may rebut the determination of availability of income by showing by a preponderance of the evidence that ownership interests are different than provided above.

(2) For income from a trust, income is considered available to each spouse as provided in the trust. If the trust does not specify an amount available to either or both spouses, availability will be determined according to items (i) to (iii):

(i) if payment of income is made only to one spouse, the income is considered available only to that spouse;

(ii) if payment of income is made to both spouses, one-half is considered available to each; and

(iii) if payment is made to either or both spouses and one or more other persons, the income is considered available to each spouse in proportion to each

New language is indicated by underline, deletions by ~~strikeout~~.

spouse's interest, or if no such interest is specified, one-half of the joint interest is considered available to each spouse.

Sec. 51. [256B.059] TREATMENT OF ASSETS WHEN A SPOUSE IS INSTITUTIONALIZED.

Subdivision 1. DEFINITIONS. (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Community spouse" means the spouse of an institutionalized person.

(c) "Spousal share" means one-half of the total value of all assets, to the extent that either the institutionalized spouse or the community spouse had an ownership interest at the time of institutionalization.

(d) "Assets otherwise available to the community spouse" means assets individually or jointly owned by the community spouse, other than assets excluded by subdivision 5, paragraph (c).

(e) "Community spouse asset allowance" is the value of assets that can be transferred under subdivision 3.

Subd. 2. ASSESSMENT OF SPOUSAL SHARE. At the beginning of a continuous period of institutionalization of a person, at the request of either the institutionalized spouse or the community spouse, or upon application for medical assistance, the total value of assets in which either the institutionalized spouse or the community spouse had an interest at the time of institutionalization shall be assessed and documented and the spousal share shall be assessed and documented.

Subd. 3. COMMUNITY SPOUSE ASSET ALLOWANCE. (a) An institutionalized spouse may transfer assets to the community spouse solely for the benefit of the community spouse. Except for increased amounts allowable under subdivision 4, the maximum amount of assets allowed to be transferred is the amount which, when added to the assets otherwise available to the community spouse, is the greater of:

(1) \$12,000;

(2) the lesser of the spousal share or \$60,000; or

(3) the amount required by court order to be paid to the community spouse.

If the assets available to the community spouse are already at the limit permissible under this section, or the higher limit attributable to increases under subdivision 4, no assets may be transferred from the institutionalized spouse to the community spouse. The transfer must be made as soon as practicable after the date the institutionalized spouse is determined eligible for medical assistance, or within the amount of time needed for any court order required for the transfer. On January 1, 1990, and every January 1 thereafter, the \$12,000 and

New language is indicated by underline, deletions by ~~strikeout~~.

\$60,000 limits shall be adjusted by the same percentage change in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers. These adjustments shall also be applied to the \$12,000 and \$60,000 limits in subdivision 5.

Subd. 4. INCREASED COMMUNITY SPOUSE ASSET ALLOWANCE; WHEN ALLOWED. (a) If either the institutionalized spouse or community spouse establishes that the community spouse asset allowance under subdivision 3 (in relation to the amount of income generated by such an allowance) is not sufficient to raise the community spouse's income to the minimum monthly maintenance needs allowance in section 256B.058, subdivision 2, paragraph (c), there shall be substituted for the amount allowed to be transferred an amount sufficient, when combined with the monthly income otherwise available to the spouse, to provide the minimum monthly maintenance needs allowance.

(b) The community spouse asset allowance under subdivision 3 can be increased by court order or hearing that complies with the requirements of United States Code, title 42, section 1924.

Subd. 5. ASSET AVAILABILITY. (a) At the time of application for medical assistance benefits, assets considered available to the institutionalized spouse shall be the total value of all assets in which either spouse has an ownership interest, reduced by the greater of:

(1) \$12,000; or

(2) the lesser of the spousal share or \$60,000; or

(3) the amount required by court order to be paid to the community spouse. If the community spouse asset allowance has been increased under subdivision 4, then the assets considered available to the institutionalized spouse under this subdivision shall be further reduced by the value of additional amounts allowed under subdivision 4.

(b) After the month in which the institutionalized spouse is determined eligible for medical assistance, during the continuous period of institutionalization, no assets of the community spouse are considered available to the institutionalized spouse.

(c) For purposes of this section, assets do not include assets excluded under section 256B.056, without regard to the limitations on total value in that section.

Sec. 52. [256B.0595] PROHIBITIONS ON TRANSFER; EXCEPTIONS.

Subdivision 1. PROHIBITED TRANSFERS. If an institutionalized person has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under section 256B.056, subdivision 3, within 30 months of the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months of the date of the first approved application for medical

New language is indicated by underline, deletions by strikeout.

assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2. For purposes of this section, long-term care services include nursing facility services, and home and community-based services provided pursuant to section 256B.491. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility, or who is receiving home and community-based services under section 256B.491.

Subd. 2. PERIOD OF INELIGIBILITY. For any uncompensated transfer, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

Subd. 3. HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION. (a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of the excess resources created by the uncompensated transfer because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of long-term care services granted within 30 months of the transfer or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.

Subd. 4. OTHER EXCEPTIONS TO TRANSFER PROHIBITION. An institutionalized person receiving medical assistance on the date of institutionalization who has transferred assets for less than fair market value within the 30 months immediately before the date of institutionalization or an institutionalized person who was not receiving medical assistance on the date of institutionalization and who has transferred assets for less than fair market value within 30 months immediately before the month of application is not ineligible for long-term care services if one of the following conditions apply:

(1) the assets were transferred to the community spouse, as defined in section 256B.059; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to his or her spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship, and grants a waiver of excess assets. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within 30 months of the transfer, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256B.

Sec. 53. Minnesota Statutes 1988, section 256B.062, is amended to read:

256B.062 CONTINUED ELIGIBILITY.

Subdivision 1. Any family which was eligible for aid to families with dependent children in at least three of the six months immediately preceding the month in which the family became ineligible for aid to families with dependent children because of increased income from employment shall, while a member

New language is indicated by underline, deletions by ~~strikeout~~.

of the family is employed, remain eligible for medical assistance for four calendar months following the month in which the family would otherwise be determined to be ineligible due to the income and resources limitations of this chapter.

Subd. 2. A family whose eligibility for aid to families with dependent children is terminated because of the loss of the \$30, or the \$30 and one-third earned income disregard is eligible for medical assistance for 12 calendar months following the month in which the family loses medical assistance eligibility as an aid to families with dependent children recipient. Medical assistance may be paid for persons who received aid to families with dependent children in at least three of the six months preceding the month in which the person became ineligible for aid to families with dependent children, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to Title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485.

Sec. 54. Minnesota Statutes 1988, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. **SKILLED AND INTERMEDIATE NURSING CARE.** Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562; unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient was screened as provided in section 256B.091; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year.

Sec. 55. Minnesota Statutes 1988, section 256B.0625, subdivision 13, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 13. **DRUGS.** (a) Medical assistance covers drugs if prescribed by a licensed practitioner. The commissioner shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two-year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, ~~prenatal vitamins~~, and vitamins for children under the age of seven and pregnant or nursing women; or any other over-the-counter drug identified by the commissioner, in consultation with the appropriate professional consultants under contract with or employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the administrative procedure act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and the commissioner's determination shall not be subject to chapter 14, the administrative procedure act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established

New language is indicated by underline, deletions by ~~strikeout~~.

by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

Sec. 56. Minnesota Statutes 1988, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **TRANSPORTATION COSTS.** (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 57. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 26. SPECIAL EDUCATION SERVICES. Medical assistance covers medical services identified in a recipient's individualized education plan and covered under the medical assistance state plan. The services may be provided by a Minnesota school district that is enrolled as a medical assistance provider or its subcontractor, and only if the services meet all the requirements otherwise applicable if the service had been provided by a provider other than a school district, in the following areas: medical necessity, physician's orders, documentation, personnel qualifications, and prior authorization requirements. Medical assistance coverage for medically necessary services provided under other subdivisions in this section may not be denied solely on the basis that the same or similar services are covered under this subdivision.

Sec. 58. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

Subd. 27. ORGAN AND TISSUE TRANSPLANTS. Medical assistance coverage for organ and tissue transplant procedures is limited to those procedures covered by the Medicare program, provided those procedures comply with all applicable laws, rules, and regulations governing (1) coverage by the Medicare program, (2) federal financial participation by the Medicaid program, and (3) coverage by the Minnesota medical assistance program.

Sec. 59. **[256B.0642] FEDERAL FINANCIAL PARTICIPATION.**

The commissioner may, in the aggregate, prospectively reduce payment rates for medical assistance providers receiving federal funds to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare limitations.

Sec. 60. Minnesota Statutes 1988, 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;

New language is indicated by underline, deletions by ~~strikeout~~.

(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) Assessment of active treatment needs:

(1) in cooperation with a qualified mental health professional for persons with a primary or secondary diagnosis of mental illness; and

(2) in cooperation with a qualified mental retardation professional for persons with a primary or secondary diagnosis of mental retardation or related conditions.

For purposes of this subdivision, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional in Code of Federal Regulations, title 42, section 483.430;

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

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

Sec. 61. Minnesota Statutes 1988, section 256B.092, subdivision 7, is amended to read:

Subd. 7. **SCREENING TEAMS ESTABLISHED.** Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are entitled to the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of an individual to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager, the client, a parent or guardian, and a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 442.401 483.430, as amended through December 31, 1987. June 3, 1988. The case manager may also act as the qualified mental retardation professional if the case manager meets the federal definition. County social service agencies may contract with a public or private agency or individual who is not a service provider for the person for the public guardianship representation required by the screening or individual service and habilitation planning process. The contract shall be limited to public guardianship representation for the screening and individual service and habilitation planning activities. The

New language is indicated by underline, deletions by ~~strikeout~~.

contract shall require compliance with the commissioner's instructions, and may be for paid or voluntary services. For individuals determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the client's physician, other health professionals or other persons as necessary to make this evaluation. The case manager, with the concurrence of the client or the client's legal representative, may invite other persons to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case.

Sec. 62. [256B.093] **SERVICES FOR PERSONS WITH BRAIN INJURIES.**

Subdivision 1. STATE COORDINATOR. The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with brain injuries.

Subd. 2. ELIGIBILITY. The commissioner may contract with qualified agencies or persons to provide case management services to medical assistance recipients who are at risk of institutionalization and meet one of the following criteria:

(a) The person has a brain injury.

(b) The person is receiving home care services or is in an institution and has a discharge plan requiring the provision of home care services and meets one of the following criteria:

(1) the person suffers from a brain abnormality or degenerative brain disease resulting in significant destruction of brain tissue and loss of brain function that requires extensive services over an extended period of time;

(2) the person is unable to direct the person's own care;

(3) the person has medical home care costs that exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(4) the person is eligible for medical assistance under the option for certain disabled children in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);

(5) the person receives home care from two or more providers who are unable to effectively coordinate the services; or

(6) the person has received or will receive home care services for longer than six months.

Subd. 3. CASE MANAGEMENT DUTIES. The department shall fund the case management contracts using medical assistance administrative funds. The contractor must:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) assess the person's individual needs for services required to prevent institutionalization;

(2) assure that a care plan that meets the person's needs is developed by the appropriate agency or individual;

(3) assist the person in obtaining services necessary to allow the person to remain in the community;

(4) coordinate home care services with other medical assistance services under section 256B.0625;

(5) assure cost effectiveness of medical assistance services;

(6) make recommendations to the commissioner on the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(7) assist the person with problems related to the provision of home care services;

(8) assure the quality of home care services; and

(9) reassess the person's need for and level of home care services at a frequency determined by the commissioner.

Subd. 4. DEFINITIONS. For purposes of this section, the following definitions apply:

(a) "Brain injury" means a sudden insult or damage to the brain or its coverings, not of a degenerative nature. The insult or damage may produce an altered state of consciousness or a decrease in mental, cognitive, behavioral, or physical functioning resulting in partial or total disability.

(b) "Home care services" means medical assistance home care services defined under section 256B.0625, subdivisions 6, 7, and 19.

Sec. 63. Minnesota Statutes 1988, section 256B.14, is amended to read:

256B.14 RELATIVE'S RESPONSIBILITY.

Subdivision 1. **IN GENERAL.** Subject to the provisions of sections 256B.055, 256B.056, and 256B.06, responsible relative means the ~~spouse of a medical assistance recipient or~~ parent of a minor recipient of medical assistance.

Subd. 2. **ACTIONS TO OBTAIN PAYMENT.** The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete repayment of medical assistance furnished to recipients for whom they are responsible. ~~No resource contribution is required of a spouse at the time of the first approved medical assistance application.~~ These rules shall

New language is indicated by underline, deletions by ~~strikeout~~.

not require repayment when payment would cause undue hardship to the responsible relative or that relative's immediate family. These rules shall be consistent with the requirements of section 252.27, subdivision 2, for parents of children whose eligibility for medical assistance was determined without deeming of the parents' resources and income. For parents of children receiving services under a federal medical assistance waiver or under section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, United States Code, title 42, section 1396a(e)(3), while living in their natural home, including in-home family support services, respite care, homemaker services, and minor adaptations to the home, the state agency shall take into account the room, board, and services provided by the parents in determining the parental contribution to the cost of care. The county agency shall give the responsible relative notice of the amount of the repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

The action may be brought by the state agency or the county agency in the county where assistance was granted, for the assistance, together with the costs of disbursements incurred due to the action.

In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing contributions by a responsible relative found able to repay the county or state agency. The order shall be effective only for the period of time during which the recipient receives medical assistance from the county or state agency.

Sec. 64. Minnesota Statutes 1988, section 256B.25, is amended by adding a subdivision to read:

Subd. 4. PAYMENT DURING SUSPENDED ADMISSIONS. A nursing home or boarding care home that has received a notice to suspend admissions under section 144A.10, subdivision 4a, shall be ineligible to receive payment for admissions that occur during the effective dates of the suspension. Upon termination of the suspension by the commissioner of health, payments may be made for eligible persons, beginning with the day after the suspension ends.

Sec. 65. Minnesota Statutes 1988, section 256B.421, subdivision 14, is amended to read:

Subd. 14. FRINGE BENEFITS. "Fringe benefits" means workers' compensation insurance, group health or dental insurance, group life insurance, retirement benefits or plans, except for public employee retirement act contributions, and uniform allowances.

Sec. 66. Minnesota Statutes 1988, section 256B.431, subdivision 2b, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2b. **OPERATING COSTS, AFTER JULY 1, 1985.** (a) For rate years beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing homes in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing homes established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. For rate years beginning on or after July 1, 1987, or until the new base period is established, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052 (Emergency), on January 1, 1987, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing homes must be calculated based on geographic group I limits. The phase-in must be established utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing home payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing home is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commis-

New language is indicated by underline, deletions by ~~strikeout~~.

sioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories. For the rate year beginning on July 1, 1985, the commissioner shall:

(1) allow nursing homes that have an average length of stay of 180 days or less in their skilled nursing level of care, 125 percent of the care related limit and 105 percent of the other operating cost limit established by rule; and

(2) exempt nursing homes licensed on July 1, 1983, by the commissioner to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other operating cost limit established by rule.

For the purpose of calculating the other operating cost efficiency incentive for nursing homes referred to in clause (1) or (2), the commissioner shall use the other operating cost limit established by rule before application of the 105 percent.

(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing home's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each nursing home as an operating cost of that nursing home. Allowable costs under this subdivision for payments made by a nonprofit nursing home that are in lieu of real estate taxes shall not exceed the amount which the nursing home would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes. For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing homes shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior year. The commissioner shall include a reported actual special

New language is indicated by underline, deletions by ~~strikeout~~.

assessment, and reported actual license fees required by the Minnesota department of health, for each nursing home as an operating cost of that nursing home. For rate years beginning on or after July 1, 1989, the commissioner shall include a nursing home's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories and other operating cost categories multiplied by the appropriate composite index or indices established pursuant to paragraph (e) as costs under this paragraph. Total adjusted real estate tax liability, payments in lieu of real estate tax, actual special assessments paid, the indexed public employee retirement act contribution, and license fees paid as required by the Minnesota department of health, for each nursing home (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the ~~60th percentile~~ care-related operating cost limits or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e), unless otherwise indicated in this paragraph.

(h) For rate years beginning on or after July 1, 1987, the commissioner shall adjust the rates of a nursing home that meets the criteria for the special dietary needs of its residents as specified in section 144A.071, subdivision 3, clause (c), and the requirements in section 31.651. The adjustment for raw food cost shall be the difference between the nursing home's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

The rate adjustment shall be reduced by the applicable phase-in percentage as provided under subdivision 2h.

Sec. 67. Minnesota Statutes 1988, section 256B.431, subdivision 2e, is amended to read:

Subd. 2e. **CONTRACTS FOR SERVICES FOR VENTILATOR DEPENDENT PERSONS.** The commissioner may contract with a nursing home eligible to receive medical assistance payments to provide services to a ventilator dependent person identified by the commissioner according to criteria developed by the commissioner, including:

- (1) nursing home care has been recommended for the person by a preadmission screening team;
- (2) the person has been assessed at case mix classification K;
- (3) the person has been hospitalized for at least six months and no longer requires inpatient acute care hospital services; and
- (4) the commissioner has determined that necessary services for the person cannot be provided under existing nursing home rates.

The commissioner may issue a request for proposals to provide services to

New language is indicated by underline, deletions by ~~strikeout~~.

a ventilator dependent person to nursing homes eligible to receive medical assistance payments and shall select nursing homes from among respondents according to criteria developed by the commissioner, including:

- (1) the cost effectiveness and appropriateness of services;
- (2) the nursing home's compliance with federal and state licensing and certification standards; and
- (3) the proximity of the nursing home to a ventilator dependent person identified by the commissioner who requires nursing home placement.

The commissioner may negotiate an adjustment to the operating cost payment rate for a nursing home selected by the commissioner from among respondents to the request for proposals. The negotiated adjustment must reflect only the actual additional cost of meeting the specialized care needs of a ventilator dependent person identified by the commissioner for whom necessary services cannot be provided under existing nursing home rates and which are not otherwise covered under Minnesota Rules, parts 9549.0010 to 9549.0080 or 9505.0170 to 9505.0475. The negotiated payment rate must not exceed 200 percent of the highest multiple bedroom payment rate for a Minnesota nursing home, as initially established by the commissioner for the rate year for case mix classification K. The negotiated adjustment shall not affect the payment rate charged to private paying residents under the provisions of section 256B.48, subdivision 1. The negotiated adjustment paid pursuant to this paragraph is specifically exempt from the definition of "rule" and the rulemaking procedures required by chapter 14 and section 256B.502.

Sec. 68. Minnesota Statutes 1988, section 256B.431, subdivision 2i, is amended to read:

Subd. 2i. OPERATING COSTS AFTER JULY 1, 1988. (a) OTHER OPERATING COST LIMITS. For the rate year beginning July 1, 1988, the commissioner shall increase the other operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, item E, to 110 percent of the median of the array of allowable historical other operating cost per diems and index these limits as in Minnesota Rules, part 9549.0056, subparts 3 and 4. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted other operating cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4.

(b) CARE-RELATED OPERATING COST LIMITS. For the rate year beginning July 1, 1988, the commissioner shall increase the care-related operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, items A and B, to 125 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems and index those limits as in Minnesota Rules, part 9549.0056, subparts 1 and 2. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or

New language is indicated by underline, deletions by ~~strikeout~~.

after July 1, 1989, the adjusted care-related limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 1 and 2.

(c) **SALARY ADJUSTMENT PER DIEM.** For the rate period October 1, 1988, to June 30, 1990, the commissioner shall add the appropriate salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing home. The salary adjustment per diem for each nursing home must be determined as follows:

(1) for each nursing home that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.5 percent and then dividing the resulting amount by the nursing home's actual resident days; and

(2) for each nursing home that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under clause (1).

Each nursing home that receives a salary adjustment per diem pursuant to this subdivision shall adjust nursing home employee salaries by a minimum of the amount determined in clause (1) or (2). The commissioner shall review allowable salary costs, including payroll taxes and fringe benefits, for the reporting year ending September 30, 1989, to determine whether or not each nursing home complied with this requirement. The commissioner shall report the extent to which each nursing home complied with the legislative commission on long-term care by August 1, 1990.

(d) **PENSION CONTRIBUTIONS.** For rate years beginning on or after July 1, 1989, the commissioner shall exempt allowable employee pension contributions separately reported by a nursing home on its annual cost report from the care-related operating cost limits and the other operating cost limits. Hospital-attached homes that provide allowable employee pension contributions may report the costs that are allocated to nursing home operations independently for verification by the commissioner. For rate years beginning on or after July 1, 1989, amounts verified as allowable employee pension contributions are exempt from care-related operating cost limits and other operating cost limits. For purposes of this paragraph, "employee pension contributions" means contributions required under the Public Employee Retirement Act and contributions to other employee pension plans if the pension plan existed on March 1, 1988.

(e) **NEW BASE YEAR.** The commissioner shall establish the reporting year ending September 30, 1989, as a new base year. The commissioner shall establish new base years for both the reporting year ending September 30, 1989, and the reporting year ending September 30, 1990. In establishing new base years, the commissioner must take into account:

New language is indicated by underline, deletions by ~~strikeout~~.

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs such as public employee retirement act contributions.

Sec. 69. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 2j. HOSPITAL-ATTACHED NURSING HOME STATUS. (a) For the purpose of setting rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for rate years beginning after June 30, 1989, a hospital-attached nursing home means a nursing home recognized by the federal Medicare program to be a hospital-based nursing facility for purposes of being subject to

higher cost limits accorded hospital-based nursing facilities under the Medicare program, or, prior to June 30, 1983, was classified as a hospital-attached nursing home under Minnesota Rules, parts 9510.0010 to 9510.0480, provided that the nursing home's cost report filed under Minnesota Rules, parts 9549.0010 to 9549.0080, shall use the same cost allocation principles and methods used in the reports filed for the Medicare program.

(b) For rate years beginning after June 30, 1989, a nursing home and hospital, which have applied for hospital-based nursing facility status under the federal Medicare program during the reporting year or the nine-month period following the nursing home's reporting year, shall be considered a hospital-attached nursing home for purposes of setting payment rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for the rate year following the reporting year or the nine-month period in which the facility made its Medicare application. The nursing home must file its cost report or an amended cost report for that reporting year before the following rate year using Medicare principles and Medicare's recommended cost allocation methods had the Medicare program's hospital-based nursing facility status been granted to the nursing home. For each subsequent rate year, the nursing home must meet the definition requirements in paragraph (a). If the nursing home is denied hospital-based nursing facility status under the Medicare program, the nursing home's payment rates for the rate years the nursing home was considered to be a hospital-attached nursing home pursuant to this paragraph shall be recalculated treating the nursing home as a non-hospital-attached nursing home.

Sec. 70. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 2k. OPERATING COSTS AFTER JULY 1, 1989. For rate years beginning on or after July 1, 1989, a nursing home that is exempt under subdivision 2b, paragraph (d), clause (2); whose total number of licensed beds are licensed under Minnesota Rules, parts 9570.2000 to 9570.3600; and that maintains an average length of stay of less than 365 days during each reporting year, is limited to 140 percent of the other-operating-cost limit for hospital-attached

New language is indicated by underline, deletions by ~~strikeout~~.

nursing homes as established by Minnesota Rules, part 9549.0055, subpart 2, item E, subitem (2), as modified by subdivision 2i, paragraph (a). For purposes of this subdivision, the nursing home's average length of stay must be computed by dividing the nursing home's actual resident days for the reporting year by the nursing home's total discharges for that reporting year.

Sec. 71. Minnesota Statutes 1988, section 256B.431, subdivision 3a, is amended to read:

Subd. 3a. **PROPERTY-RELATED COSTS AFTER JULY 1, 1985.** (a) For rate years beginning on or after July 1, 1985, the commissioner, by permanent rule, shall reimburse nursing home providers that are vendors in the medical assistance program for the rental use of real estate and depreciable equipment. "Real estate" means land improvements, buildings, and attached fixtures used directly for resident care. "Depreciable equipment" means the standard movable resident care equipment and support service equipment generally used in long-term care facilities.

(b) In developing the method for determining payment rates for the rental use of nursing homes, the commissioner shall consider factors designed to:

(1) simplify the administrative procedures for determining payment rates for property-related costs;

(2) minimize discretionary or appealable decisions;

(3) eliminate any incentives to sell nursing homes;

(4) recognize legitimate costs of preserving and replacing property;

(5) recognize the existing costs of outstanding indebtedness allowable under the statutes and rules in effect on May 1, 1983;

(6) address the current value of, if used directly for patient care, land improvements, buildings, attached fixtures, and equipment;

(7) establish an investment per bed limitation;

(8) reward efficient management of capital assets;

(9) provide equitable treatment of facilities;

(10) consider a variable rate; and

(11) phase-in implementation of the rental reimbursement method.

(c) No later than January 1, 1984, the commissioner shall report to the legislature on any further action necessary or desirable in order to implement the purposes and provisions of this subdivision.

(d) For rate years beginning on or after July 1, 1987, a nursing home which has reduced licensed bed capacity after January 1, 1986, shall be allowed to:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) aggregate the applicable investment per bed limits based on the number of beds licensed prior to the reduction; and

(2) establish capacity days for each rate year following the licensure reduction based on the number of beds licensed on the previous April 1 if the commissioner is notified of the change by April 4. The notification must include a copy of the delicensure request that has been submitted to the commissioner of health.

(e) Until the rental reimbursement method is fully phased in, a nursing home whose final property-related payment rate is the rental rate shall continue to have its property-related payment rates established based on the rental reimbursement method.

(f) For rate years beginning on or after July 1, 1989, the interest expense that results from a refinancing of a nursing home's demand call loan, when the loan that must be refinanced was incurred before May 22, 1983, is an allowable interest expense if:

(1) the demand call loan or any part of it was in the form of a loan that was callable at the demand of the lender;

(2) the demand call loan or any part of it was called by the lender through no fault of the nursing home;

(3) the demand call loan or any part of it was made by a government agency operating under a statutory or regulatory loan program;

(4) the refinanced debt does not exceed the sum of the allowable remaining balance of the demand call loan at the time of payment on the demand call loan and refinancing costs;

(5) the term of the refinanced debt does not exceed the remaining term of the demand call loan, had the debt not been subject to an on-call payment demand; and

(6) the refinanced debt is not a debt between related organizations as defined in Minnesota Rules, part 9549.0020, subpart 38.

Sec. 72. Minnesota Statutes 1988, section 256B.431, subdivision 3f, is amended to read:

Subd. 3f. **PROPERTY COSTS AFTER JULY 1, 1988.** (a) **INVESTMENT PER BED LIMIT.** For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be \$32,571 per licensed bed in multiple bedrooms and \$48,857 per licensed bed in a single bedroom. For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be \$49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, ~~1989~~ 1990, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1).

New language is indicated by underline, deletions by ~~strikeout~~.

(b) **RENTAL FACTOR.** For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing homes for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

(c) **OCCUPANCY FACTOR.** For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing homes except those whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing home whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) **EQUIPMENT ALLOWANCE.** For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing home's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing home's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E.

(e) **REFINANCING.** If a nursing home is refinanced, the commissioner shall adjust the nursing home's property-related payment rate for the savings that result from refinancing. The adjustment to the property-related payment rate must be as follows:

(1) The commissioner shall recalculate the nursing home's rental per diem by substituting the new allowable annual principle and interest payments for those of the refinanced debt.

(2) The nursing home's property-related payment rate must be decreased by the difference between the nursing home's current rental per diem and the rental per diem determined under clause (1).

If a nursing home payment rate is adjusted according to this paragraph, the adjusted payment rate is effective the first of the month following the date of the refinancing for both medical assistance and private paying residents. The nursing home's adjusted property-related payment rate is effective until June 30, 1990.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) **POST CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.** For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing home demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing home must also demonstrate that the seller no longer participates in the management or operation of the nursing home. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) **BUILDING CAPITAL ALLOWANCE FOR NURSING HOMES WITH OPERATING LEASES.** For rate years beginning on or after July 1, 1990, a nursing home with operating lease costs incurred for the nursing home's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8.

Sec. 73. Minnesota Statutes 1988, section 256B.431, subdivision 3g, is amended to read:

Subd. 3g. **PROPERTY COSTS AFTER JULY 1, 1990, FOR CERTAIN FACILITIES.** For rate years beginning on or after July 1, 1990, ~~non-hospital-attached~~ nursing homes that, on or after January 1, 1976, but prior to ~~December 31, 1985~~ January 1, 1987, were newly licensed after new construction, or increased their licensed beds by a minimum of 35 percent through new construction, and whose building capital allowance is less than their allowable annual principal and interest on allowable debt prior to the application of the replacement-cost-new per bed limit and whose remaining weighted average debt amortization schedule as of January 1, 1988, exceeded 15 years, must receive a property-related payment rate equal to the greater of their rental per diem or their annual allowable principal and allowable interest without application of the replacement-cost-new per bed limit divided by their capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c), from the preceding reporting year, plus their equipment allowance. A nursing home that is eligible for a property-related payment rate under this subdivision and whose property-related payment rate in a subsequent rate year is its rental per diem must continue to have its property-related payment rates established for all future rate years based on the rental reimbursement method in Minnesota Rules, part 9549.0060.

The commissioner may require the nursing home to apply for refinancing as a condition of receiving special rate treatment under this subdivision.

Sec. 74. Minnesota Statutes 1988, section 256B.431, subdivision 4, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **SPECIAL RATES.** (a) For the rate years beginning July 1, 1983, and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983, and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property related costs, operating costs, and real estate taxes and special assessments calculated under rules promulgated by the commissioner.

(c) For rate years beginning on or after July 1, 1983, the commissioner may exclude from a provision of 12 MCAR S 2.050 any facility that is licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, is licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690, and has less than five percent of its licensed boarding care capacity reimbursed by the medical assistance program. Until a permanent rule to establish the payment rates for facilities meeting these criteria is promulgated, the commissioner shall establish the medical assistance payment rate as follows:

(1) The desk audited payment rate in effect on June 30, 1983, remains in effect until the end of the facility's fiscal year. The commissioner shall not allow any amendments to the cost report on which this desk audited payment rate is based.

(2) For each fiscal year beginning between July 1, 1983, and June 30, 1985, the facility's payment rate shall be established by increasing the desk audited operating cost payment rate determined in clause (1) at an annual rate of five percent.

New language is indicated by underline, deletions by ~~strikeout~~.

(3) For fiscal years beginning on or after July 1, 1985, but before January 1, 1988, the facility's payment rate shall be established by increasing the facility's payment rate in the facility's prior fiscal year by the increase indicated by the consumer price index for Minneapolis and St. Paul.

(4) For the fiscal year beginning on January 1, 1988, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted prior year's payment rate plus the real estate tax and special assessment per diem.

(5) For fiscal years beginning on or after January 1, 1989, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate less the real estate tax and special assessment per diem must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted payment rate plus the real estate tax and special assessment per diem.

(6) For the purpose of establishing payment rates under this paragraph, the facility's rate and reporting years coincide with the facility's fiscal year.

(d) A facility that meets the criteria of paragraph (c) shall submit annual cost reports on forms prescribed by the commissioner.

(e) For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1, 1985, but must not retroactively adjust the operating cost payment rate.

(f) For the purposes of Minnesota Rules, part 9549.0060, subpart 13, item F, the following types of transactions shall not be considered a sale or reorganization of a provider entity:

New language is indicated by underline, deletions by ~~strikeout~~.

- (1) the sale or transfer of a nursing home upon death of an owner;
- (2) the sale or transfer of a nursing home due to serious illness or disability of an owner as defined under the social security act;
- (3) the sale or transfer of the nursing home upon retirement of an owner at 62 years of age or older;
- (4) any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing home business provided the acquiring partner, owner, or shareholder has less than 50 percent ownership after the acquisition;
- (5) a sale and leaseback to the same licensee which does not constitute a change in facility license;
- (g) a transfer of an interest to a trust;
- (7) gifts or other transfers for no consideration;
- (8) a merger of two or more related organizations;
- (9) a transfer of interest in a facility held in receivership;
- (10) a change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa;
- (11) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; or
- (12) an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

Any increase in allowable debt or allowable interest expense or other cost incurred as a result of the foregoing transactions shall be a nonallowable cost for purposes of reimbursement under Minnesota Rules, parts 9549.0010 to 9549.0080.

(g) For rate years beginning on or after July 1, 1986, the commissioner may exclude from a provision of Minnesota Rules, parts 9549.0010 to 9549.0080, any facility that is certified by the commissioner of health as an intermediate care facility, licensed by the commissioner of human services as a chemical dependency treatment program, and enrolled in the medical assistance program as an institution for mental disease. The commissioner of human services shall establish a medical assistance payment rate for these facilities. Chapter 14 does not apply to the procedures and criteria used to establish the ratesetting structure. The ratesetting method is not appealable. Upon receiving a recommendation from the commissioner of health for a review of rates under section 144A.15, subdivision 6, the commissioner may grant an adjustment to the nursing home's payment rate. The commissioner shall review the recommendation of the commissioner of health, together with the nursing home's cost report to determine whether or not the deficiency or need can be corrected or met by reallocating

New language is indicated by underline, deletions by ~~strikeout~~.

nursing home staff, costs, revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that the deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the nursing home's actual resident days from the most recent desk-audited cost report. The payment rate adjustment must meet the conditions in section 256B.47, subdivision 2, and shall remain in effect until the receivership under section 144A.15 ends, or until another date the commissioner sets.

Upon the subsequent sale or transfer of the nursing home, the commissioner may recover amounts paid through payment rate adjustments under this paragraph. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.

Sec. 75. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 7. ONE-TIME ADJUSTMENT TO NURSING HOME PAYMENT RATES TO COMPLY WITH OMNIBUS BUDGET RECONCILIATION ACT. The commissioner shall determine a one-time nursing staff adjustment to the payment rate to adjust payment rates to upgrade certain nursing homes' professional nursing staff complement to meet the minimum standards of 1987 Public Law Number 100-203. The adjustments to the payment rates determined under this subdivision cover cost increases to meet minimum standards for professional nursing staff. For a nursing home to be eligible for the payment rate adjustment, a nursing home must have all of its current licensed beds certified solely for the intermediate level of care. When the commissioner establishes that it is not cost effective to upgrade an eligible nursing home to the new minimum staff standards, the commissioner may exclude the nursing home if it is either an institution for mental disease or a nursing home that would have been determined to be an institution for mental disease, but for the fact that it has 16 or fewer licensed beds.

(a) The increased cost of professional nursing for an eligible nursing home shall be determined according to clauses (1) to (4):

(1) subtract from the number 8760 the compensated hours for professional nurses, both employed and contracted, and, if the result is greater than zero, then multiply the result by \$4.55;

(2) subtract from the number 2920 the compensated hours for registered nurses, both employed and contracted, and, if the result is greater than zero, then multiply the result by \$9.30;

(3) if an eligible nursing home has less than 61 licensed beds, the director of nurses' compensated hours must be included in the compensated hours for professional nurses in clause (1). If the director of nurses is also a registered

New language is indicated by underline, deletions by ~~strikeout~~.

nurse, the director of nurses' hours must be included in the compensated hours for registered nurses in clause (2); and

(4) the one-time nursing staff adjustment to the payment rate shall be the sum of clauses (1) and (2) as adjusted by clause (3), if appropriate, and then divided by the nursing home's actual resident days for the reporting year ending September 30, 1988.

(b) The one-time nursing staff adjustment to the payment rate is effective from January 1, 1990, to June 30, 1991.

(c) If a nursing home is granted a waiver to the minimum professional nursing staff standards under Public Law Number 100-203 for either the professional nurse adjustment referred to in clause (1), or the registered nurse adjustment in clause (2), the commissioner must recover the portion of the nursing home's payment rate that relates to a one-time nursing staff adjustment granted under this subdivision. The amount to be recovered shall be based on the type and extent of the waiver granted.

Sec. 76. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 8. ONETIME PER DIEM RATE ADJUSTMENT FOR INCREASED COSTS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT. For the rate period January 1, 1990, through June 30, 1991, the commissioner shall add 30 cents per resident per day to the nursing home's payment rate. The adjustment must not be paid to freestanding boarding care homes.

Sec. 77. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 9. ONETIME ADJUSTMENT FOR FREESTANDING BOARDING CARE HOMES TO COVER INCREASED COSTS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT. (a) The commissioner shall determine a onetime adjustment to the payment rate of a freestanding boarding care home necessary for that home to comply with the provisions of Public Law Number 100-203 except those requirements outlined in subdivision 7. The adjustment to the payment rate determined under this subdivision covers increased costs for a medical director, nurse aide training for newly hired aides, ongoing in-service training for nurses aides, and other requirements identified by the commissioner that are required because of the Omnibus Budget Reconciliation Act of 1987. These costs will only be reimbursed if they are required in the final regulations pertaining to Public Law Number 100-203.

(b) Each facility eligible for this adjustment shall submit to the commissioner a detailed estimate of the cost increases the facility will incur for these costs.

(c) The costs that are determined by the commissioner to be reasonable and necessary for a freestanding boarding care home to comply with Public Law

New language is indicated by underline, deletions by ~~strikeout~~.

Number 100-203, except those costs outlined in subdivision 7, must be included in the calculation of the adjustment.

(d) The maximum allowable annual adjustment per bed is \$300.

(e) The onetime adjustment is the cost allowed in paragraph (c), subject to the limits in paragraph (d), divided by the nursing home's actual resident days for the reporting year that ended September 30, 1988.

(f) The onetime adjustment determined is effective from January 1, 1990, to June 30, 1991.

Sec. 78. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 10. APPRAISAL SAMPLE STABILIZATION AND SPECIAL REAPPRAISALS. (a) The percentage change in appraised values for nursing homes in the sample used for routine updating of appraised values under Minnesota Rules, part 9549.0060, subpart 2, shall be stabilized by eliminating from the sample of nursing home those appraisals that represent the five highest and the five lowest deviations from those nursing homes' previously established appraised values.

(b) A special reappraisal request must be submitted to the commissioner within 60 days after the project's completion date to be considered eligible for a special reappraisal. If a project has multiple completion dates or involves multiple projects, only projects or parts of projects with completion dates within one year of the completion date associated with a special reappraisal request can be included for the purpose of establishing the nursing home's eligibility for a special reappraisal. A facility which is eligible to request, has requested, or has received a special reappraisal during the calendar year must not be included in the random sample process used to determine the average percentage change in appraised value of nursing homes in the sample.

Sec. 79. Minnesota Statutes 1988, section 256B.47, subdivision 3, is amended to read:

Subd. 3. ALLOCATION OF COSTS. To ensure the avoidance of double payments as required by section 256B.433, the direct and indirect reporting year costs of providing residents of nursing homes that are not hospital attached with therapy services that are billed separately from the nursing home payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, must be determined and deducted from the appropriate cost categories of the annual cost report as follows:

(a) The costs of wages and salaries for employees providing or participating in providing and consultants providing services shall be allocated to the therapy service based on direct identification.

(b) The costs of fringe benefits and payroll taxes relating to the costs in

New language is indicated by underline, deletions by ~~strikeout~~.

paragraph (a) must be allocated to the therapy service based on direct identification or the ratio of total costs in paragraph (a) to the sum of total allowable salaries and the costs in paragraph (a).

(c) The costs of housekeeping, plant operations and maintenance, real estate taxes, special assessments, ~~property~~ and insurance, other than the amounts classified as a fringe benefit, must be allocated to the therapy service based on the ratio of service area square footage to total facility square footage.

(d) The costs of bookkeeping and medical records must be allocated to the therapy service either by the method in paragraph (e) or based on direct identification. Direct identification may be used if adequate documentation is provided to, and accepted by, the commissioner.

(e) The costs of administrators, bookkeeping, and medical records salaries, except as provided in paragraph (d), must be allocated to the therapy service based on the ratio of the total costs in paragraphs (a) to (d) to the sum of total allowable nursing home costs and the costs in paragraphs (a) to (d).

(f) The cost of property must be allocated to the therapy service and removed from the rental per diem, based on the ratio of service area square footage to total facility square footage multiplied by the building capital allowance.

Sec. 80. Minnesota Statutes 1988, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED PRACTICES.** A nursing home is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be ~~offered~~ available to all residents in all areas of the nursing home and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying

New language is indicated by underline, deletions by ~~strikeout~~.

resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing home may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of \$100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home.

(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

(d) Providing differential treatment on the basis of status with regard to public assistance.

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance or refusal to purchase special services. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately or an applicant's refusal to pay for a special service.

The collection and use by a nursing home of financial information of any applicant pursuant to the preadmission screening program established by section 256B.091 shall not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion

New language is indicated by underline, deletions by ~~strikeout~~.

of the vendor's fee to the nursing home except as payment for renting or leasing space or equipment or purchasing support services from the nursing home as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing homes and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement home with more than 325 beds including at least 150 licensed nursing home beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

(2) accounts for all of the applicant's assets which are required to be assigned to the home so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the home to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing home or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing home to correct the violation. The nursing home shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing home by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation, and shall remain in effect until the violation is corrected. The nursing home or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

New language is indicated by underline, deletions by ~~strikeout~~.

In the event that the commissioner determines that a nursing home is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing home to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing home.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 81. Minnesota Statutes 1988, section 256B.48, subdivision 6, is amended to read:

Subd. 6. **MEDICARE CERTIFICATION.** (a) **DEFINITION.** For purposes of this subdivision, "nursing facility" means a nursing home that is certified as a skilled nursing facility or, after September 30, 1990, a nursing home licensed under chapter 144A that is certified as a nursing facility.

(b) **FULL MEDICARE PARTICIPATION REQUIRED.** All nursing homes certified as skilled nursing facilities under the medical assistance program shall fully participate in Medicare part A and part B unless, after submitting an application, Medicare certification is denied by the federal health care financing administration. Medicare review shall be conducted at the time of the annual medical assistance review. Charges for medicare-covered services provided to residents who are simultaneously eligible for medical assistance and Medicare must be billed to Medicare part A or part B before billing medical assistance. Medical assistance may be billed only for charges not reimbursed by Medicare.

Until September 30, 1987, the commissioner of health may grant exceptions from this requirement when a nursing home submits a written request for exception and it is determined that there is sufficient participation in the Medicare program to meet the needs of Medicare beneficiaries in that region of the state. For the purposes of this section, the relevant region is the county in which the nursing home is located together with contiguous Minnesota counties. There is sufficient participation in the Medicare program in a particular region when the proportion of skilled resident days paid by the Medicare program is at least equal to the national average based on the most recent figure that can be supplied by the federal health care financing administration. A nursing home that is granted an exception under this subdivision must give appropriate notice to all applicants for admission that Medicare coverage is not available in the nursing home and publish this fact in all literature and advertisement related to the nursing home.

(c) **UNTIL SEPTEMBER 30, 1990.** Until September 30, 1990, a nursing facility satisfies the requirements of paragraph (b) if: (1) at least 50 percent of the facility's beds that are licensed under section 144A and certified as skilled nursing beds under the medical assistance program are Medicare certified; or (2) if a nursing facility's beds are licensed under section 144A, and some are medical assistance certified as skilled nursing beds and others are Medical assistance certified as intermediate care facility I beds, at least 50 percent of the facility's

New language is indicated by underline, deletions by ~~strikeout~~.

total skilled nursing beds and intermediate care facility I beds or 100 percent of its skilled nursing beds, whichever is less, are Medicare certified.

(d) OCTOBER 1, 1990, TO JUNE 30, 1991. After September 30, 1990, and until June 30, 1991, a nursing facility satisfies the requirements of paragraph (b) if at least 50 percent of the facility's beds certified as nursing facility beds under the medical assistance program are Medicare certified.

(e) AFTER JUNE 30, 1991. After June 30, 1991, a nursing facility satisfies the requirements of paragraph (b) if 100 percent of the facility's beds that are certified as nursing facility beds under the medical assistance program are Medicare certified.

(f) PROHIBITED TRANSFERS. A resident in a skilled nursing bed or, after September 30, 1990, a resident in any nursing facility bed, who is eligible for medical assistance and who becomes eligible for Medicare has the right to refuse an intrafacility skilled nursing bed transfer if the commissioner approves the exception request based on written documentation submitted by a physician that the transfer would create or contribute to a health problem for the resident. A resident who is occupying a skilled nursing bed or, after September 30, 1990, a nursing facility bed certified by the medical assistance and Medicare programs, has the right to refuse a transfer if the resident's bed is needed for a Medicare-eligible patient or private-pay patient and if the commissioner approves the exception based on written documentation submitted by a physician that the transfer would create or contribute to a health problem for the resident.

(g) INSTITUTIONS FOR MENTAL DISEASE. The commissioner may grant exceptions to the requirements of paragraph (b) for nursing facilities that are designated as institutions for mental disease.

(h) NOTICE OF RIGHTS. The commissioner shall inform recipients of their rights under this subdivision and section 144.651, subdivision 29.

Sec. 82. Minnesota Statutes 1988, section 256B.48, subdivision 8, is amended to read:

Subd. 8. **NOTIFICATION TO A SPOUSE.** When a private pay resident who has not yet been screened by the preadmission screening team is admitted to a nursing home or boarding care facility, the nursing home or boarding care facility must notify the resident and the resident's spouse of the following:

(1) their right to retain certain resources under sections 256B.14, subdivision 2, and 256B.17; and

(2) that the federal Medicare hospital insurance benefits program covers posthospital extended care services in a qualified skilled nursing facility for up to ~~100~~ 150 days and that there are several limitations on this benefit. The resident and the resident's family must be informed about all mechanisms to appeal limitations imposed under this federal benefit program.

New language is indicated by underline, deletions by ~~strikeout~~.

This notice may be included in the nursing home's or boarding care facility's admission agreement and must clearly explain what resources the resident and spouse may retain if the resident applies for medical assistance. The department of human services must notify nursing homes and boarding care facilities of changes in the determination of medical assistance eligibility that relate to resources retained by a resident and the resident's spouse.

The preadmission screening team has primary responsibility for informing all private pay applicants to a nursing home or boarding care facility of the resources the resident and spouse may retain.

Sec. 83. [256B.495] LONG-TERM CARE RECEIVERSHIP FEES.

Subdivision 1. PAYMENT OF RECEIVERSHIP FEES. The commissioner in consultation with the commissioner of health may establish a receivership fee payment that exceeds a long-term care facility payment rate when the commissioner of health determines a long-term care facility is subject to the receivership provisions under section 144A.14 or 144A.15 or the commissioner of human services determines that a facility is subject to the receivership under section 245A.12 or 245A.13. In establishing the receivership fee payment, the commissioner must reduce the receiver's requested receivership fee by amounts that the commissioner determines are included in the long-term care facility's payment rate and that can be used to cover part or all of the receivership fee. Amounts that can be used to reduce the receivership fee shall be determined by reallocating facility staff or costs that were formerly paid by the long-term care facility before the receivership and are no longer required to be paid. The amounts may include any efficiency incentive, allowance, and other amounts not specifically required to be paid for expenditures of the long-term care facility.

If the receivership fee cannot be covered by amounts in the long-term care facility's payment rate, a receivership fee payment shall be set according to paragraphs (a) and (b) and payment shall be according to paragraphs (c) to (e).

(a) The receivership fee per diem shall be determined by dividing the annual receivership fee payment by the long-term care facility's resident days from the most recent cost report for which the commissioner has established a payment rate or the estimated resident days in the projected receivership fee period.

(b) The receivership fee per diem shall be added to the long-term care facility's payment rate.

(c) Notification of the payment rate increase must meet the requirements of section 256B.47, subdivision 2.

(d) The payment rate in paragraph (b) for a nursing home shall be effective the first day of the month following the receiver's compliance with the notice conditions in paragraph (c). The payment rate in paragraph (b) for an intermediate care facility for the mentally retarded shall be effective on the first day of the rate year in which the receivership fee per diem is determined.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) The commissioner may elect to make a lump sum payment of a portion of the receivership fee to the receiver. In this case, the commissioner and the receiver shall agree to a repayment plan. Regardless of whether the commissioner makes a lump sum payment under this paragraph, the provisions of paragraphs (a) to (d) and subdivision 2 also apply.

Subd. 2. DEDUCTION OF RECEIVERSHIP FEE PAYMENTS UPON TERMINATION OF RECEIVERSHIP. If the commissioner has established a receivership fee per diem for a long-term care facility in receivership, the commissioner must deduct the receivership fee payments according to paragraphs (a) to (c).

(a) The total receivership fee payments shall be the receivership fee per diem multiplied by the number of resident days for the period of the receivership fee payments. If actual resident days for the receivership fee payment period are not made available within two weeks of the commissioner's written request, the commissioner shall compute the resident days by prorating the facility's resident days based on the number of calendar days from each portion of the long-term care facility's reporting years covered by the receivership period.

(b) The amount determined in paragraph (a) must be divided by the long-term care facility's resident days for the reporting year in which the receivership period ends.

(c) The per diem amount in paragraph (b) shall be subtracted from the long-term care facility's operating cost payment rate for the rate year following the reporting year in which the receivership period ends.

Subd. 3. REESTABLISHMENT OF RECEIVERSHIP FEE PAYMENT. The commissioner of health may request the commissioner to reestablish the receivership fee payment when the original terms of the receivership fee payment have significantly changed with regard to the cost or duration of the receivership agreement. The commissioner, in consultation with the commissioner of health, may reestablish the receivership fee payment when the commissioner determines the cost or duration of the receivership agreement has significantly changed. The provisions of developing a receivership fee payment in subdivisions 1 and 2 apply to the reestablishment process.

Sec. 84. Minnesota Statutes 1988, section 256B.501, subdivision 3, is amended to read:

Subd. 3. RATES FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS. The commissioner shall establish, by rule, procedures for determining rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions. The procedures shall be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of residents in efficiently and economically operated facilities. In developing the procedures, the commissioner shall include:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) cost containment measures that assure efficient and prudent management of capital assets and operating cost increases which do not exceed increases in other sections of the economy;

(b) limits on the amounts of reimbursement for property, general and administration, and new facilities;

(c) requirements to ensure that the accounting practices of the facilities conform to generally accepted accounting principles;

(d) incentives to reward accumulation of equity;

(e) a revaluation on sale between unrelated organizations for a facility that, for at least three years before its use as an intermediate care facility, has been used by the seller as a single family home and been claimed by the seller as a homestead, and was not revalued immediately prior to or upon entering the medical assistance program, provided that the facility revaluation not exceed the amount permitted by the Social Security Act, section 1902(a)(13); and

(f) appeals procedures that satisfy the requirements of section 256B.50 for appeals of decisions arising from the application of standards or methods pursuant to Minnesota Rules, parts 9510.0500 to 9510.0890, 9553.0010 to 9553.0080, and 12 MCAR 2.05301 to 2.05315 (temporary).

In establishing rules and procedures for setting rates for care of residents in intermediate care facilities for persons with mental retardation or related conditions, the commissioner shall consider the recommendations contained in the February 11, 1983, Report of the Legislative Auditor on Community Residential Programs for the Mentally Retarded and the recommendations contained in the 1982 Report of the Department of Public Welfare Rule 52 Task Force. Rates paid to supervised living facilities for rate years beginning during the fiscal biennium ending June 30, 1985, shall not exceed the final rate allowed the facility for the previous rate year by more than five percent.

Sec. 85. Minnesota Statutes 1988, section 256B.501, subdivision 3g, is amended to read:

Subd. 3g. **ASSESSMENT OF RESIDENTS.** For rate years beginning on or after October 1, 1990, the commissioner shall establish program operating cost rates for care of residents in facilities that take into consideration service characteristics of residents in those facilities. To establish the service characteristics of residents, the quality assurance and review teams in the department of health shall assess all residents annually beginning January 1, 1989, using a uniform assessment instrument developed by the commissioner. This instrument shall include assessment of the client's behavioral needs, integration into the community, ability to perform activities of daily living, medical and therapeutic needs, and other relevant factors determined by the commissioner. The commissioner may ~~establish procedures to adjust the program operating costs of facilities based on a comparison of client services characteristics, resource needs,~~

New language is indicated by underline, deletions by ~~strikeout~~.

and costs adjust the program operating cost rates of facilities based on a comparison of client service characteristics, resource needs, and costs. The commissioner may adjust a facility's payment rate during the rate year when accumulated changes in the facility's average service units exceed the minimums established in the rules required by subdivision 3j.

Sec. 86. Minnesota Statutes 1988, section 256B.501, is amended by adding a subdivision to read:

Subd. 3k. EXPERIMENTAL PROJECT. The commissioner of human services may conduct and administer experimental projects to determine the effects of competency-based wage adjustments for direct-care staff on the quality of care and active treatment for persons with mental, retardation or related conditions. The commissioner shall authorize one project under the following conditions:

(a) One service provider will participate in the project.

(b) The vendor must have an existing competency-based training curriculum and a proposed salary schedule that is coordinated with the training package.

(c) The University of Minnesota affiliated programs must approve the content of the training package and assist the vendor in studying the impact on service delivery and outcomes for residents under a competency-based salary structure. The study and its conclusions must be presented to the commissioner at the conclusion of the project.

(d) The project will last no more than 21 months from its inception.

(e) The project will be funded by Title XIX, medical assistance and the costs incurred shall be allowable program operating costs for future rate years under Minnesota Rules, parts 9553.0010 to 9553.0080. The project's total annual cost must not exceed \$49,500. The commissioner shall establish an adjustment to the selected facility's per diem by dividing the \$49,500 by the facility's actual resident days for the reporting year ending December 31, 1988. The facility's experimental training project per diem shall be effective on October 1, 1989, and shall remain in effect for the 21-month period ending June 30, 1991.

(f) Only service vendors who have submitted a determination of need pursuant to Minnesota Rules, parts 9525.0015 to 9525.0165, and Minnesota Statutes, section 252.28, requesting the competency-based training program cost increase are eligible. Furthermore, they are only eligible if their determination of need was approved prior to January 1, 1989, and funds were not available to implement the plan.

Sec. 87. Minnesota Statutes 1988, section 256B.69, subdivision 4, is amended to read:

Subd. 4. **LIMITATION OF CHOICE.** The commissioner shall develop

New language is indicated by underline, deletions by ~~strikeout~~.

criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice: (1) persons eligible for medical assistance according to section 256B.055, subdivision 1, or who are in foster placement; ~~and~~ (2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless they are 65 years of age or older; (3) recipients who currently have private coverage through a health maintenance organization; and (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

Sec. 88. Minnesota Statutes 1988, section 256B.69, subdivision 5, is amended to read:

Subd. 5. **PROSPECTIVE PER CAPITA PAYMENT.** ~~The project advisory committees with the~~ commissioner shall establish the method and amount of payments for services. The commissioner shall annually contract with demonstration providers to provide services consistent with these established methods and amounts for payment. Notwithstanding section 62D.02, subdivision 1, payments for services rendered as part of the project may be made to providers that are not licensed health maintenance organizations on a risk-based, prepaid capitation basis.

If allowed by the commissioner, a demonstration provider may contract with an insurer, health care provider, nonprofit health service plan corporation, or the commissioner, to provide insurance or similar protection against the cost of care provided by the demonstration provider or to provide coverage against the risks incurred by demonstration providers under this section. The recipients enrolled with a demonstration provider are a permissible group under group insurance laws and chapter 62C, the Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer or corporation may make benefit payments to a demonstration provider for services rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan corporation licensed to do business in this state is authorized to provide this insurance or similar protection.

Payments to providers participating in the project are exempt from the

New language is indicated by underline, deletions by ~~strikeout~~.

requirements of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete development of capitation rates for payments before delivery of services under this section is begun. For payments made during calendar year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.

Sec. 89. Minnesota Statutes 1988, section 256B.69, subdivision 11, is amended to read:

Subd. 11. **APPEALS.** A recipient may appeal to the commissioner a demonstration provider's delay or refusal to provide services, according to section 256.045. ~~The commissioner shall appoint a panel of health practitioners, including social service practitioners, as necessary to determine the necessity of services provided or refused to a recipient. The deliberations and decisions of the panel replace the administrative review process otherwise available under chapter 256. The panel shall follow the time requirements and other provisions of the Code of Federal Regulations, title 42, sections 431.200 to 431.246. The time requirements shall be expedited based on request by the individual who is appealing for emergency services. If a service is determined to be necessary and is included among the benefits for which a recipient is enrolled, the service must be provided by the demonstration provider as specified in subdivision 5. The panel's decision is a final agency action.~~

Sec. 90. Minnesota Statutes 1988, section 256B.69, is amended by adding a subdivision to read:

Subd. 17. CONTINUATION OF PREPAID MEDICAL ASSISTANCE. The commissioner may continue the provisions of this section after June 30, 1990, in any or all of the participating counties if necessary federal authority is granted. The commissioner may adopt permanent rules to continue prepaid medical assistance in these areas.

Sec. 91. Minnesota Statutes 1988, section 256D.03, subdivision 3, is amended to read:

Subd. 3. **GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.** (a) General assistance medical care may be paid for any person:

(1) who is eligible for assistance under section 256D.05 or 256D.051 and is not eligible for medical assistance under chapter 256B; or

(2) (i) who is a resident of Minnesota; ~~whose income as calculated under chapter 256B is not in excess of the medical assistance standards or whose excess income is spent down pursuant to chapter 256B;~~ and whose equity in resources assets is not in excess of \$1,000 per assistance unit. Exempt real and liquid assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B; and

(ii) who has countable income not in excess of the assistance standards

New language is indicated by underline, deletions by ~~strikeout~~.

established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant to section 256B.056, subdivision 5. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1. The earned income deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except for the disregard of the first \$50 of earned income; or

(3) who is over age 18 and who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care may be paid for a person, regardless of age, who is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, if the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the local agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 30 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 92. Minnesota Statutes 1988, section 256D.03, subdivision 4, is amended to read:

Subd. 4. **GENERAL ASSISTANCE MEDICAL CARE; SERVICES.** (a) Reimbursement under the general assistance medical care program shall be limited to the following categories of service: inpatient hospital care, outpatient hospital care, services provided by Medicare certified rehabilitation agencies, prescription drugs, equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level, eyeglasses and eye examinations provided by a physician or optometrist, hearing aids, prosthetic devices, laboratory and X-ray services, physician's services, medical transportation, chiropractic services as covered under the medical assistance program, podiatric services, and dental care. In addition, payments of state aid shall be made for:

(1) outpatient services provided by a mental health center or clinic that is under contract with the county board and is certified under Minnesota Rules, parts ~~9520.0750~~ 9520.0010 to ~~9520.0870~~ 9520.0230;

(2) day treatment services for mental illness provided under contract with the county board; ~~and~~

(3) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;

(4) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;

(5) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments for a person who would be eligible for medical assistance except that the person resides in an institution for mental diseases; and

(6) equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision.

(b) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the

New language is indicated by underline, deletions by ~~strikeout~~.

hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. ~~The rates payable under this section must be calculated according to section 256B.031, subdivision 4~~ For payments made during fiscal year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.

(c) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985, to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987, to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a

New language is indicated by underline, deletions by ~~strikeout~~.

primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988, to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(d) Any county may, from its own resources, provide medical \$ payments for which state payments are not made.

(e) Chemical dependency services that are reimbursed under Laws 1986, chapter 394, sections 8 to 20, must not be reimbursed under general assistance medical care.

(f) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(g) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 93. Minnesota Statutes 1988, section 297.13, subdivision 1, is amended to read:

Subdivision 1. **CIGARETTE TAX APPORTIONMENT.** Revenues received from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner of revenue in a separate and special fund, designated as the tobacco tax revenue fund, in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable

New language is indicated by underline, deletions by ~~strikeout~~.

primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) have been met:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota future resources account;

(2) the revenue produced by two mills of the tax on cigarettes weighing not more than three pounds a thousand and four mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16, provided that, if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16 less any amount credited to the general obligation special tax debt service account under paragraph (a), with respect to bonds issued for the prevention, control, and abatement of water pollution;

(3) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund; provided that if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional two-tenths of one mill of the tax on cigarettes weighing not more than three pounds a thousand and an additional four-tenths of one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to the public health fund;

(4) the balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 94. **STUDY AND REPORT ON NURSING HOME PROPERTY PAYMENTS VERSUS COSTS.** (a) If a nursing home has rental per diem established by the commissioner under Minnesota Rules, part 9549.0060, for the rate year beginning July 1, 1989, that is inadequate to minimally cover their annual principle and interest payments, that nursing home must submit copies of their amortization schedules to the commissioner by June 30, 1989, for all debts except working capital debt. The term "inadequate to minimally cover their annual principle and interest" means the annual principle and interest payments on the nursing home's debt for its land, land improvements, buildings, attached fixtures, and depreciable equipment used directly for resident care are more than the July 1, 1989, rental per diem multiplied by the nursing home's resident days for the reporting year ending September 30, 1988. The informa-

New language is indicated by underline, deletions by ~~strikeout~~.

tion regarding the nursing home's amortization schedules which must be submitted to the commissioner for each debt shall include:

- (1) a monthly amortization schedule starting the later of October 1, 1983, or the date the debt was incurred, through the remaining term of the debt;
- (2) the interest rate, if fixed;
- (3) if the interest rate is variable, the current variable interest rate and the method by which the interest rate may be changed;
- (4) the original amount borrowed;
- (5) the assets or other collateral pledged as security for the debt;
- (6) the cost of the assets purchased or the amount of the debt refinanced;
- (7) a copy of the loan, bond, or mortgage agreement may be supplied or made available for inspection by the commissioner;
- (8) sinking fund requirements and balances, if any;
- (9) the lender's name and relationship to the nursing home's owners, if any; and
- (10) other information that may be requested by the commissioner regarding the nursing home's debt upon review of the information provided in clauses (1) to (9).

(b) The commissioner shall contract with an independent financial consultant to review and analyze the financial data in paragraph (a) and to study the concept of a capital asset replacement fund, and the consultant shall assist the commissioner in the development of a report which must be submitted to the legislative commission on long-term care by January 1, 1990.

(c) The report shall identify the underlying reasons why each nursing home in paragraph (a) is unable to meet its annual debt obligations, possible actions or resources available to the nursing home that could be used to address its debt obligations such as the nursing home's efficiency incentive, investments, or related organization transactions or investments. The report shall include suggested solutions and recommendations for each nursing home. The report must also address the need for a capital asset replacement fund and the relative need for such a fund given the provision for capital reimbursement under the rental reimbursement system, the varying levels of property reimbursement among nursing homes, the various debt and financial structures of nursing homes, their actual property costs in terms of their annual principal and interest requirements, the cost of replacing or repairing capital assets under the reimbursement system, and the adequacy of the equipment allowance.

Sec. 95. STUDY OF NURSING HOME WORKERS' COMPENSATION COSTS.

New language is indicated by underline, deletions by ~~strikeout~~.

The commissioner of human services, in consultation with an advisory committee, shall study workers' compensation costs of nursing homes and make recommendations to the legislature by January 1, 1990, regarding changes to the nursing home rate system that will ensure adequate reimbursement to cover workers' compensation costs without reducing incentives for nursing homes to control costs by taking action to reduce the risk of work-related injuries to employees.

Sec. 96. STUDY.

The commissioner of health shall review the provisions of Minnesota Statutes, chapter 144A, regarding the revocation, suspension, and nonrenewal of nursing home licenses and provisions relating to controlling persons and managerial employees. The results of the commissioner's review and any recommendations for change must be submitted to the legislature by February 15, 1990. The commissioner shall consult with consumer and nursing home provider organizations during this review.

Sec. 97. TEMPORARY PROVISIONS RELATING TO INSTITUTIONS FOR MENTAL DISEASES.

Subdivision 1. ELIGIBILITY FOR GENERAL ASSISTANCE MEDICAL CARE AND MINNESOTA SUPPLEMENTAL AID. For the period beginning January 1, 1989 and ending June 30, 1989, general assistance medical care and Minnesota supplemental aid may be paid for any person who is over age 18 and would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases.

Subd. 2. COVERED SERVICES. For the period beginning January 1, 1989 and ending June 30, 1989, reimbursement under general assistance medical care includes, in addition to services covered under Minnesota Statutes 1988, section 256D.03, subdivision 4, the following services for a person who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases:

(1) case management services for a person with serious and persistent mental illness;

(2) medical supplies and equipment; and

(3) psychological services.

Subd. 3. EXCEPTION TO RESIDENTIAL FACILITY LIMITS. For the period beginning January 1, 1989 and ending June 30, 1989, a residential facility certified to participate in the medical assistance program, licensed as a boarding care home or nursing home, and determined by the commissioner of human services or the federal health care financing administration to be an institution

New language is indicated by underline, deletions by ~~strikeout~~.

for mental diseases is exempt from the maximum negotiated rate in Minnesota Statutes, section 256D.37. The rate for eligible individuals residing in these facilities is the individual's medical assistance rate using the individual's assigned case mix classification. Counties must be reimbursed for payments made between January 1, 1989 and June 30, 1989, to certified nursing homes and boarding care homes declared institutions for mental diseases by January 1, 1989, on behalf of persons otherwise eligible for medical assistance. The reimbursement must not exceed the state share of supplemental aid funds expended for each person at the appropriate medical assistance rate.

Sec. 98. **REPEALER.**

Subdivision 1. NURSING HOMES. Minnesota Statutes 1988, section 144A.10, subdivision 4a, is repealed. Laws 1988, chapter 689, article 2, section 269, subdivision 4, is repealed. Minnesota Statutes 1988, section 144A.61, subdivision 6, is repealed effective January 1, 1990.

Subd. 2. BRAIN INJURIES. Minnesota Statutes 1988, section 256B.0625, subdivision 21, is repealed.

Subd. 3. HEALTH CARE PROGRAMS. Minnesota Statutes 1988, sections 256.969, subdivisions 2a, 3, 4, 5, and 6; and 256B.69, subdivisions 12, 13, 14, and 15, are repealed.

Subd. 4. Minnesota Statutes 1988, section 256B.17, subdivisions 1, 2, 3, 4, 5, 6, and 8, are repealed.

Subd. 5. Minnesota Statutes 1988, section 256B.17, subdivision 7, is repealed effective October 1, 1989.

Sec. 99. **EFFECTIVE DATE.**

Sections 33, 34, and 35 are effective the day after final enactment, except that the amendment in section 33, to Minnesota Statutes, section 256.936, subdivision 1, paragraph (a), is not effective until January 1, 1991 and the amendment in section 33, to Minnesota Statutes, section 256.936, subdivision 1, paragraph (c), striking "mental health and" is effective July 1, 1990. However, a child enrolled in the children's health plan who reached or will reach age nine between the date of initial implementation of the children's health plan and January 1, 1991, remains eligible for the plan after the child's ninth birth date until January 1, 1991, if the child meets all other program requirements.

Section 61 is effective the day after final enactment.

Section 46 is effective July 1, 1990.

Section 48, subdivision 2, is effective June 30, 1989.

Section 50 is effective October 1, 1989, for spousal income calculations for anyone who resides in an institution on or after that date.

New language is indicated by underline, deletions by ~~strikeout~~.

Section 51 is effective October 1, 1989, for anyone who enters an institution on or after that date.

Section 1 is effective for claims filed with the insurer after June 30, 1989.

Section 52 is effective July 1, 1988, for all assets transferred on or after that date except for interspousal transfers under section 256B.17, subdivision 7.

Section 53 is effective April 1, 1990, for families who become ineligible for AFDC on or after that date.

Section 57 is effective September 1, 1989.

Section 89 is effective for all appeals that are filed after June 30, 1989.

Section 54 is effective July 1, 1990.

Section 81, except paragraph (f), is effective 30 days following final enactment. Section 81, paragraph (f), is effective the day following final enactment.

Section 89 is effective for all appeals that are filed after June 30, 1989.

Section 13 is effective the day following final enactment.

ARTICLE 4

MENTAL HEALTH

Section 1. Minnesota Statutes 1988, section 245.461, is amended to read:

245.461 **POLICY AND CITATION.**

Subdivision 1. **CITATION.** Sections 245.461 to 245.486 may be cited as the "Minnesota comprehensive adult mental health act."

Subd. 2. **MISSION STATEMENT.** The commissioner shall create and ensure a unified, accountable, comprehensive adult mental health service system that:

(1) recognizes the right of ~~people~~ adults with mental illness to control their own lives as fully as possible;

(2) promotes the independence and safety of ~~people~~ adults with mental illness;

(3) reduces chronicity of mental illness;

(4) ~~reduces~~ eliminates abuse of ~~people~~ adults with mental illness;

(5) provides services designed to:

New language is indicated by underline, deletions by ~~strikeout~~.

- (i) increase the level of functioning of ~~people~~ adults with mental illness or restore them to a previously held higher level of functioning;
 - (ii) stabilize ~~individuals~~ adults with mental illness;
 - (iii) prevent the development and deepening of mental illness;
 - (iv) support and assist ~~individuals~~ adults in resolving ~~emotional~~ mental health problems that impede their functioning;
 - (v) promote higher and more satisfying levels of emotional functioning; and
 - (vi) promote sound mental health; and
- (6) provides a quality of service that is effective, efficient, appropriate, and consistent with contemporary professional standards in the field of mental health.

Subd. 3. **REPORT.** By February 15, 1988, and annually after that until February 15, 1990, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

Subd. 4. **HOUSING MISSION STATEMENT.** The commissioner shall ensure that the housing services provided as part of a comprehensive mental health service system:

(1) allow all persons with mental illness to live in stable, affordable housing, in settings that maximize community integration and opportunities for acceptance;

(2) allow persons with mental illness to actively participate in the selection of their housing from those living environments available to the general public; and

(3) provide necessary support regardless of where persons with mental illness choose to live.

Sec. 2. Minnesota Statutes 1988, section 245.462, is amended to read:

245.462 **DEFINITIONS.**

Subdivision 1. **DEFINITIONS.** The definitions in this section apply to sections 245.461 to 245.486.

Subd. 2. **ACUTE CARE HOSPITAL INPATIENT TREATMENT.** "Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.

Subd. 3. **CASE MANAGEMENT ACTIVITIES SERVICES.** "Case management ~~activities~~ services" means activities that are coordinated with the community support services program as defined in subdivision 6 and are designed

New language is indicated by underline, deletions by ~~strikeout~~.

to help ~~people~~ adults with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs. Case management ~~activities~~ services include developing a functional assessment, an individual community support plan, referring and assisting the person to obtain needed mental health and other services, ensuring coordination of services, and monitoring the delivery of services.

Subd. 4. **CASE MANAGER.** "Case manager" means an individual employed by the county or other entity authorized by the county board to provide the case management ~~activities~~ services specified in ~~subdivision 3 and~~ sections 245.471 and 245.475. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to ~~persons~~ adults with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to ~~persons~~ adults with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of ~~persons~~ adults with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to adult refugees with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university; (2) completes 40 hours of training as specified in this subdivision; and (3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Subd. 4a. **CLINICAL SUPERVISION.** "Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.

Subd. 5. **COMMISSIONER.** "Commissioner" means the commissioner of human services.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. **COMMUNITY SUPPORT SERVICES PROGRAM.** "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help ~~people~~ adults with serious and persistent mental illness to function and remain in the community. A community support services program includes:

- (1) client outreach,
- (2) medication ~~management~~ monitoring,
- (3) assistance in independent living skills,
- (4) development of employability and ~~supportive~~ work related opportunities,
- (5) crisis assistance,
- (6) psychosocial rehabilitation,
- (7) help in applying for government benefits, and
- (8) the development, identification, and monitoring of living arrangements.

The community support services program must be coordinated with the case management ~~activities~~ services specified in ~~subdivision 3 and sections 245.471 and 245.475~~ section 245.471.

Subd. 7. **COUNTY BOARD.** "County board" means the county board of commissioners or board established pursuant to the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.

Subd. 8. **DAY TREATMENT SERVICES.** "Day treatment," "day treatment services," means ~~a structured program of intensive therapeutic and rehabilitative services at least one day a week for a minimum three-hour time block that is provided within a group setting by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment services are not a part of inpatient or residential treatment services, but may be part of a community support services program. or~~ "day treatment program" means a structured program of treatment and care provided to an adult in: (1) a hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (2) a community mental health center under section 245.62; or (3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4711, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475. Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided at least one day a week for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the adult's mental health status, providing mental health services, and developing and improving the

New language is indicated by underline, deletions by ~~strikeout~~.

adult's independent living and socialization skills. The goal of day treatment is to reduce or relieve mental illness and to enable the adult to live in the community. Day treatment services are not a part of inpatient or residential treatment services. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services.

Subd. 9. **DIAGNOSTIC ASSESSMENT.** "Diagnostic assessment" means a written summary of the history, diagnosis, strengths, vulnerabilities, and general service needs of ~~a person~~ an adult with a mental illness using diagnostic, interview, and other relevant mental health techniques provided by a mental health professional used in developing an individual treatment plan or individual community support plan.

Subd. 10. **EDUCATION AND PREVENTION SERVICES.** "Education and prevention services" means services designed to educate the general public or special high-risk target populations about mental illness, to increase the understanding and acceptance of problems associated with mental illness, to increase people's awareness of the availability of resources and services, and to improve people's skills in dealing with high-risk situations known to affect people's mental health and functioning. The services include the distribution of information to individuals and agencies identified by the county board and the local mental health advisory council, on predictors and symptoms of mental disorders, where mental health services are available in the county, and how to access the services.

Subd. 11. **EMERGENCY SERVICES.** "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for persons having a psychiatric crisis, a mental health crisis, or emergency.

Subd. 11a. FUNCTIONAL ASSESSMENT. "Functional assessment" means an assessment by the case manager of the adult's:

- (1) mental health symptoms as presented in the adult's diagnostic assessment;
- (2) mental health needs as presented in the adult's diagnostic assessment;
- (3) use of drugs and alcohol;
- (4) vocational and educational functioning;
- (5) social functioning, including the use of leisure time;
- (6) interpersonal functioning, including relationships with the adult's family;
- (7) self-care and independent living capacity;
- (8) medical and dental health;
- (9) financial assistance needs;

New language is indicated by underline, deletions by ~~strikeout~~.

(10) housing and transportation needs; and

(11) other needs and problems.

Subd. 12. **INDIVIDUAL COMMUNITY SUPPORT PLAN.** "Individual community support plan" means a written plan developed by a case manager on the basis of a diagnostic assessment and functional assessment. The plan identifies specific services needed by a ~~person~~ an adult with serious and persistent mental illness to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships, financial management, housing, transportation, and employment.

Subd. 13. **INDIVIDUAL PLACEMENT AGREEMENT.** "Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of an individual ~~client~~ adult to provide residential treatment services.

Subd. 14. **INDIVIDUAL TREATMENT PLAN.** "Individual treatment plan" means a written plan of intervention, treatment, and services for a ~~person~~ an adult with mental illness that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individual responsible for providing treatment to the ~~person~~ adult with mental illness.

Subd. 15. **LOCAL MENTAL HEALTH PROPOSAL.** "Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.463.

Subd. 16. **MENTAL HEALTH FUNDS.** "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 17. **MENTAL HEALTH PRACTITIONER.** "Mental health practitioner" means a person providing services to persons with mental illness who is qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has at least 6,000 hours of supervised experience in the delivery of services to persons with mental illness;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

New language is indicated by underline, deletions by ~~strikeout~~.

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of mental illness.

Subd. 18. **MENTAL HEALTH PROFESSIONAL.** "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse ~~with a master's degree in one of the behavioral sciences or related fields from an accredited college or university or its equivalent,~~ who is licensed under sections 148.171 to 148.285, ~~with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness and who is certified as a clinical specialist by the American nurses association;~~

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Subd. 19. **MENTAL HEALTH SERVICES.** "Mental health services" means at least all of the treatment services and case management activities that are provided to ~~persons~~ adults with mental illness and are described in sections 245.461 to 245.486.

Subd. 20. **MENTAL ILLNESS.** (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) A ~~person~~ An "adult with acute mental illness" means a ~~person~~ an adult who has a mental illness that is serious enough to require prompt intervention.

(c) For purposes of case management and community support services, a "person with serious and persistent mental illness" means a ~~person~~ an adult who has a mental illness and meets at least one of the following criteria:

(1) the ~~person~~ adult has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months;

(2) the ~~person~~ adult has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding 12 months;

(3) the ~~person~~ adult:

(i) has a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline personality disorder;

(ii) indicates a significant impairment in functioning; and

(iii) has a written opinion from a mental health professional stating that the ~~person~~ adult is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless an ongoing community support services program is provided; or

(4) the ~~person~~ adult has been committed by a court as a mentally ill person under chapter 253B, or the ~~person's~~ adult's commitment has been stayed or continued.

Subd. 21. **OUTPATIENT SERVICES.** "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to ~~persons~~ adults with a mental illness who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 22. **REGIONAL TREATMENT CENTER INPATIENT SERVICES.** "Regional treatment center inpatient services" means the 24-hour-a-day comprehensive medical, nursing, or psychosocial services provided in a regional treatment center operated by the state.

Subd. 23. **RESIDENTIAL TREATMENT.** "Residential treatment" means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center inpatient unit, that must be licensed as a residential treatment facility program for ~~persons~~ adults with mental illness under Minnesota Rules, parts 9520.0500 to 9520.0690 ~~for adults, 9545.0900 to 9545.1090 for children,~~ or other rule rules adopted by the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 24. **SERVICE PROVIDER.** "Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides adult mental health services funded by sections 245.461 to 245.486.

~~Subd. 25. **CLINICAL SUPERVISION.** "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional co-signing individual treatment plans and by entries in the client's record regarding supervisory activities.~~

Sec. 3. Minnesota Statutes 1988, section 245.463, subdivision 2, is amended to read:

Subd. 2. **TECHNICAL ASSISTANCE.** The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section ~~245.479~~ 245.478, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of ~~persons~~ adults with mental illness residing in the county and extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Sec. 4. Minnesota Statutes 1988, section 245.463, is amended by adding a subdivision to read:

Subd. 3. The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.

Sec. 5. Minnesota Statutes 1988, section 245.464, is amended to read:

245.464 COORDINATION OF MENTAL HEALTH SYSTEM.

Subdivision 1. **SUPERVISION COORDINATION.** The commissioner shall supervise the development and coordination of locally available adult mental health services by the county boards in a manner consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area. The commissioner shall review local mental health service proposals developed by county boards as specified in section 245.463 and provide technical assistance to

New language is indicated by underline, deletions by ~~strikeout~~.

county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's adult mental health proposals; ~~quarterly reports~~; and other information as required by sections 245.461 to 245.486.

Subd. 2. **PRIORITIES.** By January 1, 1990, the commissioner shall require that each of the treatment services and management activities described in sections 245.469 to 245.477 are developed for ~~persons~~ adults with mental illness within available resources based on the following ranked priorities:

- (1) the provision of locally available emergency services;
- (2) the provision of locally available services to all ~~persons~~ adults with serious and persistent mental illness and all ~~persons~~ adults with acute mental illness;
- (3) the provision of specialized services regionally available to meet the special needs of all ~~persons~~ adults with serious and persistent mental illness and all ~~persons~~ adults with acute mental illness;
- (4) the provision of locally available services to ~~persons~~ adults with other mental illness; and
- (5) the provision of education and preventive mental health services targeted at high-risk populations.

Sec. 6. Minnesota Statutes 1988, section 245.465, is amended to read:

245.465 DUTIES OF COUNTY BOARD.

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

- (1) develop and coordinate a system of affordable and locally available adult mental health services in accordance with sections 245.461 to 245.486;
- (2) provide for case management services to ~~persons~~ adults with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; ~~245.471; 245.475~~ 245.471; and 245.486;
- (3) provide for screening of ~~persons~~ adults specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center; ~~and~~
- (4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486; and

New language is indicated by underline, deletions by ~~strikeout~~.

(5) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.

Sec. 7. Minnesota Statutes 1988, section 245.466, subdivision 1, is amended to read:

Subdivision 1. **DEVELOPMENT OF SERVICES.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable adult mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987, to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the local mental health services proposal approved by the commissioner under section 245.478.

Sec. 8. Minnesota Statutes 1988, section 245.466, subdivision 2, is amended to read:

Subd. 2. **ADULT MENTAL HEALTH SERVICES.** The adult mental health service system developed by each county board must include the following services:

- (1) education and prevention services in accordance with section 245.468;
- (2) emergency services in accordance with section 245.469;
- (3) outpatient services in accordance with section 245.470;
- (4) community support program services in accordance with ~~sections 245.471 and 245.475~~ section 245.471;
- (5) residential treatment services in accordance with section 245.472;
- (6) acute care hospital inpatient treatment services in accordance with section 245.473;
- (7) regional treatment center inpatient services in accordance with section 245.474;

New language is indicated by underline, deletions by ~~strikeout~~.

(8) screening in accordance with section 245.476; and

(9) case management in accordance with sections 245.462, subdivision 3; ~~245.474~~; and ~~245.475~~ 245.4711.

Sec. 9. Minnesota Statutes 1988, section 245.466, subdivision 5, is amended to read:

Subd. 5. **LOCAL ADVISORY COUNCIL.** The county board, individually or in conjunction with other county boards, shall establish a local adult mental health advisory council or mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of ~~a person~~ an adult with mental illness, one mental health professional, and one community support services program representative. The local adult mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local adult mental health advisory council or mental health subcommittee of an existing advisory council shall:

(1) arrange for input from the regional treatment center's mental illness program unit regarding coordination of care between the regional treatment center and community-based services;

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.462, subdivision 10; and

(3) coordinate its review, evaluation, and recommendations regarding the local mental health system with the state advisory council on mental health.

The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Sec. 10. Minnesota Statutes 1988, section 245.466, subdivision 6, is amended to read:

Subd. 6. **OTHER LOCAL AUTHORITY.** The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.461 to 245.486 regarding local adult mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.461 to 245.486.

Sec. 11. Minnesota Statutes 1988, section 245.467, subdivision 3, is amended to read:

Subd. 3. **INDIVIDUAL TREATMENT PLANS.** All providers of outpatient services, day treatment services, residential treatment, acute care hospital inpatient treatment, and all regional treatment centers must develop an individ-

New language is indicated by underline, deletions by ~~strikeout~~.

ual treatment plan for each of their adult clients. The individual treatment plan must be based on a diagnostic assessment. To the extent possible, the adult client shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten days of client intake and reviewed every 90 days thereafter.

Sec. 12. Minnesota Statutes 1988, section 245.467, subdivision 4, is amended to read:

Subd. 4. **REFERRAL FOR CASE MANAGEMENT.** Each provider of emergency services, day treatment services, outpatient treatment, community support services, residential treatment, acute care hospital inpatient treatment, or regional treatment center inpatient treatment must inform each of its clients with serious and persistent mental illness of the availability and potential benefits to the client of case management. If the client consents, the provider must refer the client by notifying the county employee designated by the county board to coordinate case management activities of the client's name and address and by informing the client of whom to contact to request case management. The provider must document compliance with this subdivision in the client's record.

Sec. 13. Minnesota Statutes 1988, section 245.467, subdivision 5, is amended to read:

Subd. 5. **INFORMATION FOR BILLING.** Each provider of outpatient treatment, community support services, day treatment services, emergency services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each client for whom services are included on a bill submitted to a county, if the client has consented to the release of that information and if the county requests the information. Each provider shall attempt to obtain each client's consent and must explain to the client that the information can only be released with the client's consent and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the client's record.

Sec. 14. Minnesota Statutes 1988, section 245.468, is amended to read:

245.468 EDUCATION AND PREVENTION SERVICES.

By July 1, 1988, county boards must provide or contract for education and prevention services to ~~persons~~ adults residing in the county. Education and prevention services must be designed to:

(1) convey information regarding mental illness and treatment resources to the general public ~~or~~ and special high-risk target groups;

(2) increase understanding and acceptance of problems associated with mental illness;

(3) improve people's skills in dealing with high-risk situations known to have an impact on ~~people's~~ adults' mental health functioning; ~~and~~

New language is indicated by underline, deletions by ~~strikeout~~.

(4) prevent development or deepening of mental illness; and

(5) refer adults with additional mental health needs to appropriate mental health services.

Sec. 15. Minnesota Statutes 1988, section 245.469, is amended to read:

245.469 EMERGENCY SERVICES.

Subdivision 1. **AVAILABILITY OF EMERGENCY SERVICES.** By July 1, 1988, county boards must provide or contract for enough emergency services within the county to meet the needs of ~~persons~~ adults in the county who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee ~~based on their ability to pay~~ according to section 245.481. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:

(1) promote the safety and emotional stability of ~~people~~ adults with mental illness or emotional crises;

(2) minimize further deterioration of ~~people~~ adults with mental illness or emotional crises;

(3) help ~~people~~ adults with mental illness or emotional crises to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

Subd. 2. **SPECIFIC REQUIREMENTS.** The county board shall require that all service providers of emergency services to adults with mental illness provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional. Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for at least telephone consultation within 30 minutes.

Sec. 16. Minnesota Statutes 1988, section 245.470, subdivision 1, is amended to read:

Subdivision 1. **AVAILABILITY OF OUTPATIENT SERVICES.** (a) By July 1, 1988, county boards must provide or contract for enough outpatient services within the county to meet the needs of ~~persons~~ adults with mental illness residing in the county. Clients may be required to pay a fee ~~based on their ability to pay~~ according to section 245.481. Outpatient services include:

(1) conducting diagnostic assessments;

New language is indicated by underline, deletions by ~~strikeout~~.

- (2) conducting psychological testing;
- (3) developing or modifying individual treatment plans;
- (4) making referrals and recommending placements as appropriate;
- (5) treating a ~~person's~~ an adult's mental health needs through therapy;
- (6) prescribing and managing medication and evaluating the effectiveness of prescribed medication; and
- (7) preventing placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the client can best be served outside the county.

Sec. 17. [245.471] CASE MANAGEMENT AND COMMUNITY SUPPORT SERVICES.

Subdivision 1. AVAILABILITY OF CASE MANAGEMENT SERVICES.

(a) By January 1, 1989, the county board shall provide case management activities for all adults with serious and persistent mental illness residing in the county who request or consent to the services and to each adult for whom the court appoints a case manager. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.462, subdivision 4.

(b) Case management services provided to adults with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Subd. 2. NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.

The county board shall notify the client of the person's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.467, subdivision 4. The county board shall send a written notice to the client and the client's representative, if any, that identifies the designated case management providers.

Subd. 3. DUTIES OF CASE MANAGER. (a) The case manager shall promptly arrange for a diagnostic assessment of the applicant when one is not available as described in section 245.467, subdivision 2, to determine the applicant's eligibility as an adult with serious and persistent mental illness for community support services. The county board shall notify in writing the applicant and the applicant's representative, if any, if the applicant is determined ineligible for community support services.

(b) Upon a determination of eligibility for community support services, the

New language is indicated by underline, deletions by ~~strikeout~~.

case manager shall develop an individual community support plan for an adult according to subdivision 4, paragraph (a), review the client's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

Subd. 4. INDIVIDUAL COMMUNITY SUPPORT PLAN. (a) The case manager must develop an individual community support plan for each adult that incorporates the client's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support plan must be developed within 30 days of client intake and reviewed every 90 days after it is developed. The case manager is responsible for developing the individual community support plan based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual community support plan. To the extent possible, the adult with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual or family community support plan.

(b) The client's individual community support plan must state:

(1) the goals of each service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual community support plan.

Subd. 5. COORDINATION BETWEEN CASE MANAGER AND COMMUNITY SUPPORT SERVICES. The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the community support services program as well as other mental health services.

Subd. 6. AVAILABILITY OF COMMUNITY SUPPORT SERVICES. County boards must provide or contract for sufficient community support services within the county to meet the needs of adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. The community support services program must be designed to improve the ability of adults with serious and persistent mental illness to:

(1) work in a regular or supported work environment;

(2) handle basic activities of daily living;

New language is indicated by underline, deletions by strikeout.

(3) participate in leisure time activities;

(4) set goals and plans;

(5) obtain and maintain appropriate living arrangements; and

(6) reduce the use of more intensive, costly, or restrictive placements both in number of admissions and lengths of stay as determined by client need.

Subd. 7. DAY TREATMENT SERVICES PROVIDED. (a) By July 1, 1989, day treatment services must be developed as a part of the community support services available to adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. Day treatment services must be designed to:

(1) provide a structured environment for treatment;

(2) provide community support;

(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client need;

(4) coordinate with or be offered in conjunction with a local education agency's special education program; and

(5) operate on a continuous basis throughout the year.

(b) County boards may request a waiver from including day treatment services if they can document that:

(1) an alternative plan of care exists through the county's community support services for clients who would otherwise need day treatment services;

(2) day treatment, if included, would be duplicative of other components of the community support services; and

(3) county demographics and geography make the provision of day treatment services cost ineffective and infeasible.

Subd. 8. BENEFITS ASSISTANCE. The county board must offer help to adults with serious and persistent mental illness in applying for federal benefits, including supplemental security income, medical assistance, and Medicare. The help must be offered as a part of the community support program available to adults with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits.

Sec. 18. Minnesota Statutes 1988, section 245.472, subdivision 1, is amended to read:

Subdivision 1. AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES. By July 1, 1988, county boards must provide or contract for enough

New language is indicated by underline, deletions by ~~strikeout~~.

residential treatment services to meet the needs of all ~~persons~~ adults with mental illness residing in the county and needing this level of care. Residential treatment services include both intensive and structured residential treatment with length of stay based on client residential treatment need. Services must be as close to the county as possible. Residential treatment must be designed to:

(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs;

(2) help clients achieve the highest level of independent living;

(3) help clients gain the necessary skills ~~to be referred to a community support services program or outpatient services~~ function in a less structured setting; and

(4) stabilize crisis admissions.

Sec. 19. Minnesota Statutes 1988, section 245.472, is amended by adding a subdivision to read:

Subd. 3. TRANSITION TO COMMUNITY. Residential treatment programs must plan for and assist clients in making a transition from residential treatment facilities to other community-based services. In coordination with the client's case manager, if any, residential treatment facilities must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the residential treatment facility must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.

Sec. 20. Minnesota Statutes 1988, section 245.473, subdivision 1, is amended to read:

Subdivision 1. AVAILABILITY OF ACUTE CARE INPATIENT SERVICES. By July 1, 1988, county boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible ~~to meet the needs of persons~~ for adults with mental illness residing in the county. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize the medical and mental health condition of ~~people with acute or serious and persistent mental illness for which admission is required~~;

(2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible; and

(3) facilitate appropriate referrals; for follow-up; and placements mental health care in the community.

Sec. 21. Minnesota Statutes 1988, section 245.474, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

245.474 REGIONAL TREATMENT CENTER INPATIENT SERVICES.

Subdivision 1. **AVAILABILITY OF REGIONAL TREATMENT CENTER INPATIENT SERVICES.** By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to ~~people~~ adults with mental illness throughout the state who need this level of care. Regional treatment centers are responsible to:

(1) stabilize the medical and mental health condition of the ~~person with mental illness~~ adult requiring the admission;

(2) improve functioning to the point where discharge to community-based mental health services is possible;

(3) strengthen family and community support; and

(4) facilitate appropriate discharge, ~~aftercare~~, and referrals for follow-up placements mental health care in the community.

Subd. 2. **QUALITY OF SERVICE.** The commissioner shall biennially determine the needs of all ~~mentally ill patients~~ adults with mental illness who are served by regional treatment centers by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment. The commissioner shall propose staff ratios to the legislature for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

Subd. 3. **TRANSITION TO COMMUNITY.** Regional treatment centers must plan for and assist clients in making a transition from regional treatment centers to other community-based services. In coordination with the client's case manager, if any, regional treatment centers must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the regional treatment center must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.

Sec. 22. Minnesota Statutes 1988, section 245.476, subdivision 1, is amended to read:

Subdivision 1. **SCREENING REQUIRED.** No later than January 1, ~~1991~~ 1992, the county board shall screen all ~~persons~~ adults before they may be admitted for treatment of mental illness to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if

New language is indicated by underline, deletions by ~~strikeout~~.

public funds are used to pay for the services. Screening prior to admission must occur within ten days. If ~~a person~~ an adult is admitted for treatment of mental illness on an emergency basis to a residential facility or acute care hospital or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five days of the admission. ~~Persons~~ Adults must be screened within ten days before or within five days after admission to ensure that:

- (1) an admission is necessary,
- (2) the length of stay is as short as possible consistent with individual client need, and
- (3) the case manager, if assigned, is developing an individual community support plan.

The screening process and placement decision must be documented in the client's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards specified in clauses (1) to (3).

Sec. 23. Minnesota Statutes 1988, section 245.476, subdivision 3, is amended to read:

Subd. 3. **INDIVIDUAL PLACEMENT AGREEMENT.** The county board shall enter into an individual placement agreement with a provider of residential treatment services to a ~~person~~ an adult eligible for services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

Sec. 24. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

Subd. 4. TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR ADULTS. The commissioner of human services shall appoint a task force on residential and inpatient treatment services for adults. The task force must include representatives from each of the mental health professional categories defined in section 245.462, subdivision 18, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the Minnesota mental health law project, the Minnesota association of mental health residential facilities, the Minnesota hospital association, department of human services staff, the department of education, the department of corrections, the ombudsman for mental health and mental retardation, and counties. The task force shall examine and evaluate existing mechanisms that have as their purpose review of appropriate admission and need for continued care for clients admit-

New language is indicated by underline, deletions by ~~strikeout~~.

ted to residential treatment, acute care hospital inpatient treatment, and regional treatment center inpatient treatment. These mechanisms shall include at least the following: precommitment screening, licensure and reimbursement rules, county monitoring, technical assistance, nursing home preadmission screening, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in subdivision 1.

Sec. 25. Minnesota Statutes 1988, section 245.477, is amended to read:

245.477 APPEALS.

Any person adult who requests mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of the request and each time the individual community ~~service~~ support plan or individual treatment plan is reviewed. Any person adult whose request for mental health services under sections 245.461 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.461 to 245.486 may contest that action or inaction before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 26. Minnesota Statutes 1988, section 245.478, subdivision 2, is amended to read:

Subd. 2. **PROPOSAL CONTENT.** The local adult mental health proposal must include:

(1) the local adult mental health advisory council's or adult mental health subcommittee of an existing advisory council's report on unmet needs of adults and any other needs assessment used by the county board in preparing the local adult mental health proposal;

(2) a description of the local adult mental health advisory council's or the adult mental health subcommittee of an existing advisory council's involvement in preparing the local adult mental health proposal and methods used by the county board to ~~obtain~~ ensure adequate and timely participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of clients who received each of the mental health services listed in sections 245.468 to 245.476, and actual expenditures for each mental health service and service waiting lists; and

(4) ~~for the first proposal period only; information for the year during which the proposal is being prepared;~~

New language is indicated by underline, deletions by ~~strikeout~~.

(i) a description of the current mental health system identifying each mental health service listed in sections ~~245.468 to 245.476~~;

(ii) a description of each service provider, including a listing of the professional qualifications of the staff involved in service delivery; that is either the sole provider of one of the mental health services described in sections ~~245.468 to 245.476~~ or that provides over \$10,000 of mental health services per year for the county;

(iii) a description of how the mental health services in the county are unified and coordinated;

(iv) the estimated number of clients receiving each mental health service;

(v) estimated expenditures for each mental health service; and

(5) the following information describing how the county board intends to meet the requirements of sections 245.461 to 245.486 during the proposal period:

(i) specific objectives and outcome goals for each adult mental health service listed in sections ~~245.468~~ 245.461 to 245.476 245.486;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the adult mental health services described in sections ~~245.468~~ 245.461 to 245.476 245.486 or to provide over \$10,000 of adult mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;

(iii) a description of how the adult mental health services in the county will be unified and coordinated;

(iv) the estimated number of clients who will receive each adult mental health service; and

(v) estimated expenditures for each adult mental health service and revenues for the entire proposal.

Sec. 27. Minnesota Statutes 1988, section 245.478, subdivision 3, is amended to read:

Subd. 3. **PROPOSAL FORMAT.** The local adult mental health proposal must be made in a format prescribed by the commissioner.

Sec. 28. Minnesota Statutes 1988, section 245.479, is amended to read:

245.479 **COUNTY OF FINANCIAL RESPONSIBILITY.**

For purposes of sections 245.461 to 245.486 and 245.487 to 245.4887, the county of financial responsibility is determined under section 256G.02, subdivi-

New language is indicated by underline, deletions by ~~strikeout~~.

sion 4. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256G.09.

Sec. 29. Minnesota Statutes 1988, section 245.48, is amended to read:

245.48 MAINTENANCE OF EFFORT.

Counties must continue to spend for mental health services specified in sections 245.461 to 245.486 and 245.487 to 245.4887, according to generally accepted budgeting and accounting principles, an amount equal to the total expenditures shown in the county's approved 1987 Community Social Services Act plan under "State CSSA, Title XX and County Tax" for services to persons with mental illness plus the comparable figure for Rule 5 facilities under target populations other than mental illness in the approved 1987 CSSA plan.

Sec. 30. **[245.481] FEES FOR MENTAL HEALTH SERVICES.**

A client or, in the case of a child, the child or the child's parent may be required to pay a fee for mental health services provided under sections 245.461 to 245.486 and 245.487 to 245.4887. The fee must be based on the person's ability to pay according to the fee schedule adopted by the county board. In adopting the fee schedule for mental health services, the county board may adopt the fee schedule provided by the commissioner or adopt a fee schedule recommended by the county board and approved by the commissioner. Agencies or individuals under contract with a county board to provide mental health services under sections 245.461 to 245.486 and 245.487 to 245.4887 must not charge clients whose mental health services are paid wholly or in part from public funds fees which exceed the county board's adopted fee schedule. This section does not apply to regional treatment center fees, which are governed by sections 246.50 to 246.55.

Sec. 31. Minnesota Statutes 1988, section 245.482, is amended to read:

245.482 REPORTING AND EVALUATION.

Subdivision 1. **FISCAL REPORTS.** The commissioner shall develop a unified format for quarterly fiscal reports that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, 245.487 to 245.4887, and section 256E.08. The county board shall submit a completed fiscal report in the required format no later than ± 30 days after the end of each quarter.

Subd. 2. **PROGRAM REPORTS.** The commissioner shall develop a unified ~~format~~ formats for an annual program report that reporting, which will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, 245.487 to 245.4887, and section 256E.10. The county board shall submit a completed program ~~report~~ reports in the required format by March ±5 of each year according to the reporting schedule developed by the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **PROVIDER REPORTS.** The commissioner may develop a ~~format~~ formats and procedures for direct reporting from providers to the commissioner to include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 and 245.487 to 245.4887. In particular, the provider reports must include aggregate information by county of residence about mental health services paid for by funding sources other than counties.

Subd. 4. **COMMISSIONER'S CONSOLIDATED REPORTING RECOMMENDATIONS.** The commissioner's reports of February 15, 1990, required under sections 245.461, subdivision 3, and 245.487, subdivision 4, shall include recommended measures to provide coordinated, interdepartmental efforts to ensure early identification and intervention for children with, or at risk of developing, emotional disturbance, to improve the efficiency of the mental health funding mechanisms, and to standardize and consolidate fiscal and program reporting. The recommended measures must provide that client needs are met in an effective and accountable manner and that state and county resources are used as efficiently as possible. The commissioner shall consider the advice of the state advisory council and the children's subcommittee in developing these recommendations.

Subd. 4 5. **INACCURATE OR INCOMPLETE REPORTS.** The commissioner shall promptly notify a county or provider if a required report is clearly inaccurate or incomplete. The commissioner may delay all or part of a mental health fund payment if an appropriately completed report is not received as required by this section.

Subd. 5 6. **STATEWIDE EVALUATION.** The commissioner shall use the county and provider reports required by this section to complete the statewide report required in ~~section~~ sections 245.461 and 245.487.

Sec. 32. Minnesota Statutes 1988, section 245.483, is amended to read:

245.483 TERMINATION OR RETURN OF AN ALLOCATION.

Subdivision 1. **FUNDS NOT PROPERLY USED.** If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 and 245.487 to 245.4887, or that funds are not being used according to the approved local proposal, all or part of the mental health and community social service act funds may be terminated upon 30 days notice to the county board. The commissioner may require repayment of any funds not used according to the approved local proposal. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota administrative procedure act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.

Subd. 2. **USE OF RETURNED FUNDS.** The commissioner may reallocate the funds returned.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **DELAYED PAYMENTS.** If the commissioner finds that a county board or its contractors are not in compliance with the approved local proposal or sections 245.461 to 245.486 and 245.487 to 245.4887, the commissioner may delay payment of all or part of the quarterly mental health and community social service act funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.

Subd. 4. **STATE ASSUMPTION OF RESPONSIBILITY.** If the commissioner determines that services required by sections 245.461 to 245.486 and 245.487 to 245.4887 will not be provided by the county board in the manner or to the extent required by sections 245.461 to 245.486 and 245.487 to 245.4887, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county's community social service act and mental health funds to the extent necessary to carry out the county's responsibilities under sections 245.461 to 245.486 and 245.487 to 245.4887. The commissioner shall work with the county board to allow for a return of authority and responsibility to the county board as soon as compliance with sections 245.461 to 245.486 and 245.487 to 245.4887 can be assured.

Sec. 33. Minnesota Statutes 1988, section 245.484, is amended to read:

245.484 RULES.

The commissioner shall adopt permanent rules as necessary to carry out ~~Laws 1987, chapter 403~~ sections 245.461 to 245.486 and sections 1 to 53.

Sec. 34. Minnesota Statutes 1988, section 245.485, is amended to read:

245.485 NO RIGHT OF ACTION.

Sections 245.461 to 245.484 and 245.487 to 245.4887 do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

Sec. 35. Minnesota Statutes 1988, section 245.486, is amended to read:

245.486 LIMITED APPROPRIATIONS.

Nothing in sections 245.461 to 245.485 and 245.487 to 245.4887 shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

Sec. 36. **[245.4861] PUBLIC/ACADEMIC LIAISON INITIATIVE.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. ESTABLISHMENT OF LIAISON INITIATIVE. The commissioner of human services, in consultation with the appropriate post-secondary institutions, shall establish a public/academic liaison initiative to coordinate and develop brain research and education and training opportunities for mental health professionals in order to improve the quality of staffing and provide state-of-the-art services to residents in regional treatment centers and other state facilities.

Subd. 2. CONSULTATION. The commissioner of human services shall consult with the Minnesota department of health, the regional treatment centers, the post-secondary educational system, mental health professionals, and citizen and advisory groups.

Subd. 3. LIAISON INITIATIVE PROGRAMS. The liaison initiative, within the extent of available funding, shall plan, implement, and administer programs which accomplish the objectives of subdivision 1. These shall include but are not limited to:

(1) encourage and coordinate joint research efforts between academic research institutions throughout the state and regional treatment centers, community mental health centers, and other organizations conducting research on mental illness or working with individuals who are mentally ill;

(2) sponsor and conduct basic research on mental illness and applied research on existing treatment models and community support programs;

(3) seek to obtain grants for research on mental illness from the National Institute of Mental Health and other funding sources;

(4) develop and provide grants for training, internship, scholarship, and fellowship programs for mental health professionals, in an effort to combine academic education with practical experience obtained at regional treatment centers and other state facilities, and to increase the number of mental health professionals working in the state.

Subd. 4. PRIVATE AND FEDERAL FUNDING. The liaison initiative shall seek private and federal funds to supplement the appropriation provided by the state. Individuals, businesses, and other organizations may contribute to the liaison initiative. All money received shall be administered by the commissioner of human services to implement and administer the programs listed in subdivision 3.

Subd. 5. REPORT. By February 15 of each year, the commissioner of human services shall submit to the legislature a liaison initiative report. The annual report shall be part of the commissioner's February 15 report to the legislature required by section 245.487, subdivision 4.

Sec. 37. [245.487] CITATION; DECLARATION OF POLICY; MISSION.

Subdivision 1. CITATION. Sections 245.487 to 245.4887 may be cited as the "Minnesota comprehensive children's mental health act."

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. FINDINGS. The legislature finds there is a need for further development of existing clinical services for emotionally disturbed children and their families and the creation of new services for this population. Although the services specified in sections 245.487 to 245.4887 are mental health services, sections 245.487 to 245.4887 emphasize the need for a child-oriented and family-oriented approach of therapeutic programming and the need for continuity of care with other community agencies. At the same time, sections 245.487 to 245.4887 emphasize the importance of developing special mental health expertise in children's mental health services because of the unique needs of this population.

Nothing in this act shall be construed to abridge the authority of the court to make dispositions under chapter 260.

Subd. 3. MISSION OF CHILDREN'S MENTAL HEALTH SERVICE SYSTEM. As part of the comprehensive children's mental health system established under sections 245.487 to 245.4887, the commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that is consistent with the provision of public social services for children as specified in section 256F.01 and that:

- (1) identifies children who are eligible for mental health services;
- (2) makes preventive services available to all children;
- (3) assures access to a continuum of services that:
 - (i) educate the community about the mental health needs of children;
 - (ii) address the unique physical, emotional, social, and educational needs of children;
 - (iii) are coordinated with the range of social and human services provided to children and their families by the departments of education, human services, health, and corrections;
 - (iv) are appropriate to the developmental needs of children; and
 - (v) are sensitive to cultural differences and special needs;
- (4) includes early screening and prompt intervention to:
 - (i) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and
 - (ii) prevent further deterioration;
- (5) provides mental health services to children and their families in the context in which the children live and go to school;
- (6) addresses the unique problems of paying for mental health services for children, including:

New language is indicated by underline, deletions by ~~strikeout~~.

(i) access to private insurance coverage; and

(ii) public funding;

(7) includes the child and the child's family in planning the child's program of mental health services, unless clinically inappropriate to the child's needs; and

(8) when necessary, assures a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least 18 years of age.

Subd. 4. IMPLEMENTATION. (a) The commissioner shall begin implementing sections 245.487 to 245.4887 by February 15, 1990, and shall fully implement sections 245.487 to 245.4887 by January 1, 1992.

(b) Annually until February 15, 1992, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4887 and on additional resources needed to further implement those sections.

Subd. 5. CONTINUATION OF EXISTING MENTAL HEALTH SERVICES FOR CHILDREN. Counties shall make available case management, community support services, and day treatment to children eligible to receive these services under Minnesota Statutes 1988, section 245.471. No later than August 1, 1989, the county board shall notify providers in the local system of care of their obligations to refer children eligible for case management and community support services as of January 1, 1989. The notice shall indicate which children are eligible, a description of the services, and the name of the county employee designated to coordinate case management activities.

Sec. 38. [245.4871] DEFINITIONS.

Subdivision 1. DEFINITIONS. The definitions in this section apply to sections 245.487 to 245.4887.

Subd. 2. ACUTE CARE HOSPITAL INPATIENT TREATMENT. "Acute care hospital inpatient treatment" means short-term medical, nursing, and psycho-social services provided in an acute care hospital licensed under chapter 144.

Subd. 3. CASE MANAGEMENT SERVICES. "Case management services" means activities designed to help the child with severe emotional disturbance and the child's family obtain needed mental health services, social services, educational services, health services, vocational services, recreational services, and related services in the areas of volunteer services, advocacy, transportation, and legal services. Case management services include obtaining a comprehensive diagnostic assessment, developing a functional assessment, developing an individual family community support plan, and assisting the child and the child's family in obtaining needed services by coordination with other agencies and assuring continuity of care. Case managers must assess and reassess the delivery, appropriateness, and effectiveness of these services over time.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. CASE MANAGER. (a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.

(b) A case manager must:

(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;

(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;

(3) have experience and training in identifying and assessing a wide range of children's needs; and

(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.

(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.

(e) Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.

(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(h) Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to child refugees with severe emotional disturbance of the same ethnic group as the refugee if the person:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

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

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Subd. 5. CHILD. "Child" means a person under 18 years of age.

Subd. 6. CHILD WITH SEVERE EMOTIONAL DISTURBANCE. For purposes of eligibility for case management and family community support services, "child with severe emotional disturbance" means a child who has an emotional disturbance and who meets one of the following criteria:

(1) the child has been admitted within the last three years or is at risk of being admitted to inpatient treatment or residential treatment for an emotional disturbance; or

(2) the child is a Minnesota resident and is receiving inpatient treatment or residential treatment for an emotional disturbance through the interstate compact; or

(3) the child has one of the following as determined by a mental health professional:

(i) psychosis or a clinical depression; or

(ii) risk of harming self or others as a result of an emotional disturbance; or

(iii) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or

(4) the child, as a result of an emotional disturbance, has significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.

The term "child with severe emotional disturbance" shall be used only for purposes of county eligibility determinations. In all other written and oral communications, case managers, mental health professionals, mental health practitioners, and all other providers of mental health services shall use the term "child eligible for mental health case management" in place of "child with severe emotional disturbance."

Subd. 7. CLINICAL SUPERVISION. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical

New language is indicated by underline, deletions by ~~strikeout~~.

supervision does not include authority to make or terminate court-ordered placements of the child. Clinical supervision must be accomplished by full-time or part-time employment of or contracts with mental health professionals. The mental health professional must document the clinical supervision by cosigning individual treatment plans and by making entries in the client's record on supervisory activities.

Subd. 8. COMMISSIONER. "Commissioner" means the commissioner of human services.

Subd. 9. COUNTY BOARD. "County board" means the county board of commissioners or board established under the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.

Subd. 10. DAY TREATMENT SERVICES. "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:

(1) an outpatient hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55;

(2) a community mental health center under section 245.62;

(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4881, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475; or

(4) an entity that operates a program that meets the requirements of section 245.4881, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is under contract with an entity that is under contract with a county board.

Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services. Day treatment services for a child are an integrated set of education, therapy, and family interventions.

A day treatment service must be available to a child at least five days a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.

Subd. 11. DIAGNOSTIC ASSESSMENT. "Diagnostic assessment" means a written evaluation by a mental health professional of:

(1) a child's current life situation and sources of stress, including reasons for referral;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the history of the child's current mental health problem or problems, including important developmental incidents, strengths, and vulnerabilities;

(3) the child's current functioning and symptoms;

(4) the child's diagnosis including a determination of whether the child meets the criteria of severely emotionally disturbed as specified in subdivision 6; and

(5) the mental health services needed by the child.

Subd. 12. EARLY IDENTIFICATION AND INTERVENTION SERVICES. "Early identification and intervention services" means services that are designed to identify children who are at risk of needing or who need mental health services and that arrange for intervention and treatment.

Subd. 13. EDUCATION AND PREVENTION SERVICES. (a) "Education and prevention services" means services designed to:

(1) educate the general public and groups identified as at risk of developing emotional disturbance under section 245.4872, subdivision 3;

(2) increase the understanding and acceptance of problems associated with emotional disturbances;

(3) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning; and

(4) refer specific children or their families with mental health needs to mental health services.

(b) The services include distribution to individuals and agencies identified by the county board and the local children's mental health advisory council of information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services.

Subd. 14. EMERGENCY SERVICES. "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for each child having a psychiatric crisis, a mental health crisis, or a mental health emergency.

Subd. 15. EMOTIONAL DISTURBANCE. "Emotional disturbance" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that:

(1) is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) seriously limits a child's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, school, and recreation.

"Emotional disturbance" is a generic term and is intended to reflect all categories of disorder described in DSM-MD, current edition as "usually first evident in childhood or adolescence."

Subd. 16. FAMILY. "Family" means a child and one or more of the following persons whose participation is necessary to accomplish the child's treatment goals: (1) a person related to the child by blood, marriage, or adoption; (2) a person who is the child's foster parent or significant other; (3) a person who is the child's legal representative.

Subd. 17. FAMILY COMMUNITY SUPPORT SERVICES. "Family community support services" means services provided under the clinical supervision of a mental health professional and designed to help each child with severe emotional disturbance to function and remain with the child's family in the community. Family community support services do not include acute care hospital inpatient treatment, residential treatment services, or regional treatment center services. Family community support services include:

(1) client outreach to each child with severe emotional disturbance and the child's family;

(2) medication monitoring where necessary;

(3) assistance in developing independent living skills;

(4) assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

(5) assistance with leisure and recreational activities;

(6) crisis assistance, including crisis placement and respite care;

(7) professional home-based family treatment;

(8) foster care with therapeutic supports;

(9) day treatment;

(10) assistance in locating respite care and special needs day care; and

(11) assistance in obtaining potential financial resources, including those benefits listed in section 245.4881, subdivision 10.

Subd. 18. FUNCTIONAL ASSESSMENT. "Functional assessment" means an assessment by the case manager of the child's:

(1) mental health symptoms as presented in the child's diagnostic assessment;

New language is indicated by underline, deletions by ~~strikeout~~.

- (2) mental health needs as presented in the child's diagnostic assessment;
- (3) use of drugs and alcohol;
- (4) vocational and educational functioning;
- (5) social functioning, including the use of leisure time;
- (6) interpersonal functioning, including relationships with the child's family;
- (7) self-care and independent living capacity;
- (8) medical and dental health;
- (9) financial assistance needs;
- (10) housing and transportation needs; and
- (11) other needs and problems.

Subd. 19. INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN. "Individual family community support plan" means a written plan developed by a case manager in conjunction with the family and the child with severe emotional disturbance on the basis of a diagnostic assessment and a functional assessment. The plan identifies specific services needed by a child and the child's family to:

- (1) treat the symptoms and dysfunctions determined in the diagnostic assessment;
- (2) relieve conditions leading to emotional disturbance and improve the personal well-being of the child;
- (3) improve family functioning;
- (4) enhance daily living skills;
- (5) improve functioning in education and recreation settings;
- (6) improve interpersonal and family relationships;
- (7) enhance vocational development; and
- (8) assist in obtaining transportation, housing, health services, and employment.

Subd. 20. INDIVIDUAL PLACEMENT AGREEMENT. "Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of a child to provide residential treatment services.

Subd. 21. INDIVIDUAL TREATMENT PLAN. "Individual treatment plan"

New language is indicated by underline, deletions by ~~strikeout~~.

means a written plan of intervention, treatment, and services for a child with an emotional disturbance that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. An individual treatment plan for a child must be developed in conjunction with the family unless clinically inappropriate. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment to the child with an emotional disturbance.

Subd. 22. LEGAL REPRESENTATIVE. "Legal representative" means a guardian, conservator, or guardian ad litem of a child with an emotional disturbance authorized by the court to make decisions about mental health services for the child.

Subd. 23. LOCAL MENTAL HEALTH PROPOSAL. "Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.4872.

Subd. 24. LOCAL SYSTEM OF CARE. "Local system of care" means services that are locally available to the child and the child's family. The services are mental health, social services, correctional services, education services, health services, and vocational services.

Subd. 25. MENTAL HEALTH FUNDS. "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 26. MENTAL HEALTH PRACTITIONER. "Mental health practitioner" means a person providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances;

(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of emotional disturbance.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 27. MENTAL HEALTH PROFESSIONAL. “Mental health professional” means a person providing clinical services in the diagnosis and treatment of children’s emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in psychiatric or mental health nursing by the American nurses association;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master’s degree in social work from an accredited college or university, with at least 4,000 hours of post-master’s supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields, the mental health professional must be a person with a master’s degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master’s supervised experience in the delivery of clinical services in the treatment of emotional disturbances.

Subd. 28. MENTAL HEALTH SERVICES. “Mental health services” means at least all of the treatment services and case management activities that are provided to children with emotional disturbances and are described in sections 245.487 to 245.4887.

Subd. 29. OUTPATIENT SERVICES. “Outpatient services” means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to children with emotional disturbances who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 30. PARENT. “Parent” means the birth or adoptive mother or father of a child. This definition does not apply to a person whose parental rights have been terminated in relation to the child.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 31. PROFESSIONAL HOME-BASED FAMILY TREATMENT. “Professional home-based family treatment” means intensive mental health services provided to children (1) who are at risk of out-of-home placement; (2) who are in out-of-home placement; or (3) who are returning from out-of-home placement because of an emotional disturbance. Services are provided to the child and the child’s family primarily in the child’s home environment or other location appropriate to the child. Examples of appropriate locations include, but are not limited to, the child’s school, day care center, home, and any other living arrangement of the child. Services must be provided on an individual family basis, must be child-oriented and family-oriented, and must be designed to meet the specific mental health needs of the child and the child’s family. Services include family and individual therapy and family living skills training and must be coordinated with other service providers.

Subd. 32. RESIDENTIAL TREATMENT. “Residential treatment” means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center inpatient unit, that must be licensed as a residential treatment program for children with emotional disturbances under Minnesota Rules, parts 9545.0900 to 9545.1090, or other rules adopted by the commissioner.

Subd. 33. SERVICE PROVIDER. “Service provider” means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides children’s mental health services funded under sections 245.487 to 245.4887.

Subd. 34. THERAPEUTIC SUPPORT OF FOSTER CARE. “Therapeutic support of foster care” means the mental health training and mental health support services and clinical supervision provided by a mental health professional to foster families caring for children with severe emotional disturbance to provide a therapeutic family environment and support for the child’s improved functioning.

Sec. 39. [245.487] PLANNING FOR A CHILDREN’S MENTAL HEALTH SYSTEM.

Subdivision 1. PLANNING EFFORT. Starting on the effective date of sections 245.487 to 245.4887 and ending January 1, 1992, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide children’s mental health system. The system must be planned and developed by stages until it is operating at full capacity.

Subd. 2. TECHNICAL ASSISTANCE. The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section 245.4887, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of children with emotional disturbances residing in the county and the extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. INFORMATION TO COUNTIES. By January 1, 1990, the commissioner shall provide each county with information about the predictors and symptoms of children's emotional disturbances and information about groups identified as at risk of developing emotional disturbance.

Sec. 40. [245.4873] COORDINATION OF CHILDREN'S MENTAL HEALTH SYSTEM.

Subdivision 1. STATE AND LOCAL COORDINATION. Coordination of the development and delivery of mental health services for children shall occur on the state and local levels to assure the availability of services to meet the mental health needs of children in a cost-effective manner.

Subd. 2. STATE LEVEL; COORDINATION. The commissioners or designees of commissioners of the departments of human services, health, education, state planning, and corrections, and a representative of the Minnesota district judges association juvenile committee, in conjunction with the commissioner of commerce or a designee of the commissioner shall meet at least quarterly through 1992 to:

(1) educate each agency about the policies, procedures, funding, and services for children with emotional disturbances of all agencies represented;

(2) develop mechanisms for interagency coordination on behalf of children with emotional disturbances;

(3) identify barriers including policies and procedures within all agencies represented that interfere with delivery of mental health services for children;

(4) recommend policy and procedural changes needed to improve development and delivery of mental health services for children in the agency or agencies they represent;

(5) identify mechanisms for better use of federal and state funding in the delivery of mental health services for children; and

(6) prepare an annual report on the policy and procedural changes needed to implement a coordinated, effective, and cost-efficient children's mental health delivery system.

This report shall be submitted to the legislature and the state mental health advisory council annually until February 15, 1992, as part of the report required under section 245.487, subdivision 4. The report shall include information from each department represented on:

(1) the number of children in each department's system who require mental health services;

(2) the number of children in each system who receive mental health services;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) how mental health services for children are funded within each system;

(4) how mental health services for children could be coordinated to provide more effectively appropriate mental health services for children; and

(5) recommendations for the provision of early screening and identification of mental illness in each system.

Subd. 3. LOCAL LEVEL COORDINATION. (a) Each agency represented in the local system of care coordinating council, including mental health, social services, education, health, corrections, and vocational services as specified in section 245.4875, subdivision 6, is responsible for local coordination and delivery of mental health services for children. The county board shall establish a coordinating council that provides at least:

(1) written interagency agreements with the providers of the local system of care to coordinate the delivery of services to children; and

(2) an annual report of the council to the local county board and the children's mental health advisory council about the unmet children's needs and service priorities.

(b) Each coordinating council shall collect information about the local system of care and report annually to the commissioner of human services on forms and in the manner provided by the commissioner. The report must include a description of the services provided through each of the service systems represented on the council, the various sources of funding for services and the amounts actually expended, a description of the numbers and characteristics of the children and families served during the previous year, and an estimate of unmet needs. Each service system represented on the council shall provide information to the council as necessary to compile the report.

Subd. 4. INDIVIDUAL CASE COORDINATION. The case manager designated under section 245.4881 is responsible for ongoing coordination with any other person responsible for planning, development, and delivery of social services, education, corrections, health, or vocational services for the individual child. The family community support plan developed by the case manager shall reflect the coordination among the local service system providers.

Subd. 5. DUTIES OF THE COMMISSIONER. The commissioner shall supervise the development and coordination of locally available children's mental health services by the county boards in a manner consistent with sections 245.487 to 245.4887. The commissioner shall review local mental health service proposals developed by county boards as specified in section 245.4872 and provide technical assistance to county boards in developing and maintaining locally available and coordinated children's mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's children's mental health proposals and other information as required by sections 245.487 to 245.4887.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. PRIORITIES. By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4887 be developed for children with emotional disturbances within available resources based on the following ranked priorities:

- (1) the provision of locally available mental health emergency services;
- (2) the provision of locally available mental health services to all children with severe emotional disturbance;
- (3) the provision of early identification and intervention services to children who are at risk of needing or who need mental health services;
- (4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;
- (5) the provision of locally available services to children with emotional disturbances; and
- (6) the provision of education and preventive mental health services.

Sec. 41. [245.4874] DUTIES OF COUNTY BOARD.

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local children's mental health service proposal required under section 245.4887, and approved by the commissioner. The county board must:

- (1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;
- (2) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost effectiveness of their delivery;
- (3) assure that mental health services delivered according to sections 245.487 to 245.4887 are appropriate to the child's diagnostic assessment and individual treatment plan;
- (4) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;
- (5) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;
- (6) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

New language is indicated by underline, deletions by ~~strikeout~~.

(7) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(8) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871; and

(9) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age.

Sec. 42. [245.4875] LOCAL SERVICE DELIVERY SYSTEM.

Subdivision 1. DEVELOPMENT OF CHILDREN'S SERVICES. The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable children's mental health services. The county board may provide some or all of the children's mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward fully implementing sections 245.487 to 245.4887 during the period July 1, 1989, to January 1, 1992. County boards must develop fully each of the treatment services prescribed by sections 245.487 to 245.4887 by January 1, 1992, according to the priorities established in section 245.4873 and the local children's mental health services proposal approved by the commissioner under section 245.4887.

Subd. 2. CHILDREN'S MENTAL HEALTH SERVICES. The children's mental health service system developed by each county board must include the following services:

- (1) education and prevention services according to section 245.4877;
- (2) early identification and intervention services according to section 245.4878;
- (3) emergency services according to section 245.4879;
- (4) outpatient services according to section 245.488;
- (5) family community support services according to section 245.4881;
- (6) day treatment services according to section 245.4881, subdivision 7;
- (7) residential treatment services according to section 245.4882;

New language is indicated by underline, deletions by ~~strikeout~~.

(8) acute care hospital inpatient treatment services according to section 245.4883;

(9) screening according to section 245.4885;

(10) case management according to section 245.4881;

(11) therapeutic support of foster care according to section 245.4881, subdivision 9; and

(12) professional home-based family treatment according to section 245.4881, subdivision 9.

Subd. 3. LOCAL CONTRACTS. The county board shall review all proposed county agreements, grants, or other contracts related to children's mental health services from any local, state, or federal governmental sources. Contracts with service providers must:

(1) name the commissioner as a third party beneficiary;

(2) identify monitoring and evaluation procedures not in violation of the Minnesota government data practices act, chapter 13, which are necessary to ensure effective delivery of quality services;

(3) include a provision that makes payments conditional on compliance by the contractor and all subcontractors with sections 245.487 to 245.4887 and all other applicable laws, rules, and standards; and

(4) require financial controls and auditing procedures.

Subd. 4. JOINT COUNTY MENTAL HEALTH AGREEMENTS. To efficiently provide the children's mental health services required by sections 245.487 to 245.4887, counties are encouraged to join with one or more county boards to establish a multicounty local children's mental health authority under the joint powers act, section 471.59, the human service board act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or enter into multicounty mental health agreements. Participating county boards shall establish acceptable ways of apportioning the cost of the services.

Subd. 5. LOCAL CHILDREN'S ADVISORY COUNCIL. (a) By October 1, 1989, the county board, individually or in conjunction with other county boards, shall establish a local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council or shall include persons on its existing mental health advisory council who are representatives of children's mental health interests. The following individuals must serve on the local children's mental health advisory council, the children's mental health subcommittee of an existing local mental health advisory council, or be included on an existing mental health advisory council:

(1) at least one person who was in a mental health program as a child or adolescent; (2) at least one parent of a child or adolescent with severe emotional

New language is indicated by underline, deletions by ~~strikeout~~.

disturbance; (3) one children's mental health professional; (4) representatives of minority populations of significant size residing in the county; (5) a representative of the children's mental health local coordinating council; and (6) one family community support services program representative.

(b) The local children's mental health advisory council or children's mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local children's mental health system. Annually, the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council shall:

(1) arrange for input from the local system of care providers regarding coordination of care between the services; and

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.4877, clause (2).

(c) The county board shall consider the advice of its local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council in carrying out its authorities and responsibilities.

Subd. 6. LOCAL SYSTEM OF CARE; COORDINATING COUNCIL. The county board shall establish, by January 1, 1990, a council representing all members of the local system of care including mental health services, social services, correctional services, education services, health services, and vocational services. The council shall include a representative of an Indian reservation authority where a reservation exists within the county. When possible, the council must also include a representative of juvenile court or the court responsible for juvenile issues and law enforcement. The members of the coordinating council shall meet at least quarterly to develop recommendations to improve coordination and funding of services to children with severe emotional disturbances. A county may use an existing child-focused interagency task force to fulfill the requirements of this subdivision if the representatives and duties of the existing task force are expanded to include those specified in this subdivision and section 245.4873, subdivision 3.

Subd. 7. OTHER LOCAL AUTHORITY. The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.487 to 245.4887 regarding local children's mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.487 to 245.4887.

Sec. 43. [245.4876] QUALITY OF SERVICES.

Subdivision 1. CRITERIA. Children's mental health services required by sections 245.487 to 245.4887 must be:

New language is indicated by underline, deletions by strikeout.

- (1) based, when feasible, on research findings;
- (2) based on individual clinical, cultural, and ethnic needs, and other special needs of the children being served;
- (3) delivered in a manner that improves family functioning when clinically appropriate;
- (4) provided in the most appropriate, least restrictive setting available to the county board to meet the child's treatment needs;
- (5) accessible to all age groups of children;
- (6) appropriate to the developmental age of the child being served;
- (7) delivered in a manner that provides accountability to the child for the quality of service delivered and continuity of services to the child during the years the child needs services from the local system of care;
- (8) provided by qualified individuals as required in sections 245.487 to 245.4887;
- (9) coordinated with children's mental health services offered by other providers;
- (10) provided under conditions that protect the rights and dignity of the individuals being served; and
- (11) provided in a manner and setting most likely to facilitate progress toward treatment goals.

Subd. 2. DIAGNOSTIC ASSESSMENT. All residential treatment facilities and acute care hospital inpatient treatment services that provide mental health services for children must complete a diagnostic assessment for each of their child clients within five working days of admission. Providers of outpatient and day treatment services for children must complete a diagnostic assessment within ten working days of admission. In cases where a diagnostic assessment is available and has been completed within 90 days preceding admission, only updating is necessary.

Subd. 3. INDIVIDUAL TREATMENT PLANS. All outpatient services, day treatment services, family community support services, professional home-based family treatment, residential treatment facilities, acute care hospital inpatient treatment facilities, and regional treatment centers that provide mental health facilities for children must develop an individual treatment plan for each child client. The individual treatment plan must be based on a diagnostic assessment. To the extent appropriate, the child shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten working days of client intake or admission and reviewed every 90 days after that date, except that the administrative review of the treatment plan of a child placed in a residential facility shall be as specified in section 257.071, subdivisions 2 and 4.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. REFERRAL FOR CASE MANAGEMENT. Each provider of emergency services, outpatient treatment, community support services, family community support services, day treatment services, screening under section 245.4885, professional home-based family treatment services, residential treatment facilities, acute care hospital inpatient treatment facilities, or regional treatment center services must inform each child with severe emotional disturbance, and the child's parent or legal representative, of the availability and potential benefits to the child of case management. The information shall be provided as specified in subdivision 5. If consent is obtained according to subdivision 5, the provider must refer the child by notifying the county employee designated by the county board to coordinate case management activities of the child's name and address and by informing the child's family of whom to contact to request case management. The provider must document compliance with this subdivision in the child's record.

Subd. 5. CONSENT FOR SERVICES OR FOR RELEASE OF INFORMATION. (a) Although sections 245.487 to 245.4887 require each county board, within the limits of available resources, to make the mental health services listed in those sections available to each child residing in the county who needs them, the county board shall not provide any services, either directly or by contract, unless consent to the services is obtained under this subdivision. The case manager assigned to a child with a severe emotional disturbance shall not disclose to any person other than the case manager's immediate supervisor and the mental health professional providing clinical supervision of the case manager information on the child, the child's family, or services provided to the child or the child's family without informed written consent unless required to do so by statute or under the Minnesota government data practices act. Informed written consent must comply with section 13.05, subdivision 4, paragraph (d), and specify the purpose and use for which the case manager may disclose the information.

(b) The consent or authorization must be obtained from the child's parent unless: (1) the parental rights are terminated; or (2) consent is otherwise provided under sections 144.341 to 144.347; 253B.04, subdivision 1; 260.133; 260.135; and 260.191, subdivision 1, the terms of appointment of a court-appointed guardian or conservator, or federal regulations governing chemical dependency services.

Subd. 6. INFORMATION FOR BILLING. Each provider of outpatient treatment, family community support services, day treatment services, emergency services, professional home-based family treatment services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each child for whom services are included on a bill submitted to a county, if the release of that information under subdivision 5 has been obtained and if the county requests the information. Each provider must try to obtain the consent of the child's family. Each provider must explain to the child's family that the information can only be released with the consent of the child's family and may be used only for purposes of payment and maintaining

New language is indicated by underline, deletions by ~~strikeout~~.

provider accountability. The provider shall document the attempt in the child's record.

Subd. 7. RESTRICTED ACCESS TO DATA. The county board shall establish procedures to ensure that the names and addresses of children receiving mental health services and their families are disclosed only to:

(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; and

(2) staff who provide treatment services or case management and their clinical supervisors.

Release of mental health data on individuals submitted under subdivisions 5 and 6, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in subdivisions 5 and 6, results in civil or criminal liability under section 13.08 or 13.09.

Sec. 44. [245.4877] EDUCATION AND PREVENTION SERVICES.

Education and prevention services must be available to all children residing in the county. Education and prevention services must be designed to:

(1) convey information regarding emotional disturbances, mental health needs, and treatment resources to the general public and groups identified as at high risk of developing emotional disturbance under section 245.4872, subdivision 3;

(2) at least annually, distribute to individuals and agencies identified by the county board and the local children's mental health advisory council information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services;

(3) increase understanding and acceptance of problems associated with emotional disturbances;

(4) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning;

(5) prevent development or deepening of emotional disturbances; and

(6) refer each child with emotional disturbance or the child's family with additional mental health needs to appropriate mental health services.

Sec. 45. [245.4878] EARLY IDENTIFICATION AND INTERVENTION.

By January 1, 1991, early identification and intervention services must be available to meet the needs of all children and their families residing in the county, consistent with section 245.4873. Early identification and intervention services must be designed to identify children who are at risk of needing or who need mental health services. The county board must provide intervention and

New language is indicated by underline, deletions by ~~strikeout~~.

offer treatment services to each child who is identified as needing mental health services. The county board must offer intervention services to each child who is identified as being at risk of needing mental health services.

Sec. 46. [245.4879] EMERGENCY SERVICES.

Subdivision 1. AVAILABILITY OF EMERGENCY SERVICES. County boards must provide or contract for enough mental health emergency services within the county to meet the needs of children in the county who are experiencing an emotional crisis or emotional disturbance. A child or the child's parent may be required to pay a fee according to section 245.481. Emergency service providers shall not delay the timely provision of emergency service because of delays in determining this fee or because of the unwillingness or inability of the parent to pay the fee. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:

(1) promote the safety and emotional stability of children with emotional disturbances or emotional crises;

(2) minimize further deterioration of the child with emotional disturbance or emotional crisis;

(3) help each child with an emotional disturbance or emotional crisis to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs.

Subd. 2. SPECIFIC REQUIREMENTS. The county board shall require that all service providers of emergency services to the child with an emotional disturbance provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll-free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional. When emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for at least telephone consultation within 30 minutes.

Sec. 47. [245.488] OUTPATIENT SERVICES.

Subdivision 1. AVAILABILITY OF OUTPATIENT SERVICES. (a) County boards must provide or contract for enough outpatient services within the county to meet the needs of each child with emotional disturbance residing in the county and the child's family. A child or a child's parent may be required to pay a fee based in accordance with section 245.481. Outpatient services include:

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) developing or modifying individual treatment plans;

(4) making referrals and recommending placements as appropriate;

(5) treating the child's mental health needs through therapy; and

(6) prescribing and managing medication and evaluating the effectiveness of prescribed medication.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the child requires necessary and appropriate services that are only available outside the county.

(c) Outpatient services offered by the county board to prevent placement must be at the level of treatment appropriate to the child's diagnostic assessment.

Subd. 2. SPECIFIC REQUIREMENTS. The county board shall require that a service provider of outpatient services to children:

(1) meets the professional qualifications contained in sections 245.487 to 245.4887;

(2) uses a multidisciplinary mental health professional staff including, at a minimum, arrangements for psychiatric consultation, licensed consulting psychologist consultation, and other necessary multidisciplinary mental health professionals;

(3) develops individual treatment plans; and

(4) provides initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 245.4879.

Sec. 48. [245.4881] CASE MANAGEMENT AND FAMILY COMMUNITY SUPPORT SERVICES.

Subdivision 1. AVAILABILITY OF CASE MANAGEMENT SERVICES.
(a) By July 1, 1991, the county board shall provide case management activities for each child with severe emotional disturbance residing in the county and the child's family who request or consent to the services. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.

(b) Case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Subd. 2. NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.
The county board shall notify, as appropriate, the child, child's parent, or legal representative of the child's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.4876, subdivision 4.

New language is indicated by underline, deletions by ~~strikeout~~.

The county board shall send a written notice that identifies the designated case management providers. The county board shall send the notice, as appropriate, to the child, the child's parent, or the child's legal representative, if any.

Subd. 3. DUTIES OF CASE MANAGER. (a) The case manager shall promptly arrange for a diagnostic assessment of the child when one is not available as described in section 245.4876, subdivision 2, to determine the child's eligibility as a child with severe emotional disturbance for family community support services. The county board shall notify in writing, as appropriate, the child, the child's parent, or the child's legal representative, if any, if the child is determined ineligible for family community support services.

(b) Upon a determination of eligibility for family support services, the case manager shall develop an individual family community support plan for a child as specified in subdivision 4, review the child's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

The case manager shall perform a functional assessment and note in the client's record the services needed by the child and the child's family, the services requested by the family, services that are not available, and the child and family's unmet needs. The information required under section 245.4886 shall be provided in writing to the child and the child's family. The case manager shall note this provision in the client record.

Subd. 4. INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN. (a) For each child, the case manager must develop an individual family community support plan that incorporates the child's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual family community support plan. The case manager is responsible for developing the individual family community support plan within 30 days of intake based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual family community support plan. The case manager must review the plan every 90 calendar days after it is developed. To the extent appropriate, the child with severe emotional disturbance, the child's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual family community support plan. Notwithstanding the lack of a community support plan, the case manager shall assist the child and family in accessing the needed services listed in subdivision 6.

(b) The child's individual family community support plan must state:

(1) the goals and expected outcomes of each service and criteria for evaluating the effectiveness and appropriateness of the service;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual family community support plan.

Subd. 5. COORDINATION BETWEEN CASE MANAGER AND FAMILY COMMUNITY SUPPORT SERVICES. The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the family community support services as well as other mental health services for each child.

Subd. 6. AVAILABILITY OF FAMILY COMMUNITY SUPPORT SERVICES. By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the needs of each child with severe emotional disturbance who resides in the county and the child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.

Family community support services must be designed to improve the ability of children with severe emotional disturbance to:

(1) handle basic activities of daily living;

(2) improve functioning in school settings;

(3) participate in leisure time or community youth activities;

(4) set goals and plans;

(5) reside with the family in the community;

(6) participate in after school and summer activities;

(7) make a smooth transition between mental health services provided to children; and

(8) make a smooth transition into the adult mental health system as appropriate.

In addition, family community support services must be designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the use of placements more intensive, costly, or restrictive both in number of admissions and lengths of stay than indicated by the child's diagnostic assessment.

Subd. 7. DAY TREATMENT SERVICES PROVIDED. (a) Day treatment services must be part of the family community support services available to each

New language is indicated by underline, deletions by ~~strikeout~~.

child with severe emotional disturbance residing in the county. A child or the child's parent may be required to pay a fee according to section 245.481. Day treatment services must be designed to:

- (1) provide a structured environment for treatment;
 - (2) provide family and community support;
 - (3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's need;
 - (4) coordinate with or be offered in conjunction with the school's education program;
 - (5) provide therapy and family intervention for children that are coordinated with education services provided and funded by schools; and
 - (6) operate during all 12 months of the year.
- (b) County boards may request a waiver from including day treatment services if they can document that:

- (1) alternative services exist through the county's family community support services for each child who would otherwise need day treatment services; and
- (2) county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.

Subd. 8. PROFESSIONAL HOME-BASED FAMILY TREATMENT PROVIDED. (a) By January 1, 1991, county boards must provide or contract for sufficient professional home-based family treatment within the county to meet the needs of each child with severe emotional disturbance who is at risk of out-of-home placement due to the child's emotional disturbance or who is returning to the home from out-of-home placement. The child or the child's parent may be required to pay a fee according to section 245.481. The county board shall require that all service providers of professional home-based family treatment set fee schedules approved by the county board that are based on the child's or family's ability to pay. The professional home-based family treatment must be designed to assist each child with severe emotional disturbance who is at risk of or who is returning from out-of-home placement and the child's family to:

- (1) improve overall family functioning in all areas of life;
- (2) treat the child's symptoms of emotional disturbance that contribute to a risk of out-of-home placement;
- (3) provide a positive change in the emotional, behavioral, and mental well-being of children and their families; and
- (4) reduce risk of out-of-home placement for the identified child with severe

New language is indicated by underline, deletions by ~~strikeout~~.

emotional disturbance and other siblings or successfully reunify and reintegrate into the family a child returning from out-of-home placement due to emotional disturbance.

(b) Professional home-based family treatment must be provided by a team consisting of a mental health professional and others who are skilled in the delivery of mental health services to children and families in conjunction with other human service providers. The professional home-based family treatment team must maintain flexible hours of service availability and must provide or arrange for crisis services for each family, 24 hours a day, seven days a week. Case loads for each professional home-based family treatment team must be small enough to permit the delivery of intensive services and to meet the needs of the family. Professional home-based family treatment providers shall coordinate services and service needs with case managers assigned to children and their families. Individual treatment plans must be developed that identify the specific treatment objectives for both the child and the family.

Subd. 9. THERAPEUTIC SUPPORT OF FOSTER CARE. By January 1, 1992, county boards must provide or contract for foster care with therapeutic support as defined in section 245.4871, subdivision 34. Foster families caring for children with severe emotional disturbance must receive training and supportive services, as necessary, at no cost to the foster families within the limits of available resources.

Subd. 10. BENEFITS ASSISTANCE. The county board must offer help to a child with severe emotional disturbance and the child's family in applying for federal benefits, including supplemental security income, medical assistance, and Medicare.

Sec. 49. [245.4882] RESIDENTIAL TREATMENT SERVICES.

Subdivision 1. AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES. County boards must provide or contract for enough residential treatment services to meet the needs of each child with emotional disturbance residing in the county and needing this level of care. Length of stay is based on the child's residential treatment need and shall be subject to the six-month review process established in section 257.071, subdivisions 2 and 4. Services must be made available as close to the county as possible. Residential treatment must be designed to:

- (1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs;
- (2) help the child improve family living and social interaction skills;
- (3) help the child gain the necessary skills to return to the community;
- (4) stabilize crisis admissions; and
- (5) work with families throughout the placement to improve the ability of the families to care for children with emotional disturbance in the home.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. SPECIFIC REQUIREMENTS. A provider of residential services to children must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional.

Subd. 3. TRANSITION TO COMMUNITY. Residential treatment facilities and regional treatment centers serving children must plan for and assist those children and their families in making a transition to less restrictive community-based services. Residential treatment facilities must also arrange for appropriate follow-up care in the community. Before a child is discharged, the residential treatment facility or regional treatment center shall provide notification to the child's case manager, if any, so that the case manager can monitor and coordinate the transition and make timely arrangements for the child's appropriate follow-up care in the community.

Sec. 50. [245.4883] ACUTE CARE HOSPITAL INPATIENT SERVICES.

Subdivision 1. AVAILABILITY OF ACUTE CARE HOSPITAL INPATIENT SERVICES. County boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible for children with emotional disturbances residing in the county needing this level of care. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize the medical and mental health condition for which admission is required;

(2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible;

(3) facilitate appropriate referrals for follow-up mental health care in the community;

(4) work with families to improve the ability of the families to care for those children with emotional disturbances at home; and

(5) assist families and children in the transition from inpatient services to community-based services or home setting, and provide notification to the child's case manager, if any, so that the case manager can monitor the transition and make timely arrangements for the child's appropriate follow-up care in the community.

Subd. 2. SPECIFIC REQUIREMENTS. Providers of acute care hospital inpatient services for children must meet applicable standards established by the commissioners of health and human services.

Sec. 51. [245.4885] SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.

Subdivision 1. SCREENING REQUIRED. The county board shall ensure

New language is indicated by underline, deletions by ~~strikeout~~.

that all children are screened upon admission for treatment of emotional disturbance to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment of emotional disturbance or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five working days of admission. Screening shall determine whether the proposed treatment:

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home;
- (4) the length of stay is as short as possible consistent with the individual child's need; and
- (5) the case manager, if assigned, is developing an individual family community support plan.

Screening shall be in compliance with section 256F.07 or 257.071, whichever applies. Wherever possible, the parent shall be consulted in the screening process, unless clinically inappropriate.

The screening process and placement decision must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (3).

Subd. 2. QUALIFICATIONS. No later than January 1, 1992, screening of children for residential and inpatient services must be conducted by a mental health professional. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation in sparsely populated areas.

Subd. 3. INDIVIDUAL PLACEMENT AGREEMENT. The county board shall enter into an individual placement agreement with a provider of residential treatment services to a child eligible for county-paid services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

Subd. 4. TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR CHILDREN. The commissioner of human

New language is indicated by underline, deletions by ~~strikeout~~.

services shall appoint a task force on residential and inpatient treatment services for children that includes representatives from each of the mental health professional categories defined in section 245.4871, subdivision 27, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the children's mental health initiative, the Minnesota mental health law project, the Minnesota district judges association juvenile committee, department of human services staff, the department of education, local community-based corrections, the department of corrections, the ombudsman for mental health and mental retardation, residential treatment facilities for children, inpatient hospital facilities for children, and counties. The task force shall examine and evaluate existing and available mechanisms that have as their purpose determination of and review of appropriate admission and need for continued care for all children with emotional disturbances who are admitted to residential treatment facilities or acute care hospital inpatient treatment. These mechanisms shall include at least the following: precommitment screening, preplacement screening for children, licensure and reimbursement rules, county monitoring, technical assistance, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in section 245.4885, subdivision 1.

Sec. 52. [245.4886] APPEALS.

A child or a child's family, as appropriate, who requests mental health services under sections 245.487 to 245.4887 must be advised of services available and the right to appeal as described in this section at the time of the request and each time the individual family community support plan or individual treatment plan is reviewed. A child whose request for mental health services under sections 245.487 to 245.4887 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.487 to 245.4887 may contest that action or inaction before the state agency according to section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 53. [245.4887] CHILDREN'S SECTION OF LOCAL MENTAL HEALTH PROPOSAL.

Subdivision 1. TIME PERIOD. The county board shall submit its first complete children's section of its local mental health proposal to the commissioner by November 15, 1989. Subsequent proposals must be on the same two-year cycle as community social service plans. If a proposal complies with sections 245.487 to 245.4887, it satisfies the requirement of the community social service plan for the emotionally disturbed target population as required by section 256E.09. The proposal must be made available upon request to all residents of the county at the same time it is submitted to the commissioner.

Subd. 2. PROPOSAL CONTENT. The children's section of the local mental health proposal must include:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) a report of the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council on unmet needs of children and any other needs assessment used by the county board in preparing the local mental health proposal, including the report of the local coordinating council or local interagency task force specified in section 245.4875, subdivision 6;

(2) a description of the involvement of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council in preparing the local mental health proposal and methods used by the county board to ensure adequate and timely participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of children who received each of the mental health services listed in sections 245.487 to 245.4887, and actual expenditures for each mental health service and service waiting lists; and

(4) the following information describing how the county board intends to meet the requirements of sections 245.487 to 245.4887 during the proposal period:

(i) specific objectives and outcome goals for each mental health service listed in sections 245.487 to 245.4887;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the mental health services described in sections 245.487 to 245.4887 or to provide over \$10,000 of mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;

(iii) a description of how the mental health services in the county will be unified and coordinated, including the mechanism established by the county board providing for interagency coordination as specified in section 245.4875, subdivision 6;

(iv) the estimated number of children who will receive each mental health service; and

(v) estimated expenditures for each mental health service and revenues for the entire proposal.

Subd. 3. PROPOSAL FORMAT. The children's section of the local mental health proposal must be made in a format prescribed by the commissioner.

Subd. 4. PROVIDER APPROVAL. The commissioner's review of the children's section of the local mental health proposal must include a review of the qualifications of each service provider required to be identified in the children's section of the local mental health proposal under subdivision 2. The commissioner may reject a county board's proposal for a particular provider if:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) the provider does not meet the professional qualifications contained in sections 245.487 to 245.4887;

(2) the provider does not have adequate fiscal stability or controls to provide the proposed services as determined by the commissioner; or

(3) the provider is not in compliance with other applicable state laws or rules.

Subd. 5. SERVICE APPROVAL. The commissioner's review of the children's section of the local mental health proposal must include a review of the appropriateness of the amounts and types of children's mental health services in the children's section of the local mental health proposal. The commissioner may reject the county board's proposal if the commissioner determines that the amount and types of services proposed are not cost effective, do not meet the child's needs, or do not comply with sections 245.487 to 245.4887.

Subd. 6. PROPOSAL APPROVAL. The commissioner shall review each children's section of the local mental health proposal within 90 days and work with the county board to make any necessary modifications to comply with sections 245.487 to 245.4887. After the commissioner has approved the proposal, the county board is eligible to receive an allocation of mental health and community social service act funds.

Subd. 7. PARTIAL OR CONDITIONAL APPROVAL. If the children's section of the local mental health proposal is in substantial compliance, but not in full compliance with sections 245.487 to 245.4887, and necessary modifications cannot be made before the proposal period begins, the commissioner may grant partial or conditional approval and withhold a proportional share of the county board's mental health and community social service act funds until full compliance is achieved.

Subd. 8. AWARD NOTICE. Upon approval of the county board proposal, the commissioner shall send a notice of approval for funding. The notice must specify any conditions of funding and is binding on the county board. Failure of the county board to comply with the approved proposal and funding conditions may result in withholding or repayment of funds according to section 245.483.

Subd. 9. PLAN AMENDMENT. If the county board finds it necessary to make significant changes in the approved children's section of the local mental health proposal, it must present the proposed changes to the commissioner for approval at least 30 days before the changes take effect. "Significant changes" means:

(1) the county board proposes to provide a children's mental health service through a provider other than the provider listed for that service in the approved local proposal;

(2) the county board expects the total annual expenditures for any single

New language is indicated by underline, deletions by ~~strikeout~~.

children's mental health service to vary more than ten percent or \$5,000, whichever is greater, from the amount in the approved local proposal;

(3) the county board expects a combination of changes in expenditures per children's mental health service to exceed more than ten percent of the total children's mental health services expenditures; or

(4) the county board proposes a major change in the specific objectives and outcome goals listed in the approved local children's mental health proposal.

Sec. 54. Minnesota Statutes 1988, section 245.62, subdivision 3, is amended to read:

Subd. 3. **CLINICAL DIRECTOR SUPERVISOR.** All community mental health center services shall be provided under the clinical ~~direction~~ supervision of a licensed consulting psychologist licensed under sections 148.88 to 148.98, or a physician who is board certified or eligible for board certification in psychiatry, and who is licensed under section 147.02.

Sec. 55. Minnesota Statutes 1988, section 245.696, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC DUTIES.** In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) review and evaluate local programs and the performance of administrative and mental health personnel and make recommendations to county boards and program administrators;

(2) provide consultative staff service to communities and advocacy groups to assist in ascertaining local needs and in planning and establishing community mental health programs;

(3) employ qualified personnel to implement this chapter;

~~(4) as part of the biennial budget process, report to the legislature on staff use and staff performance, including in the report a description of duties performed by each person in the mental health division;~~

~~(5) adopt rules for minimum standards in community mental health services as directed by the legislature;~~

~~(6) (5) cooperate with the commissioners of health and jobs and training to coordinate services and programs for people with mental illness;~~

~~(7) (6) convene meetings with the commissioners of corrections, health, education, and commerce at least four times each year for the purpose of coordinating services and programs for children with mental illness and children with emotional or behavioral disorders;~~

~~(8) (7) evaluate the needs of people with mental illness as they relate to~~

New language is indicated by underline, deletions by ~~strikeout~~.

assistance payments, medical benefits, nursing home care, and other state and federally funded services;

~~(9)~~ (8) provide data and other information, as requested, to the advisory council on mental health;

~~(10)~~ (9) develop and maintain a data collection system to provide information on the prevalence of mental illness, the need for specific mental health services and other services needed by people with mental illness, funding sources for those services, and the extent to which state and local areas are meeting the need for services;

~~(11)~~ (10) apply for grants and develop pilot programs to test and demonstrate new methods of assessing mental health needs and delivering mental health services;

~~(12)~~ (11) study alternative reimbursement systems and make waiver requests that are deemed necessary by the commissioner;

~~(13)~~ (12) provide technical assistance to county boards to improve fiscal management and accountability and quality of mental health services, and consult regularly with county boards, public and private mental health agencies, and client advocacy organizations for purposes of implementing this chapter;

~~(14)~~ (13) promote coordination between the mental health system and other human service systems in the planning, funding, and delivery of services; entering into cooperative agreements with other state and local agencies for that purpose as deemed necessary by the commissioner;

~~(15)~~ (14) conduct research regarding the relative effectiveness of mental health treatment methods as the commissioner deems appropriate, and for this purpose, enter treatment facilities, observe clients, and review records in a manner consistent with the Minnesota government data practices act, chapter 13; and

~~(16)~~ (15) enter into contracts and promulgate rules the commissioner deems necessary to carry out the purposes of this chapter.

Sec. 56. Minnesota Statutes 1988, section 245.697, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** A state advisory council on mental health is created. The council must have ~~25~~ 30 members appointed by the governor in accordance with federal requirements. The council must be composed of:

(1) the assistant commissioner of mental health for the department of human services;

(2) a representative of the department of human services responsible for the medical assistance program;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) one member of each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing);

(4) one representative from each of the following advocacy groups: mental health association of Minnesota, Minnesota alliance for the mentally ill, and Minnesota mental health law project;

(5) providers of mental health services;

(6) consumers of mental health services;

(7) family members of persons with mental illnesses;

(8) legislators;

(9) social service agency directors;

(10) county commissioners; and

(11) other members reflecting a broad range of community interests, as the United States Secretary of Health and Human Services may prescribe by regulation or as may be selected by the governor.

Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059; ~~except that members shall not receive a per diem.~~ The council ~~expires~~ does not expire as provided in section 15.059.

Sec. 57. Minnesota Statutes 1988, section 245.697, subdivision 2, is amended to read:

Subd. 2. **DUTIES.** The state advisory council on mental health shall:

(1) advise the governor, the legislature, and heads of state departments and agencies about policy, programs, and services affecting people with mental illness;

(2) advise the commissioner of human services on all phases of the development of mental health aspects of the biennial budget;

(3) advise the governor and the legislature about the development of innovative mechanisms for providing and financing services to people with mental illness;

(4) encourage state departments and other agencies to conduct needed research in the field of mental health;

(5) review recommendations of the subcommittee on children's mental health;

(6) educate the public about mental illness and the needs and potential of people with mental illness; ~~and~~

(7) review and comment on all grants dealing with mental health and on the development and implementation of state and local mental health plans; and

New language is indicated by underline, deletions by ~~strikeout~~.

(8) coordinate the work of local children's and adult mental health advisory councils and subcommittees.

Sec. 58. Minnesota Statutes 1988, section 245.697, subdivision 2a, is amended to read:

Subd. 2a. **SUBCOMMITTEE ON CHILDREN'S MENTAL HEALTH.** The state advisory council on mental health (the "advisory council") must have a subcommittee on children's mental health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

(1) the commissioners or designees of the commissioners of the departments of human services, health, education, state planning, and corrections;

(2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;

(3) at least one representative of an advocacy group for children with ~~men-~~tal illness emotional disturbances;

(4) providers of children's mental health services, including at least one provider of services to preadolescent children, one provider of services to adolescents, and one hospital-based provider;

(5) parents of children who have ~~mental illness or emotional or behavioral disorders~~ disturbances;

(6) a present or former consumer of adolescent mental health services;

(7) educators ~~experienced in~~ currently working with emotionally disturbed children;

(8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;

(9) people experienced in working with emotionally disturbed children who have committed status offenses;

(10) members of the advisory council; ~~and~~

(11) one person from the local corrections department and one representative of the Minnesota district judges association juvenile committee; and

(12) county commissioners and social services agency representatives.

The chair of the advisory council shall appoint subcommittee members described in clauses (3) to (11) through the process established in section 15.0597. The chair shall appoint members to ensure a geographical balance on the subcommittee. Terms, compensation, removal, and filling of vacancies are gov-

New language is indicated by underline, deletions by ~~strikeout~~.

erned by subdivision 1, except that terms of subcommittee members who are also members of the advisory council are coterminous with their terms on the advisory council. The subcommittee shall meet at the call of the subcommittee chair who is elected by the subcommittee from among its members. The subcommittee expires with the expiration of the advisory council.

Sec. 59. Minnesota Statutes 1988, section 245.713, subdivision 2, is amended to read:

Subd. 2. **TOTAL FUNDS AVAILABLE; ALLOCATION.** Funds granted to the state by the federal government under United States Code, title 42, sections 300X to 300X-9 each federal fiscal year for mental health services must be allocated as follows:

(a) Any amount set aside by the commissioner of human services for American Indian organizations within the state, which funds shall not duplicate any direct federal funding of American Indian organizations and which funds shall be at least 25 percent of the total federal allocation to the state for mental health services; provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals. Money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups. For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services that is legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.

(b) An amount not to exceed ~~ten~~ five percent of the federal block grant allocation for mental health services to be retained by the commissioner for administration.

(c) Any amount permitted under federal law which the commissioner approves for demonstration or research projects for severely disturbed children and adolescents, the underserved, special populations or multiply disabled mentally ill persons. The groups to be served, the extent and nature of services to be provided, the amount and duration of any grant awards are to be based on criteria set forth in the Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9, and on state policies and procedures determined necessary by the commissioner. Grant recipients must comply with applicable state and federal requirements and demonstrate fiscal and program management capabilities that will result in provision of quality, cost-effective services.

(d) The amount required under federal law, for federally mandated expenditures.

(e) An amount not to exceed ~~ten~~ 15 percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 60. Minnesota Statutes 1988, section 245.73, subdivision 4, is amended to read:

Subd. 4. **RULES; REPORTS.** The commissioner shall promulgate an emergency and permanent rule to govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records by grant recipients. The commissioner shall require collection of data for compliance, monitoring and evaluation purposes and shall require periodic reports to demonstrate the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities. As a part of the report required by section 245.461, the commissioner shall report to the legislature no later than December 31 of each even-numbered year as to the effectiveness of this program and recommendations regarding continued funding.

Sec. 61. Minnesota Statutes 1988, section 245A.095, is amended to read:

245A.095 REVIEW OF RULES FOR PROGRAMS SERVING PERSONS WITH MENTAL ILLNESSES.

Subdivision 1. **LICENSE REQUIRED.** Residential programs for with five or more persons with a mental illness must be licensed under sections 245A.01 to 245A.16. To assure that this requirement is met, the commissioner of health, in cooperation with the commissioner of human services, shall monitor licensed boarding care homes, board and lodging houses, and supervised living facilities.

By January 1, 1989, the commissioner of health shall recommend to the legislature an appropriate method for enforcing this requirement.

Subd. 1a. **RULES.** In developing rules for serving persons with mental illness, the commissioner of human services shall assure that persons with mental illness are provided with needed treatment or support in the least restrictive, most appropriate environment, that supportive residential care in small home-like settings is available for persons needing that care, and that a mechanism is developed to ensure that no person is placed in a care or treatment setting inappropriate for meeting the person's needs. To the maximum extent possible, the rule shall assure that length of stay is governed solely by client need and shall allow for a variety of innovative and flexible approaches in meeting residential and support needs of persons with mental illness.

Subd. 2. **SPECIFIC REVIEW OF RULES.** The commissioner shall:

(1) provide in rule for various levels of care additional types of programs and services, including but not limited to supportive small group residential care, semi-independent and apartment living services, and crisis and respite services, to address the residential treatment and support needs of persons with mental illness;

(2) review category I and II programs established in Minnesota Rules, parts 9520.0500 to 9520.0690 to ensure that the categories of programs provide a

New language is indicated by underline, deletions by ~~strikeout~~.

continuum of residential service programs for persons with mental illness, including but not limited to programs meeting needs for intensive treatment, crisis and respite care, and rehabilitation and training;

(3) provide in rule for a definition of the term "treatment" as used in relation to persons with mental illness;

(4) adjust funding mechanisms by rule as needed to reflect the requirements established by rule for services being provided;

(5) review and recommend staff educational requirements and staff training as needed; ~~and~~

(6) review and make changes in rules relating to residential care and service programs for persons with mental illness as the commissioner may determine necessary; and

(7) the commissioner shall report to the legislature by February 15, 1990, on the status of rulemaking with respect to clauses (1) to (6).

Subd. 3. **HOUSING SERVICES FOR PERSONS WITH MENTAL ILLNESS.** The commissioner of human services shall study the housing needs of people with mental illness and shall articulate a continuum of services from residential treatment as the most intensive service through housing programs as the least intensive. The commissioner shall develop recommendations for implementing the continuum of services and shall present the recommendations to the legislature by January 31, 1988.

Sec. 62. [246.018] **OFFICE OF MEDICAL DIRECTOR.**

Subdivision 1. ESTABLISHED. The office of medical director within the department of human services is established.

Subd. 2. MEDICAL DIRECTOR. The commissioner of human services shall appoint a medical director. The medical director must be a psychiatrist certified by the board of psychiatry.

Subd. 3. DUTIES. The medical director shall:

(1) oversee the clinical provision of inpatient mental health services provided in the state's regional treatment centers;

(2) recruit and retain psychiatrists to serve on the state medical staff established in subdivision 4;

(3) consult with the commissioner of human services, the assistant commissioner of mental health, community mental health center directors, and the regional treatment center governing bodies to develop standards for treatment and care of patients in regional treatment centers and outpatient programs;

(4) develop and oversee a continuing education program for members of the regional treatment center medical staff;

New language is indicated by underline, deletions by ~~strikeout~~.

(5) consult with the commissioner on the appointment of the chief executive officers for regional treatment centers; and

(6) participate and cooperate in the development and maintenance of a quality assurance program for regional treatment centers that assures that residents receive quality inpatient care and continuous quality care once they are discharged or transferred to an outpatient setting.

Subd. 4. REGIONAL TREATMENT CENTER MEDICAL STAFF. (a) The commissioner of human services shall establish a regional treatment center medical staff which shall be under the clinical direction of the office of medical director.

(b) The medical director, in conjunction with the regional treatment center medical staff, shall:

(1) establish standards and define qualifications for physicians who care for residents in regional treatment centers;

(2) monitor the performance of physicians who care for residents in regional treatment centers; and

(3) recommend to the commissioner changes in procedures for operating regional treatment centers that are needed to improve the provision of medical care in those facilities.

Sec. 63. STUDY.

The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding: (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.

Sec. 64. REPEALER.

Minnesota Statutes 1988, sections 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; and 245A.095, subdivision 3, are repealed.

Sec. 65. EFFECTIVE DATE.

Section 37, subdivision 5, is effective the day following final enactment.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 5

INCOME MAINTENANCE AND WELFARE REFORM

Section 1. Minnesota Statutes 1988, section 13.46, subdivision 2, is amended to read:

Subd. 2. **GENERAL.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

- (1) pursuant to section 13.05;
- (2) pursuant to court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation, prosecution, criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;
- (8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;
- (9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;
- (10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons; or
- (11) data maintained by residential facilities as defined in section 245A.02, subdivision 6, may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related

New language is indicated by underline, deletions by ~~strikeout~~.

conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

(b) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 2. Minnesota Statutes 1988, section 237.70, subdivision 7, is amended to read:

Subd. 7. **ADMINISTRATION.** The telephone assistance plan must be administered jointly by the commission, the department of human services, and the telephone companies in accordance with the following guidelines:

(a) The commission and the department of human services shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the telephone companies. The application must contain the applicant's social security number. Applications without a social security number will be denied. Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS, AND YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT
.....

(b) The department of human services shall determine the eligibility for telephone assistance plan credits at least annually according to the criteria contained in subdivision 4a.

(c) Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of an application form and shall continue to provide credits unless notified that the subscriber is ineligible. The company shall cease granting credits at the earliest possible billing cycle when notified by the department of human services that the subscriber is ineligible.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

(1) establish a uniform statewide surcharge in accordance with subdivision 6;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) establish a uniform statewide level of telephone assistance plan credit that each telephone company shall extend to each eligible household in its service area;

(3) require each telephone company to account to the commission on a periodic basis for surcharge revenues collected by the company, expenses incurred by the company, not to include expenses of collecting surcharges, and credits extended by the company under the telephone assistance plan;

(4) require each telephone company to remit surcharge revenues to the department of administration for deposit in the fund; and

(5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the department of public service with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The department of public service shall investigate complaints against telephone companies with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

Sec. 3. Minnesota Statutes 1988, section 237.701, subdivision 1, is amended to read:

Subdivision 1. **TELEPHONE ASSISTANCE FUND.** The telephone assistance fund is created as a separate account in the state treasury to consist of amounts received by the department of administration representing the surcharge authorized by section 237.70, subdivision 6, and amounts earned on the fund assets. Money in the fund may be used only for:

(1) reimbursement to telephone companies for expenses and credits allowed in section 237.70, subdivision 7, paragraph (d), clause (5);

(2) reimbursement of the administrative expenses of the department of human services ~~from January 1, 1988, to June 30, 1989,~~ to implement sections 237.69 to 237.71, not to exceed ~~\$90,000~~ \$180,000 annually; and

New language is indicated by underline, deletions by ~~strikeout~~.

(3) reimbursement of the administrative expenses of the commission not to exceed \$25,000 annually.

Sec. 4. Minnesota Statutes 1988, section 245.771, subdivision 3, is amended to read:

Subd. 3. **EMPLOYMENT AND TRAINING PROGRAMS.** The commissioner of human services, in consultation with the commissioner of jobs and training, is authorized to implement and allocate money to food stamp employment and training programs in as many counties as is necessary to meet federal participation requirements and comply with federal laws and regulations. The commissioner of human services may contract with the commissioner of jobs and training to implement and supervise employment and training programs for food stamp recipients that are required by federal regulations.

Sec. 5. Minnesota Statutes 1988, section 256.014, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF SYSTEMS.** The commissioner of human services shall establish and enhance computer systems necessary for the efficient operation of the programs the commissioner supervises, including:

- (1) management and administration of the food stamp and income maintenance programs;
- (2) ~~the central clearinghouse project for~~ management and administration of the child support enforcement program; and
- (3) administration of medical assistance and general assistance medical care.

The commissioner shall distribute the nonfederal share of the costs of operating and maintaining the systems to the commissioner and to the counties participating in the system in a manner that reflects actual system usage, except that the nonfederal share of the costs of the MAXIS computer system and child support enforcement systems shall be born entirely by the commissioner. Development costs must not be assessed against local agencies.

Sec. 6. [256.031] MINNESOTA FAMILY INVESTMENT PLAN.

Subdivision 1. CITATION. Sections 256.031 to 256.036 may be cited as the Minnesota family investment plan.

Subd. 2. LEGISLATIVE FINDINGS. The legislature recognizes the need to fundamentally change the way government supports families. The legislature finds that many features of the current system of public assistance do not help families carry out their two basic functions: the economic support of the family unit and the care and nurturing of children. The legislature recognizes that the Minnesota family investment plan is an investment strategy that will support and strengthen the family's social and financial functions. This investment in families will provide long-term benefits through stronger and more independent families.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. AUTHORIZATION FOR THE DEMONSTRATION. The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, and the directors of the higher education coordinating board and the office of jobs policy, is authorized to proceed with the planning and designing of the Minnesota family investment plan and test policies, methods, and cost impact on an experimental basis by using field trials. Sections 256.031 to 256.033 describe the basic principles of the program. Sections 256.034 to 256.036 provide a basis for congressional action. Using sections 256.031 to 256.036, the commissioner shall seek congressional authority to implement the program in field trials. After obtaining congressional authority to implement the Minnesota family investment plan in field trials, the commissioner shall request specific appropriations from the legislature to implement field trials. The field trials must be conducted for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.

Subd. 4. GOALS OF THE MINNESOTA FAMILY INVESTMENT PLAN. The commissioner shall design the program to meet the following goals:

(1) to support families' transition to financial independence by emphasizing options, removing barriers to work and education, providing necessary support services, and building a supportive network of education, employment and training, health, social, counseling, and family-based services;

(2) to allow resources to be more effectively and efficiently focused on investing in families by removing the complexity of current rules and procedures and consolidating public assistance programs;

(3) to prevent long-term dependence on public assistance through paternity establishment, child support enforcement, emphasis on education and training, and early intervention with minor parents; and

(4) to provide families with an opportunity to increase their living standard by rewarding efforts aimed at transition to employment and by allowing families to keep a greater portion of earnings when they become employed.

Subd. 5. FEDERAL WAIVERS. The commissioner of human services shall seek authority from Congress to implement the Minnesota family investment plan on a demonstration basis. If necessary, the commissioner shall seek waivers of compliance with requirements for: aid to families with dependent children under United States Code, title 42, sections 601 to 679a, as amended; medical assistance under United States Code, title 42, sections 1396 to 1396s, as amended; food stamps under United States Code, title 7, sections 2011 to 2030, as amended; and other federal requirements that would inhibit implementation of the Minnesota family investment plan. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with the goals of the Minnesota family

New language is indicated by underline, deletions by strikeout.

investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon six months' notice or immediately upon mutual agreement. If the agreements are canceled, families receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, general assistance, medical assistance, general assistance medical care, and the food stamp programs must be placed on those programs.

Sec. 7. [256.032] DEFINITIONS.

Subdivision 1. SCOPE OF DEFINITIONS. The terms used in sections 256.031 to 256.036 have the meanings given them unless otherwise provided or indicated by the context.

Subd. 2. CAREGIVER. "Caregiver" means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for this program, "caregiver" also means any of the following individuals who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of "great" or "great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Subd. 3. CASE MANAGEMENT. "Case management" means the assessment of family needs and coordination of services necessary to support the family in its social and economic roles, in addition to the services described in section 256.736, subdivision 11.

Subd. 4. COMMISSIONER. "Commissioner" means the commissioner of human services or a designee.

Subd. 5. CONTRACT. "Contract" means a family self-sufficiency plan, described in section 256.035, subdivision 7, based on the case manager's assessment of the family's needs and abilities and developed, together with a parental caregiver, by a county agency or its designee.

Subd. 6. DEPARTMENT. "Department" means the department of human services.

Subd. 7. FAMILY. For purposes of determining eligibility for this program, "family" includes the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver as defined in subdivision 2. "Family" also includes a pregnant woman in the third trimester of pregnancy with no children.

Subd. 8. FAMILY WAGE LEVEL. "Family wage level" means 120 percent of the transitional standard, as defined in subdivision 13.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 9. ORIENTATION. "Orientation" means a presentation that meets the requirements of section 256.736, subdivision 10a, provides information to caregivers about the Minnesota family investment plan, and encourages parental caregivers to engage in activities that will stabilize the family and lead to self-sufficiency.

Subd. 10. PROGRAM. "Program" means the Minnesota family investment plan.

Subd. 11. SIGNIFICANT CHANGE. "Significant change" means a change of ten percent or \$50, whichever is less, in monthly gross family earned income, or a change in family composition.

Subd. 12. TRANSITIONAL STATUS. "Transitional status" means the status of caregivers who are independently pursuing self-sufficiency or caregivers who are complying with the terms of a contract with a county agency or its designee.

Subd. 13. TRANSITIONAL STANDARD. "Transitional standard" means the sum of the AFDC standard of assistance and the full cash value of food stamps for a family of the same size and composition in effect when implementation of the Minnesota family investment plan begins. This standard applies to families in which the parental caregiver is in transitional status and to families in which the caregiver is exempt from having a contract or is exempt from complying with the terms of the contract. Full cash value of food stamps is the amount of the cash value of food stamps to which a family of a given size would be entitled for a month, determined by assuming unearned income equal to the AFDC standard for a family of that size and composition and subtracting the standard deduction and maximum shelter deduction from gross family income, as allowed under the Food Stamp Act of 1977, as amended, and Public Law Number 100-435. The assistance standard for a family consisting of a pregnant woman in the third trimester of pregnancy with no children must equal the assistance standard for one adult and one child.

Sec. 8. [256.033] ELIGIBILITY FOR THE MINNESOTA FAMILY INVESTMENT PLAN.

Subdivision 1. ELIGIBILITY CONDITIONS. A family is eligible for and entitled to assistance under the Minnesota family investment plan if:

(1) the family's net income, after deducting an amount to cover taxes and actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii), does not exceed the applicable standard of assistance for that family as defined under section 256.032, subdivision 13; and

(2) the family's nonexcluded resources do not exceed \$2,000.

Subd. 2. DETERMINATION OF FAMILY INCOME. The aid to families

New language is indicated by underline, deletions by ~~strikeout~~.

with dependent children income exclusions listed in Code of Federal Regulations, title 45, sections 233.20(a)(3) and 233.20(a)(4), must be used when determining a family's available income, except that:

(1) the disregard of the first \$75 of gross earned income is replaced with a single disregard described in section 256.035, subdivision 4, paragraph (a);

(2) all earned income of a minor child receiving assistance through the Minnesota family investment plan is excluded when the child is attending school at least half-time;

(3) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments are excluded in accordance with 42 United States Code, section 602(a)(8)(A)(viii);

(4) educational grants and loans as provided in section 256.74, subdivision 1, clause (2), are excluded; and

(5) all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded.

Subd. 3. DETERMINATION OF FAMILY RESOURCES. When determining a family's resources, the following are excluded:

(1) the family's home, together with the surrounding property not separated from the home by intervening property owned by others;

(2) one burial plot for each family member;

(3) one prepaid burial contract with an equity value of no more than \$1,500 for each member of the family;

(4) licensed automobiles, trucks, or vans up to a total equity value of \$4,500;

(5) the value of personal property needed to produce earned income, including tools, implements, farm animals, and inventory;

(6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and

(7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.

Subd. 4. TREATMENT OF SSI AND MSA. The monthly benefits and any other income received through the supplemental security income or Minnesota supplemental aid programs and any real or personal property of a person receiving supplemental security income or Minnesota supplemental aid must be excluded in determining the family's eligibility for the Minnesota family investment plan and the amount of assistance. In determining the amount of assistance to be paid to the family, the needs of the person receiving supplemental security income or Minnesota supplemental aid must not be taken into account.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. ABILITY TO APPLY FOR FOOD STAMPS. A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources may apply for, and if eligible receive, benefits under the food stamp program.

Sec. 9. [256.034] PROGRAM SIMPLIFICATION.

Subdivision 1. CONSOLIDATION OF TYPES OF ASSISTANCE. Under the Minnesota family investment plan, assistance previously provided to families through the AFDC, food stamp, and general assistance programs must be combined into a single cash assistance program. If authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B. Federal, state, and local funds that would otherwise be allocated for assistance to families under the AFDC, food stamp, and general assistance programs must be transferred to the Minnesota family investment plan. The provisions of the Minnesota family investment plan prevail over any provisions of sections 256.72 to 256.87 or 256D.01 to 256D.21 with which they are irreconcilable. The food stamp, general assistance, and work readiness programs for single persons and couples who are not responsible for the care of children are not replaced by the Minnesota family investment plan.

Subd. 2. COUPON OPTION. Families have the option to receive a portion of their assistance, designated by the commissioner, in the form of food coupons or vendor payments.

Subd. 3. MODIFICATION OF ELIGIBILITY TESTS. (a) A needy family is eligible and entitled to receive assistance under the program even if its children are not found to be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity of a parent, or unemployment of a parent, provided the family's income and resources do not exceed the eligibility requirements in section 256.033. In addition, a family member who is physically and mentally fit, who is between the ages of 18 and 60 years, who is enrolled at least half time in an institution of higher education, and whose family income and resources do not exceed the eligibility requirements in section 256.033, is eligible for assistance under the Minnesota family investment plan even if the conditions for eligibility as prescribed under the federal Food Stamp Act of 1977, as amended, are not met.

(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance

New language is indicated by underline, deletions by ~~strikeout~~.

received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3.

(c) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is not required to comply with the employment and training requirements prescribed under sections 256.736, subdivisions 3, 3a, and 14; and 256D.05, subdivision 1; section 402(a)(19) of the Social Security Act; the federal Food Stamp Act of 1977, as amended; Public Law Number 100-485; or any other state or federal employment and training program, unless compliance is specifically required in a contract with the county agency.

Subd. 4. SIMPLIFICATION OF BUDGETING PROCEDURES. The monthly amount of assistance provided by the Minnesota family investment plan must be calculated on a prospective basis taking into account actual income or circumstances that existed in a previous month and other relevant information to predict income and circumstances for the next month or months. When a family has a significant change in circumstances, the budgeting cycle must be interrupted and the amount of assistance for the payment month must be based on the county agency's best estimate of the family's income and circumstances for that month. Families may be required to report their income monthly, but income may be averaged over a period of more than one month.

Subd. 5. SIMPLIFICATION OF VERIFICATION PROCEDURES. Verification procedures must be reduced to the minimum that is workable and consistent with the goals and requirements of the Minnesota family investment plan.

Sec. 10. [256.035] INCOME SUPPORT AND TRANSITION.

Subdivision 1. EXPECTATIONS. All families eligible for assistance under the family investment plan are expected to be in transitional status as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:

(a) For a family headed by a single adult parent, the expectation is that the parent will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or have a contract and comply with the terms of the contract with the county agency or its designee.

(b) For a family with a minor parent, the expectation is that, concurrent with the receipt of assistance, the minor parent must be developing or have a contract with the county agency. The terms of the contract must include compliance with section 256.736, subdivision 3b.

(c) For a family with two adult parents, the expectation is that one or both parents will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the

New language is indicated by underline, deletions by ~~strikeout~~.

seventh month of assistance, one parent must be developing or have a contract and comply with the terms of the contract with the county agency or its designee.

Subd. 2. EXEMPTIONS. A caregiver is exempt from the requirement of developing a contract and complying with the terms of the contract developed with the county agency, or engaging in transitional activities, if:

(1) the caregiver is not the natural or adoptive parent of a minor child; or

(2) in the case of a parental caregiver, the county agency determines that:

(i) individual circumstances prevent compliance;

(ii) support services necessary to enable compliance are not available;

(iii) activities identified in the contract are not available; or

(iv) a parental caregiver is willing to accept suitable employment but employment is not available.

Subd. 3. SANCTIONS. A family whose parental caregiver is not exempt from the expectations in subdivision 1 and who is not complying with those expectations must have assistance reduced by a value equal to ten percent of the transitional standard as defined in section 256.032, subdivision 13. This reduction continues until the failure to comply ceases. The county agency must notify the parental caregiver of its intent to implement this sanction and the opportunity to have a conciliation conference, upon request, before the sanctions are implemented.

Subd. 4. TREATMENT OF INCOME. To help families during their transition from the Minnesota family investment plan to self-sufficiency, the following income supports are available:

(a) The \$30 and one-third and \$75 disregards allowed under section 256.74, subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work-related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.

(b) The dependent care deduction, as prescribed under section 256.74, subdivision 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money earmarked for the Minnesota family investment plan.

(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through

New language is indicated by underline, deletions by ~~strikeout~~.

the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.

(d) The first \$50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance in accordance with United States Code, title 42, sections 602(a)(8)(A)(vi) and 657(b)(1). This paragraph applies regardless of whether the caregiver is in transitional status, is exempt from having or complying with the terms of a contract, or has had a sanction imposed under subdivision 3.

Subd. 5. ORIENTATION. All caregivers receiving assistance through the Minnesota family investment plan must attend orientation.

Subd. 6. CONTRACT. (a) To receive the transitional standard of assistance, a single adult parent who is a member of a family that has received assistance through the Minnesota family investment plan for 24 months within the preceding 36 months, a minor parent receiving assistance through the Minnesota family investment plan, and one parent in a two-parent family that has received assistance through the Minnesota family investment plan for six months within the preceding 12 months, must comply with the terms of a contract with the county agency or its designee unless exempt under subdivision 2. Case management must be provided to a caregiver who is a parent to assist the caregiver in meeting established goals and to monitor the caregiver's progress toward achieving those goals. The parental caregiver and the county agency must finalize the contract as soon as possible, but in any event within a reasonable period of time after the deadline specified in subdivision 1, paragraph (a), (b), or (c), whichever applies.

(b) A contract must identify the parental caregiver's employment goal and explain what steps the family must take to pursue self-sufficiency. Activities may include:

- (1) orientation;
- (2) employment;
- (3) employment and training services as defined under section 256.736, subdivision 1a, paragraph (d);
- (4) preemployment activities;
- (5) participation in an educational program leading to a high school or general equivalency diploma and post-secondary education programs, excluding postbaccalaureate degrees as provided in section 256.736, subdivision 1a, paragraph (d);
- (6) case management;

New language is indicated by underline, deletions by ~~strikeout~~.

(7) social services; or

(8) other programs or services leading to self-sufficiency.

The contract must also identify the services that the county agency will provide to the family that the family needs to enable the parental caregiver to comply with the contract, including support services such as transportation and child care.

Subd. 7. EMPLOYMENT BONUS. A family leaving the program as a result of increased earnings through employment is entitled to an employment bonus. This bonus is a one-time cash incentive, not more than the family's monthly payment standard, to cover initial expenses incurred by the family leaving the Minnesota family investment plan.

Subd. 8. CHILD CARE. The commissioner shall ensure that each Minnesota family investment plan caregiver who is a parent in transitional status and who needs assistance with child care costs to independently pursue self-sufficiency or comply with the terms of a contract with the county agency receives a child care subsidy through child care money earmarked for the Minnesota family investment plan. The subsidy must cover all actual child care costs for eligible hours up to the maximum rate allowed under sections 256H.15 and 256H.16. A caregiver who is a parent who leaves the program as a result of increased earnings from employment and who needs child care assistance to remain employed is entitled to extended child care assistance as provided under United States Code, title 42, section 602(g)(1)(A)(ii).

Subd. 9. HEALTH CARE. A family leaving the program as a result of increased earnings from employment is eligible for extended medical assistance as provided under Public Law Number 100-485, section 303, as amended.

Sec. 11. [256.036] PROTECTIONS.

Subdivision 1. SUPPORT SERVICES. If assistance with child care or transportation is necessary to enable a caregiver who is a parent to work, obtain training or education, attend orientation, or comply with the terms of a contract with the county agency, and the county determines that child care or transportation is not available, the family's applicable standard of assistance continues to be the transitional standard.

Subd. 2. VOLUNTEERS. For caregivers receiving assistance under the Minnesota family investment plan who are independently pursuing self-sufficiency, case management and support services other than child care are available to the extent that resources permit.

Subd. 3. NOTIFICATION REQUIREMENT. The county agency shall contact a family headed by a single adult parent when the family has received assistance through the Minnesota family investment plan for 18 months within the preceding 36 months. The county agency shall remind the family that beginning with the 24th month of assistance, receipt of the transitional standard is contingent upon transitional status. The county agency shall encourage the family to begin preparing for the change in expectations.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. TIMELY ASSISTANCE. Applications must be processed in a timely manner according to the processing standards of the federal Food Stamp Act of 1977, as amended, and no later than 30 days following the date of application, unless the county agency has requested information that the applicant has not yet supplied. Financial assistance must be provided on no less than a monthly basis to eligible families.

Subd. 5. DUE PROCESS. Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045. A parental caregiver may request a conciliation conference, under section 256.736, subdivisions 4a and 11, when the caregiver disputes the contents of a contract developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to cooperate with the terms of a contract. The disputes are not subject to administrative review under section 256.045, unless they result in a denial, suspension, reduction, or termination, and the parental caregiver complies with section 256.045. A caregiver need not request a conciliation conference to request a hearing according to section 256.045.

Subd. 6. TREATMENT OF FOOD ASSISTANCE. The portion of cash assistance provided under the Minnesota family investment plan that the commissioner designates as representing food assistance must be disregarded for other local, state, or federal programs.

Subd. 7. ADJUSTMENT OF FOOD ASSISTANCE AMOUNT. The commissioner shall assure that increases in the federal food stamp allotments and deductions are reflected in the food assistance portion of the assistance provided under the Minnesota family investment plan.

Subd. 8. EXPEDITED BENEFITS. Provisions for expedited benefits under the Minnesota family investment plan may not be less restrictive than provisions for expedited benefits under the Food Stamp Act of 1977, as amended, and state food stamp policy and include either expediting issuance of a predesignated portion of assistance provided through the Minnesota family investment plan or through the existing food stamp program.

Subd. 9. SPECIAL RIGHTS OF MIGRANT AND SEASONAL FARM WORKERS AND HOMELESS PEOPLE. Federally prescribed procedures, means of applying for and obtaining assistance, reporting and verification requirements, and other similar provisions specifically for migrant and seasonal farmworkers or homeless people under the Food Stamp Act of 1977, as amended, continue to be available to eligible migrant, seasonal farmworker, or homeless families. The commissioner shall comply with the bilingual requirements of United States Code, title 7, section 2020(e)(1)(B).

Subd. 10. ASSESSMENT OF FAMILY IMPACT. The evaluation design of the field trials must include an assessment of the financial condition of a sample of families in the Minnesota family investment plan relative to what their financial condition would have been in the absence of the Minnesota family investment plan.

New language is indicated by underline, deletions by strikeout.

Sec. 12. Minnesota Statutes 1988, section 256.045, subdivision 1, is amended to read:

Subdivision 1. **POWERS OF THE STATE AGENCY.** The commissioner of human services may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, 3a, 4a, and 5. Human services referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the office of administrative hearings established pursuant to sections 14.48 to 14.56.

Sec. 13. Minnesota Statutes 1988, section 256.045, subdivision 3, is amended to read:

Subd. 3. **STATE AGENCY HEARINGS.** (a) Any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a local agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, or a party aggrieved by a ruling of a prepaid health plan, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

(b) ~~All prepaid health plans under contract to the commissioner pursuant to chapter 256B or 256D must provide for a complaint system according to section 62D.11. The prepaid health plan must notify the ombudsman within three working days of any formal complaint made under section 62D.11 by persons enrolled in a prepaid health plan under chapter 256B or 256D. At the time a complaint is made, the prepaid health plan must notify the recipient of the name and telephone number of the ombudsman. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan shall issue a written resolution within 30 days of filing with the prepaid health plan. The ombudsman may waive the requirement that the complaint system procedures be exhausted prior to an appeal if the ombudsman determines that the complaint must be resolved expeditiously in order to provide care in an urgent situation.~~

(c) ~~A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by an appellant is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner.~~

New language is indicated by underline, deletions by ~~strikeout~~.

(d) In a notice of appeal from a ruling of a prepaid health plan, a recipient may request an expedited hearing. The ombudsman, after discussing with the recipient his or her condition and in consultation with a health practitioner who practices in the specialty area of the recipient's primary diagnosis, shall investigate and determine whether an expedited appeal is warranted. In making the determination, the ombudsman shall evaluate whether the medical condition of the recipient, if not expeditiously diagnosed and treated, could cause physical or mental disability, substantial deterioration of physical or mental health, continuation of severe pain, or death. The ombudsman may order a second medical opinion from the prepaid health plan or order a second medical opinion from a nonprepaid health plan provider at prepaid health plan expense. If the ombudsman determines that an expedited appeal is warranted, the state welfare referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case. In urgent or emergency situations in which a prepaid health plan provider has prescribed treatment, and the prepaid health plan has denied authorization for that treatment, the referee may order the health plan to authorize treatment pending the outcome of the appeal. Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a local agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section.

Sec. 14. Minnesota Statutes 1988, section 256.045, is amended by adding a subdivision to read:

Subd. 3a. PREPAID HEALTH PLAN APPEALS. (a) All prepaid health plans under contract to the commissioner under chapter 256B or 256D must provide for a complaint system according to section 62D.11. When a prepaid health plan denies, reduces, or terminates a health service, the prepaid health plan must notify the recipient of the right to file a complaint or an appeal. The notice must include the name and telephone number of the ombudsman and notice of the recipient's right to request a hearing under paragraph (b). When a complaint is filed, the prepaid health plan must notify the ombudsman within three working days. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan must issue a written resolution of the complaint to the recipient within 30 days after the complaint is filed with the prepaid health plan. A recipient is not required to exhaust the complaint system procedures in order to request a hearing under paragraph (b).

(b) Recipients enrolled in a prepaid health plan under chapter 256B or 256D may contest a prepaid health plan's denial, reduction, or termination of health services or the prepaid health plan's written resolution of a complaint by submitting a written request for a hearing according to subdivision 3. A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by a recipient is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner. The state human services referee may order a second medical opinion from the prepaid health plan or may order a second medical opinion from a nonprepaid health

New language is indicated by underline, deletions by ~~strikeout~~.

plan provider at the expense of the prepaid health plan. Recipients may request the assistance of the ombudsman in the appeal process.

(c) In the written request for a hearing to appeal from a prepaid health plan's denial, reduction, or termination of a health service or the prepaid health plan's written resolution to a complaint, a recipient may request an expedited hearing. If an expedited appeal is warranted, the state human services referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case.

Sec. 15. Minnesota Statutes 1988, section 256.045, subdivision 4, is amended to read:

Subd. 4. **CONDUCT OF HEARINGS.** All hearings held pursuant to subdivision 3, 3a, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. Local agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the local agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, or former recipient objects. The hearing shall not be held earlier than five days after filing of the required notice with the local or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, or former recipient shall have the opportunity to examine the contents of the case file and all documents and records to be used by the local agency at the hearing at a reasonable time before the date of the hearing and during the hearing. Upon request, the local agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3.

Sec. 16. Minnesota Statutes 1988, section 256.045, subdivision 4a, is amended to read:

Subd. 4a. **CASE MANAGEMENT APPEALS.** Any recipient of case management services pursuant to section 256B.092, subdivisions 1 to 1b who contests the local agency's action or failure to act in the provision of those services,

New language is indicated by underline, deletions by ~~strikeout~~.

other than a failure to act with reasonable promptness or a suspension, reduction, denial, or termination of services, must submit a written request for review to the local agency. The local agency shall inform the commissioner of the receipt of a request for review when it is submitted and shall schedule a conciliation conference. The local agency shall notify the recipient, the commissioner, and all interested persons of the time, date, and location of the conciliation conference. The commissioner shall designate a representative to be present at the conciliation conference to assist in the resolution of the dispute without the need for a hearing. Within 30 days, the local agency shall conduct the conciliation conference and inform the recipient in writing of the action the local agency is going to take and when that action will be taken and notify the recipient of the right to a hearing under this subdivision. The conciliation conference shall be conducted in a manner consistent with the procedures for reconsideration of an individual service plan or an individual habilitation plan pursuant to Minnesota Rules, parts 9525.0075, subpart 5 and 9525.0105, subpart 6. If the county fails to conduct the conciliation conference and issue its report within 30 days, or, at any time up to 90 days after the conciliation conference is held, a recipient may submit to the commissioner a written request for a hearing before a state human services referee to determine whether case management services have been provided in accordance with applicable laws and rules or whether the local agency has assured that the services identified in the recipient's individual service plan have been delivered in accordance with the laws and rules governing the provision of those services. The state human services referee shall recommend an order to the commissioner, who shall, in accordance with the procedure in subdivision 5, issue a final order within 60 days of the receipt of the request for a hearing, unless the commissioner refuses to accept the recommended order, in which event a final order shall issue within 90 days of the receipt of that request. The order may direct the local agency to take those actions necessary to comply with applicable laws or rules. The commissioner may issue a temporary order prohibiting the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A, while a local agency review process or an appeal brought by a recipient under this subdivision is pending, or for the period of time necessary for the local agency to implement the commissioner's order. The commissioner shall not issue a final order staying the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A.

Sec. 17. Minnesota Statutes 1988, section 256.045, subdivision 5, is amended to read:

Subd. 5. **ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.** A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or local agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the local agency and the applicant, recipient, or former recipient, or

New language is indicated by underline, deletions by ~~strikeout~~.

prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the local agency and the applicant, recipient, ~~or former recipient,~~ or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the local agency and the applicant, recipient, ~~or former recipient,~~ or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued ~~in accordance with~~ under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency or a local agency until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a local agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section.

Sec. 18. Minnesota Statutes 1988, section 256.045, subdivision 6, is amended to read:

Subd. 6. ADDITIONAL POWERS OF THE COMMISSIONER; SUBPOENAS. (a) The commissioner of human services may initiate a review of any action or decision of a local agency and direct that the matter be presented to a state human services referee for a hearing held ~~pursuant to~~ under subdivision 3, 3a, or 4a. In all matters dealing with human services committed by law to the discretion of the local agency, the commissioner's judgment may be substituted for that of the local agency. The commissioner may order an independent examination when appropriate.

(b) Any party to a hearing held pursuant to subdivision 3, 3a, or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing. The issuance, service, and enforcement of subpoenas under this subdivision is governed by section 357.22 and the Minnesota Rules of Civil Procedure.

(c) The commissioner may issue a temporary order staying a proposed

New language is indicated by underline, deletions by ~~strikeout~~.

demission by a residential facility licensed under chapter 245A while an appeal by a recipient under subdivision 3 is pending, or for the period of time necessary for the local agency to implement the commissioner's order.

Sec. 19. Minnesota Statutes 1988, section 256.045, subdivision 7, is amended to read:

Subd. 7. **JUDICIAL REVIEW.** Any party who is aggrieved by an order of the commissioner of human services may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, the amended order, or order affirming the original order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision. The commissioner may elect to become a party to the proceedings in the district court. Any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.

Sec. 20. Minnesota Statutes 1988, section 256.045, subdivision 10, is amended to read:

Subd. 10. **PAYMENTS PENDING APPEAL.** If the commissioner of human services or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court. The state or local agency has a claim for food stamps and cash payments made to a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps and cash payments as a result of the appeal.

Sec. 21. Minnesota Statutes 1988, section 256.12, subdivision 14, is amended to read:

Subd. 14. **DEPENDENT CHILD.** (a) "Dependent child," as used in sections 256.72 to 256.87, means a child under the age of 18 years, or a child under the age of 19 years who is regularly attending as a full-time student, and is expected to complete before reaching age 19, a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment, who is found to be deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity of a parent, or who is a child of an unemployed parent as that term is defined by

New language is indicated by underline, deletions by ~~strikeout~~.

the commissioner of human services, such definition to be consistent with and not to exceed minimum standards established by the Congress of the United States and the Secretary of Health and Human Services; ~~and whose relatives;~~ When defining "unemployed parent," the commissioner shall count up to four calendar quarters of full-time attendance in any of the following toward the requirement that a principal earner have six or more quarters of work in any 13 calendar quarter period ending within one year before application for aid to families with dependent children:

(1) an elementary or secondary school;

(2) a federally approved vocational or technical training course designed to prepare the parent for gainful employment; or

(3) full-time participation in an education or training program established under the job training partnership act.

(b) Dependent child also means a child:

(1) whose relatives are liable under the law for the child's support and are not able to provide adequate care and support of the child; and

(2) who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of these relatives as a home.

~~The term~~ "(c) Dependent child" also means a child who has been removed from the home of a relative after a judicial determination that continuance in the home would be contrary to the welfare and best interests of the child and whose care and placement in a foster home or a private licensed child care institution is, in accordance with the rules of the commissioner, the responsibility of the state or county agency under sections 256.72 to 256.87. This child is eligible for benefits only through the foster care and adoption assistance program contained in Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, and is not entitled to benefits under sections 256.72 to 256.87.

Sec. 22. ~~[256.484]~~ SOCIAL ADJUSTMENT SERVICES TO REFUGEES.

Subdivision 1. SPECIAL PROJECTS. The commissioner of human services shall establish a grant program to provide social adjustment services to refugees residing in Minnesota who experience depression, emotional stress, and personal crises resulting from past trauma and refugee camp experiences.

Subd. 2. DEFINITIONS. For purposes of this section, the following terms have the meanings given them:

(a) "Refugee" means a refugee or asylee status granted by the United States Immigration and Naturalization Service.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) "Social adjustment services" means treatment or services, including psychiatric assessment, chemical therapy, individual or family counseling, support group participation, after care or follow-up, information and referral, and crisis intervention.

Subd. 3. PROJECT SELECTION. The commissioner shall select projects for funding under this section. Projects selected must be administered by service providers who have experience in providing bilingual social adjustment services to refugees. Project administrators must present evidence that the service provider's social adjustment services for targeted refugees has historically resolved major problems identified at the time of intake.

Subd. 4. PROJECT DESIGN. Project proposals selected under this section must:

- (1) use existing resources when possible;
- (2) clearly specify program goals and timetables for project operation;
- (3) identify available support services, social services, and referral procedures to be used in serving the targeted refugees;
- (4) provide bilingual services; and
- (5) identify the training and experience that enable project staff to provide services to targeted refugees, and identify the number of staff with bilingual service expertise.

Subd. 5. ANNUAL REPORT. Selected service providers must report to the commissioner by June 30 of each year on the number of refugees served, the average cost per refugee served, the number and percentage of refugees who are successfully assisted through social adjustment services, and recommendations for modifications in service delivery for the upcoming year.

Sec. 23. [256.485] CHILD WELFARE SERVICES TO MINOR REFUGEES.

Subdivision 1. SPECIAL PROJECTS. The commissioner of human services shall establish a grant program to provide specialized child welfare services to Asian and Amerasian refugees under the age of 18 who reside in Minnesota.

Subd. 2. DEFINITIONS. For the purpose of this section, the following terms have the meanings given them:

(a) "Refugee" means refugee or asylee status granted by the United States Immigration and Naturalization Service.

(b) "Child welfare services" means treatment or services, including workshops or training regarding independent living skills, coping skills, and responsible parenting, and family or individual counseling regarding career planning,

New language is indicated by underline, deletions by strikeout.

intergenerational relationships and communications, and emotional or psychological stress.

Subd. 3. PROJECT SELECTION. The commissioner shall select projects for funding under this section. Projects selected must be administered by service providers who have experience in providing child welfare services to minor Asian and Amerasian refugees.

Subd. 4. PROJECT DESIGN. Project proposals selected under this section must:

(1) use existing resources when possible;

(2) provide bilingual services;

(3) clearly specify program goals and timetables for project operation;

(4) identify support services, social services, and referral procedures to be used; and

(5) identify the training and experience that enable project staff to provide services to targeted refugees, as well as the number of staff with bilingual service expertise.

Subd. 5. ANNUAL REPORT. Selected service providers must report to the commissioner by June 30 of each year on the number of refugees served, the average cost per refugee served, the number and percentage of refugees who are successfully assisted through child welfare services, and recommendations for modifications in service delivery for the upcoming year.

Sec. 24. Minnesota Statutes 1988, section 256.73, subdivision 3a, is amended to read:

Subd. 3a. **PERSONS INELIGIBLE.** No assistance shall be given under sections 256.72 to 256.87:

(1) on behalf of any person who is receiving supplemental security income under title XVI of the Social Security Act unless permitted by federal regulations;

(2) for any month in which the assistance unit's gross income, without application of deductions or disregards, exceeds 185 percent of the standard of need for a family of the same size and composition; except that the earnings of a dependent child who is a full-time student may be disregarded for six calendar months per year and the earnings of a dependent child who is a full-time student that are derived from the jobs training and partnership act may be disregarded for six calendar months per year. If a stepparent's income is taken into account in determining need, the disregards specified in section 256.74, subdivision 1a shall be applied to determine income available to the assistance unit before calculating the unit's gross income for purposes of this paragraph;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) to any assistance unit for any month in which any caretaker relative with whom the child is living is, on the last day of that month, participating in a strike;

(4) on behalf of any other individual in the assistance unit, nor shall the individual's needs be taken into account for any month in which, on the last day of the month, the individual is participating in a strike;

(5) ~~to an assistance unit if its eligibility is based on a parent's unemployment and the parent on behalf of any individual~~ who is the principal earner in an assistance unit whose eligibility is based on the unemployment of a parent when the principal earner, without good cause, fails or refuses to seek work, to participate in the work incentive job search program under section 256.736, or a community work experience program under section 256.737 if this program is available and participation is mandatory in the county, to accept employment, or to register with a public employment office, unless the principal earner is exempt from these work requirements.

Sec. 25. Minnesota Statutes 1988, section 256.736, subdivision 3, is amended to read:

Subd. 3. **REGISTRATION.** (a) To the extent permissible under federal law, every caretaker or child is required to register for employment and training services, as a condition of receiving AFDC, unless the caretaker or child is:

(1) a child who is under age 16, a child age 16 or 17 who is attending elementary or secondary school or a secondary level vocational or technical school full time; ~~or a full-time student age 18 who is attending a secondary school or a secondary level vocational or technical program and who is expected to complete the school or program before reaching age 19;~~

(2) ~~a caretaker who is ill, incapacitated or age 55 60 or older;~~

(3) a ~~caretaker~~ person for whom participation in an employment and training service would require a round trip commuting time by available transportation of more than two hours;

(4) a ~~caretaker~~ person whose presence in the home is required because of illness or incapacity of another member of the household;

(5) a caretaker or other caretaker relative of a child under the age of ~~six~~ three who personally provides full-time care for the child;

(6) a caretaker or other caretaker relative personally providing care for a child under six years of age, except that when child care is arranged for or provided, the caretaker or caretaker relative may be required to register and participate in employment and training services up to a maximum of 20 hours per week;

(7) a caretaker if another adult relative in the assistance unit is registered

New language is indicated by underline, deletions by ~~strikeout~~.

and has not, without good cause, failed or refused to participate or accept employment;

~~(7) a pregnant woman in the last trimester of pregnancy~~ (8) a pregnant woman, if it has been medically verified that the child is expected to be born in the current month or within the next six months;

(9) employed at least 30 hours per week; or

~~(8) (10) a parent who is not the principal earner if the parent who is the principal earner is not exempt under clauses (1) to (7);~~

Any individual in clauses (3) and (5) to (8) must be advised of any available employment and training services and must be informed of any available child care and other support services required to register.

(b) To the extent permissible by federal law, applicants for benefits under the AFDC program are registered for employment and training services by signing the application form. Applicants must be informed that they are registering for employment and training services by signing the form. Persons receiving benefits on or after July 1, 1987, shall register for employment and training services to the extent permissible by federal law. The caretaker has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

Sec. 26. Minnesota Statutes 1988, section 256.736, subdivision 3b, is amended to read:

Subd. 3b. **MANDATORY ASSESSMENT AND SCHOOL ATTENDANCE FOR MINOR CERTAIN CUSTODIAL PARENTS.** This subdivision applies to the extent permitted under federal law and regulation.

(a) **DEFINITIONS.** The definitions in this paragraph apply to this subdivision.

(1) "Minor Custodial parent" means a recipient of AFDC who is ~~under age 18, and who is~~ the natural or adoptive parent of a child living with the ~~minor~~ custodial parent.

(2) "School" means:

(i) an educational program which leads to a high school diploma. The program or coursework may be, but is not limited to, a program under the post-secondary enrollment options of section 123.3514, a regular or alternative program of an elementary or secondary school, a technical institute, or a college;

(ii) coursework for a general educational development (GED) diploma of not less than six hours of classroom instruction per week; or

(iii) any other post-secondary educational program that is approved by the public school or the local agency under subdivision 11.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) **ASSESSMENT AND PLAN; REQUIREMENT; CONTENT.** The county agency must examine the educational level of each custodial parent under the age of 20 to determine if the recipient has completed a high school education or its equivalent. If the custodial parent has not completed a high school education or its equivalent and is not exempt from the requirement to attend school under paragraph (c), the county agency must complete an individual assessment for the custodial parent. The assessment must be performed as soon as possible but within 60 days of determining AFDC eligibility for the custodial parent. The assessment must provide an initial examination of the custodial parent's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills, and work experience. In the case of a custodial parent under the age of 18, the assessment must also consider the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening, if available, and the effect of a child's development and educational needs on the parent's ability to participate in the program. The county agency must advise the parent that the parent's first goal must be to complete an appropriate educational option if one is identified for the parent through the assessment and, in consultation with educational agencies, must review the various school completion options with the parent and assist the parent in selecting the most appropriate option.

(c) **RESPONSIBILITY FOR ASSESSMENT AND PLAN.** For custodial parents who are under age 18, the assessment and the employability plan must be completed by the county social services agency, as specified in section 257.33. For custodial parents who are age 18 or 19, the assessment and employability plan must be completed by the case manager. The social services agency or the case manager shall consult with representatives of educational agencies required to assist in developing educational plans under section 126.235.

(d) **EDUCATION DETERMINED TO BE APPROPRIATE.** If the case manager or county social services agency identifies an appropriate educational option, it must develop an employability plan in consultation with the custodial parent which reflects the assessment. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the parent will take part in including child care and supportive services, the consequences to the custodial parent for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employability plan must, to the extent possible, reflect the preferences of the participant.

(e) **EDUCATION DETERMINED TO BE NOT APPROPRIATE.** If the case manager determines that there is no appropriate educational option for a custodial parent who is age 18 or 19, the case manager shall indicate the reasons for the determination. The case manager shall then notify the county agency which must refer the custodial parent to case management services under subdivision 11 for completion of an employability plan and services. If the custodial parent fails to participate or cooperate with case management services and does

New language is indicated by underline, deletions by ~~strikeout~~.

not have good cause for the failure, the county agency shall apply the sanctions listed in subdivision 4, beginning with the first payment month after issuance of notice. If the county social services agency determines that school attendance is not appropriate for a custodial parent under age 18, the county agency shall refer the custodial parent to social services for services as provided in section 257.33.

(f) **SCHOOL ATTENDANCE REQUIRED.** Notwithstanding subdivision 3, a minor custodial parent must attend school if all of the following apply:

(1) the minor parent has no child living with the parent who is younger than six weeks of age the custodial parent is less than 20 years of age;

(2) transportation services needed to enable the minor custodial parent to attend school are available;

(3) licensed or legal nonlicensed child care services needed to enable the minor custodial parent to attend school are available;

(4) the minor custodial parent has not already graduated from high school and has not received a general educational development (GED) diploma received a high school diploma or its equivalent; and

(5) the minor custodial parent does not have good cause for failing to attend school; as provided in paragraph (d) is not exempt because the custodial parent:

(i) is ill or incapacitated seriously enough to prevent him or her from attending school;

(ii) is needed in the home because of the illness or incapacity of another member of the household; this includes a custodial parent of a child who is younger than six weeks of age;

(iii) works 30 or more hours a week; or

(iv) is pregnant if it has been medically verified that the child's birth is expected in the current month or within the next six months.

(e) (g) **ENROLLMENT AND ATTENDANCE.** The minor custodial parent must be enrolled in school and meeting the school's attendance requirements. The minor custodial parent is considered to be attending when the minor parent he or she is enrolled but the school is not in regular session, including during holiday and summer breaks.

(d) (h) **GOOD CAUSE FOR NOT ATTENDING SCHOOL.** The local agency shall not impose the sanctions in subdivision 4 if it determines that a custodial parent has good cause for not being enrolled or for not meeting the school's attendance requirements. The local agency shall determine whether good cause for not attending or not enrolling in school exists, according to this paragraph:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) Good cause exists when the minor parent is ill or injured seriously enough to prevent the minor parent from attending school.

(2) Good cause exists when the minor parent's child is ill or injured and the minor parent's presence in the home is required to care for the child.

(3) Good cause exists when the local agency has verified that the only available school program requires round trip commuting time from the minor custodial parent's residence of more than two hours by available means of transportation, excluding the time necessary to transport children to and from child care.

(4) Good cause exists when there is an interruption in availability of child care services.

(5) (2) Good cause exists when the minor custodial parent has indicated a desire to attend school, but the public school system is not providing for the minor parent's his or her education and alternative programs are not available.

(6) Good cause exists when the school does not cooperate with the local agency in providing verification of the minor parent's education or attendance.

(7) Good cause exists when the minor parent or the minor parent's child has a medical appointment or an appointment with the local welfare agency, is required to appear in court during the minor parent's normal school hours, or has any other obligation consistent with the case management contract.

(8) For the minor parent of a child between six and 12 weeks of age, good cause exists when child care is not available on the premises of the school, or a medical doctor certifies that it would be better for the health of either the parent or the child for the parent to remain at home with the child for a longer period of time.

(e) (i) FAILURE TO COMPLY. The case manager and social services agency shall establish ongoing contact with appropriate school staff to monitor problems that custodial parents may have in pursuing their educational plan, and shall jointly seek solutions to prevent parents from failing to complete education. If the school notifies the local agency that the ~~minor custodial~~ parent is not enrolled or is not meeting the school's attendance requirements, and the local agency or appears to be facing barriers to completing education, the information must be conveyed to the case manager for a custodial parent age 18 or 19, or to the social services agency for a custodial parent under age 18. The case manager or social services agency shall reassess the appropriateness of school attendance as specified in paragraph (f). If after consultation, school attendance is still appropriate and the case manager or social services agency determines that the minor custodial parent has failed to enroll or is not meeting the school's attendance requirements and the custodial parent does not have good cause, the local agency case manager or social services agency shall inform

New language is indicated by underline, deletions by ~~strikeout~~.

the custodial parent's financial worker who shall apply the sanctions listed in subdivision 4 beginning with the first payment month after issuance of notice.

~~(f)~~ **(j) NOTICE AND HEARING.** A right to notice and fair hearing shall be provided in accordance with section 256.045 and the Code of Federal Regulations, title 45, section 205.10.

~~(g)~~ **(k) SOCIAL SERVICES.** When a minor custodial parent under the age of 18 has failed to attend school, is not exempt, and does not have good cause, the local agency shall refer the minor custodial parent to the social services agency for services, as provided in section 257.33.

~~(h)~~ **(l) VERIFICATION.** No less often than quarterly, the local agency financial worker must verify that the minor custodial parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the local agency notifies the school that a minor custodial parent is subject to this subdivision, the school must furnish verification of school enrollment and, attendance, and progress to the local agency. The county agency must not impose the sanctions in paragraph (i) if the school fails to cooperate in providing verification of the minor parent's education, attendance, or progress.

Sec. 27. Minnesota Statutes 1988, section 256.736, subdivision 4, is amended to read:

Subd. 4. **CONDITIONS OF CERTIFICATION.** The commissioner of human services shall:

(1) Arrange for or provide any caretaker or child required to participate in employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) Pay ten percent of the cost of the work incentive program and any other costs that are required of that agency by federal regulation for employment and training services for recipients of aid to families with dependent children;

~~(3)~~ Provide that in determining a recipient's needs any monthly incentive training payment made to the recipient by the department of jobs and training is disregarded and the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulation; and

~~(4)~~ ~~(3)~~ Provide that the county board shall impose the sanctions in clause ~~(5)~~ ~~or~~ ~~(6)~~ (4) when the county board:

(a) is notified that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept a bona fide offer of public or other employment;

New language is indicated by underline, deletions by ~~strikeout~~.

(b) determines that a ~~minor~~ custodial parent under the age of 16 who is required to attend school under subdivision 3b has, without good cause, failed to attend school;

(e) (b) determines that subdivision 3c applies to a minor parent and the minor parent has, without good cause, failed to cooperate with development of a social service plan or to participate in execution of the plan, to live in a group or foster home, or to participate in a program that teaches skills in parenting and independent living; or

(d) (c) determines that a caretaker has, without good cause, failed to attend orientation.

(5) (4) To the extent permissible by federal law, impose the following sanctions ~~must be imposed~~ for a recipient's failure to participate in required ~~employment and training services~~, education, orientation, or the requirements of subdivision 3c:

(a) For the first failure, 50 percent of the grant provided to the family for the month following the failure shall be made in the form of protective or vendor payments;

(b) For the second and subsequent failures, the entire grant provided to the family must be made in the form of protective or vendor payments. Assistance provided to the family must be in the form of protective or vendor payments until the recipient complies with the requirement; and

(c) When protective payments are required, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found.

(6) ~~When the sanctions provided by clause (5) are not permissible under federal law, the following sanctions shall be imposed for a recipient's failure to participate in required employment and training services, education, orientation, or the requirements of subdivision 3c (5) Provide that the county board shall impose the sanctions in clause (6) when the county board:~~

(a) determines that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept, through the job search program described in subdivision 14, or the community work experience program described in section 256.737, a bona fide offer of public or other employment; or

(b) determines that a custodial parent aged 16 to 19 who is required to attend school under subdivision 3b has, without good cause, failed to enroll or attend school.

(6) To the extent required by federal law, the following sanctions must be imposed for a recipient's failure to participate in required employment and

New language is indicated by underline, deletions by ~~strikeout~~.

training services, to accept a bona fide offer of public or other employment, or to enroll or attend school under subdivision 3b.

(a) If the caretaker fails to participate, the caretaker's ~~For the first failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination, and aid for any dependent child in the family will be made in the form of protective or vendor payments, except that when protective payments are made, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found. The standard of assistance for the remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement until the individual complies with the requirements.~~

(b) For the second failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for three consecutive months, whichever is longer.

(c) For subsequent failures, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for six consecutive months, whichever is longer.

(d) Aid with respect to a dependent child will be denied if a child who fails to participate is the only child receiving aid in the family.

(e) ~~If there is more than one child receiving aid in the family, aid for the child who fails to participate will be denied and the child's needs will not be taken into account in making the grant determination.~~

(d) ~~If the assistance unit's eligibility is based on the nonexempt principal earner's unemployment and this principal earner fails without good cause to participate or to accept employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87.~~

(e) If the noncompliant individual is a parent or other relative caretaker, payments of aid for any dependent child in the family must be made in the form of protective or vendor payments. When protective payments are required, the county agency may continue payments to the caretaker if a protective payee cannot reasonably be found. When protective payments are imposed on assistance units whose basis of eligibility is unemployed parent or incapacitated parent, cash payments may continue to the nonsanctioned caretaker in the assistance unit, subject to clause (f). After removing a caretaker's needs from the grant, the standard of assistance applicable to the remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement.

New language is indicated by underline, deletions by ~~strikeout~~.

(f) If the noncompliant individual is a parent or other caretaker of a family whose basis of eligibility is the unemployment of a parent and the noncompliant individual's spouse is not participating in an approved employment and training service, the needs of the spouse must not be taken into account in making the grant determination;

(7) Request approval from the secretary of health and human services to use vendor payment sanctions for persons listed in paragraph (5), clause (b). If approval is granted, the commissioner must begin using vendor payment sanctions as soon as changes to the state plan are approved.

Sec. 28. Minnesota Statutes 1988, section 256.736, subdivision 10, is amended to read:

Subd. 10. **COUNTY DUTIES.** (a) To the extent of available state appropriations, county boards shall:

(1) refer all priority caretakers required to register under subdivision 3 to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider caretakers who fall into the priority groups;

(3) provide all caretakers with an orientation which ~~(a) gives information on available employment and training services and support services; and (b) encourages clients to view AFDC as a temporary program providing grants and services to clients who set goals and develop strategies for supporting their families without AFDC assistance~~ meets the requirements in subdivisions 10a and 10b;

(4) work with the employment and training service provider to encourage voluntary participation by caretakers in the priority groups;

(5) work with the employment and training service provider to collect data as required by the commissioner;

(6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;

(7) encourage nonpriority caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers required to participate in employment and training services;

(9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;

(10) provide transportation assistance using the employment special needs

New language is indicated by underline, deletions by ~~strikeout~~.

fund or other available funds to caretakers who participate in employment and training programs, with priority for services to caretakers in priority groups;

(11) ensure that orientation, employment search, and case management services are made available to appropriate caretakers under this section, except that payment for case management services is governed by subdivision 13; ~~and~~

(12) explain in its local service unit plan under section 268.88 how it will ensure that priority caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services;

(13) to the extent allowed by federal laws and regulations, provide a job search program as defined in subdivision 14 and at least one of the following employment and training services: community work experience program (CWEP) as defined in section 256.737, grant diversion as defined in section 268.86, on-the-job training as defined in section 256.738, or another work and training program approved by the commissioner and the secretary of the United States Department of Health and Human Services. Planning and approval for employment and training services listed in this clause must be obtained through submission of the local service unit plan as specified under section 268.88. Each county is urged to adopt grant diversion as the second program required under this clause;

(14) provide an assessment of each AFDC recipient who is required or volunteers to participate in one of the employment and training services specified in clause (13), including job search, and to recipients who volunteer for participation in case management under subdivision 11. The assessment must include an evaluation of the participant's (i) educational, child care, and other supportive service needs; (ii) skills and prior work experience; and (iii) ability to secure and retain a job which, when wages are added to child support, will support the participant's family. The assessment must also include a review of the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening and preschool screening under chapter 123, if available; the participant's family circumstances; and, in the case of a custodial parent under the age of 18, a review of the effect of a child's development and educational needs on the parent's ability to participate in the program;

(15) develop an employability development plan for each recipient for whom an assessment is required under clause (14) which: (i) reflects the assessment required by clause 14; (ii) takes into consideration the recipient's physical capacity, skills, experience, health and safety, family responsibilities, place of residence, proficiency, child care and other supportive service needs; (iii) is based on available resources and local employment opportunities; (iv) specifies the services to be provided by the employment and training service provider; (v) specifies the activities the recipient will participate in; (vi) specifies necessary supportive services such as child care; (vii) to the extent possible, reflects the preferences of the participant; and (viii) specifies the recipient's employment goal; and

New language is indicated by underline, deletions by ~~strikeout~~.

(16) assure that no work assignment under this section or sections 256.737 and 256.738 results in: (i) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section or sections 256.737 and 256.738; (ii) the hiring of an individual if any other person is on layoff from the same or a substantially equivalent job; (iii) any infringement of the promotional opportunities of any currently employed individual; (iv) the impairment of existing contracts for services or collective bargaining agreements; or (v) a participant filling an established unfilled position vacancy.

(b) Funds available under this subdivision may not be used to assist, promote, or deter union organizing.

(c) A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

(d) Notwithstanding section 256G.07, when a priority caretaker relocates to another county to implement the provisions of the caretaker's case management contract or other written employability development plan approved by the county human service agency or its case manager, the county that approved the plan is responsible for the costs of case management, child care, and other services required to carry out the plan. The county agency's responsibility for the costs ends when all plan obligations have been met, when the caretaker loses AFDC eligibility for at least 30 days, or when approval of the plan is withdrawn for a reason stated in the plan, whichever occurs first. A county human service agency may pay for the costs of case management, child care, and other services required in an approved employability development plan when the nonpriority caretaker relocates to another county or when a priority caretaker again becomes eligible for AFDC after having been ineligible for at least 30 days.

Sec. 29. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

Subd. 10a. ORIENTATION. (a) Each county agency must provide an orientation to all caretakers within its jurisdiction who are determined eligible for AFDC on or after July 1, 1989, and who are required to attend an orientation. The county agency shall require attendance at orientation of all caretakers except those who are:

(1) physically disabled, mentally ill, or developmentally disabled and whose condition has or is expected to continue for at least 90 days and will prevent participation in educational programs or employment and training services;

(2) aged 60 or older;

(3) currently employed in unsubsidized employment that is expected to continue at least 30 days and that provides an average of at least 30 hours of employment per week; or

(4) currently employed in subsidized employment that is expected to contin-

New language is indicated by underline, deletions by ~~strikeout~~.

ue at least 30 days and that provides an average of at least 30 hours of employment per week and is expected to result in full-time permanent employment.

(b) The orientation must consist of a presentation that informs caretakers of:

(1) the identity, location, and phone numbers of employment and training and support services available in the county;

(2) the types and locations of child care services available through the county agency that are accessible to enable a caretaker to participate in educational programs or employment and training services;

(3) the availability of assistance for participants to help select appropriate child care services and that, on request, assistance will be provided to select appropriate child care services;

(4) the obligations of the county agency and service providers under contract to the county agency;

(5) the rights, responsibilities, and obligations of participants;

(6) the grounds for exemption from mandatory employment and training services or educational requirements;

(7) the consequences for failure to participate in mandatory services or requirements;

(8) the method of entering educational programs or employment and training services available through the county; and

(9) the availability and the benefits of the early and periodic, screening, diagnosis and treatment (EPSDT) program and preschool screening under chapter 123.

(c) Orientation must encourage recipients to view AFDC as a temporary program providing grants and services to individuals who set goals and develop strategies for supporting their families without AFDC assistance. The content of the orientation must not imply that a recipient's eligibility for AFDC is time limited. Orientation may be provided through audio-visual methods, but the caretaker must be given an opportunity for face-to-face interaction with staff of the county agency or the entity providing the orientation, and an opportunity to express the desire to participate in educational programs and employment and training services offered through the county agency.

(d) County agencies shall not require caretakers to attend orientation for more than three hours during any period of 12 continuous months. The local agency shall also arrange for or provide needed transportation and child care to enable caretakers to attend.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 30. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

Subd. 10b. INFORMING. Each county agency must provide written information concerning the topics identified in subdivision 10a, paragraph (b), to all AFDC caretakers within the county agency's jurisdiction who are exempt from the requirement to attend orientation, except those under age 16, and to recipients who have good cause for failing to attend orientation as specified in rules adopted by the commissioner. The written materials must tell the individual how the individual may indicate the desire to participate in educational programs and employment and training services offered through the county. The written materials must be mailed or hand delivered to the recipient at the time the recipient is determined to be exempt or have good cause for failing to attend an orientation.

Sec. 31. Minnesota Statutes 1988, section 256.736, subdivision 11, is amended to read:

Subd. 11. CASE MANAGEMENT SERVICES. (a) For clients described in subdivision 2a, the case manager shall:

(1) ~~Assess the education, skills, and ability of the caretaker to secure and retain a job which, when added to child support, will support the caretaker's family. Provide an assessment as described in subdivision 10, paragraph (a), clause (14).~~ As part of the assessment, the case manager shall inform caretakers of the screenings available through the early periodic screening, diagnosis and treatment (EPSDT) program under chapter 256B and pre-school screening under chapter 123, and encourage caretakers to have their children screened. The case manager must work with the caretaker in completing this task;

(2) ~~Set goals and develop a timetable for completing education and employment goals. Develop an employability development plan as described in subdivision 10, paragraph (a), clause (15).~~ The case manager must work with the caretaker in completing this task. For caretakers who are not literate or who have not completed high school, the first goal for the caretaker ~~must~~ should be to complete literacy training or a general education equivalency diploma. Caretakers who are literate and have completed high school shall be counseled to set realistic attainable goals, taking into account the long-term needs of both the caretaker and the caretaker's family;

(3) Coordinate services such as child care, transportation, and education assistance necessary to enable the caretaker to work toward the goals developed in clause (2). The case manager shall refer caretakers to resource and referral services, if available, and shall assist caretakers in securing appropriate child care services. When a client needs child care services in order to attend a Minnesota public or nonprofit college, university or technical institute, the case manager shall contact the appropriate agency to reserve child care funds for the client. A caretaker who needs child care services in order to complete high school or a general education equivalency diploma is eligible for child care under section 268.91;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) Develop, execute, and monitor a contract between the local agency and the caretaker. The contract must be based upon the employability development plan described in subdivision 10, paragraph (a), clause (15), and must include: (a) specific goals of the caretaker including stated measurements of progress toward each goal; (b) specific services provided by the county agency; and (c) conditions under which the county will withdraw the services provided;

The contract may include other terms as desired or needed by either party. In all cases, however, the case manager must ensure that the caretaker has set forth in the contract realistic goals consistent with the ultimate goal of self-sufficiency for the caretaker's family; and

(5) Develop and refer caretakers to counseling or peer group networks for emotional support while participating in work, education, or training.

(b) In addition to the duties in paragraph (a), for minor parents and pregnant minors, the case manager shall:

(1) Ensure that the contract developed under paragraph (a)(4) considers all factors set forth in section 257.33, subdivision 2;

(2) Assess the housing and support systems needed by the caretaker in order to provide the dependent children with adequate parenting. The case manager shall encourage minor parents and pregnant minors who are not living with friends or relatives to live in a group home or foster care setting. If minor parents and pregnant minors are unwilling to live in a group home or foster care setting or if no group home or foster care setting is available, the case manager shall assess their need for training in parenting and independent living skills and when appropriate shall refer them to available counseling programs designed to teach needed skills; and

(3) Inform minor parents or pregnant minors of, and assist them in evaluating the appropriateness of, the high school graduation incentives program under section 126.22, including post-secondary enrollment options, and the employment-related and community-based instruction programs.

(c) A caretaker may request a conciliation conference to attempt to resolve disputes regarding the contents of a contract developed under this section or a housing and support systems assessment conducted under this section. The caretaker may request a hearing pursuant to section 256.045 to dispute the contents of a contract or assessment developed under this section. The caretaker need not request a conciliation conference in order to request a hearing pursuant to section 256.045.

Sec. 32. Minnesota Statutes 1988, section 256.736, subdivision 14, is amended to read:

Subd. 14. **EMPLOYMENT JOB SEARCH.** (a) The commissioner of human services shall establish ~~an employment~~ a job search program under

New language is indicated by underline, deletions by ~~strikeout~~.

~~United States Code, title 42, section 602(a)(35)~~ Public Law 100-485. The principal wage earner in an AFDC-UP assistance unit must ~~participate~~ be referred to and must begin participation in the employment job search program within four months of being determined eligible for AFDC-UP unless:

(1) the caretaker is already participating in another approved employment and training service;

(2) the caretaker's employability plan specifies other activities; ~~or~~

(3) the caretaker is exempt from registration under subdivision 3; or

(4) the caretaker is unable to secure employment due to inability to communicate in the English language, is participating in an English as a second language course, and is making satisfactory progress towards completion of the course. If an English as a second language course is not available to the caretaker, the caretaker is exempt from participation until a course becomes available.

~~The employment and training service provider shall refer caretakers unable to communicate in the English language to English as a second language courses.~~

(b) The employment job search program must provide the following services:

(1) an initial period of up to four weeks of job search activities for not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county board if the caretaker fails to cooperate with the employment search requirement; and

(2) an additional period of job search following the first period at the discretion of the employment and training service provider. The total of these two periods of job search may not exceed eight weeks for any 12 consecutive month period beginning with the month of application.

(c) The employment search program may provide services to non-AFDC-UP caretakers.

Sec. 33. Minnesota Statutes 1988, section 256.736, subdivision 16, is amended to read:

Subd. 16. **ALLOCATION AND USE OF MONEY.** (a) State money appropriated for employment and training services under this section must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average monthly number of caretakers receiving AFDC in the county who are under age 21 and the average monthly number of AFDC cases open in the county for 24 or more consecutive months and residing in the county for the 12-month period ending ~~March~~ December 31 of the previous fiscal year.

New language is indicated by underline, deletions by ~~strikeout~~.

(2) Twenty percent of the state money must be allocated based on the average monthly number of nonpriority caretakers receiving AFDC in the county for the period ending ~~March~~ December 31 of the previous fiscal year. Funds may be used to develop employability plans for nonpriority caretakers if resources allow.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending ~~March~~ December 31 of the previous fiscal year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for priority group members in each county.

(b) No more than 15 percent of the money allocated under paragraph (a) may be used for administrative activities.

(c) Except as provided in paragraph (d), at least 70 percent of the money allocated to counties must be used for case management services and employment and training services for caretakers in the priority groups. Up to 30 percent of the money may be used for employment search activities and employment and training services for nonpriority caretakers.

(d) A county ~~whose proportion of the statewide average monthly AFDC-UP caseload exceeds its proportion of the statewide AFDC caseload~~ having a high proportion of nonpriority caretakers that interferes with the county's ability to meet the 70 percent spending requirement of paragraph (c) may, with the approval of the commissioner of human services, use up to 40 percent of the money allocated under this section for ~~employment search activities~~ orientation and employment and training services for nonpriority caretakers.

(e) Money appropriated to cover the nonfederal share of costs for bilingual case management services to refugees for the employment and training programs under this section are allocated to counties based on each county's proportion of the total statewide number of AFDC refugee cases. However, counties with less than one percent of the statewide number of AFDC refugee cases do not receive an allocation.

(f) Counties and the department of jobs and training shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of jobs and training that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services and the United States Department of Agriculture for the reimbursement and appropriate the reimbursed money to the county or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

(g) The commissioner of human services shall review county expenditures of

New language is indicated by underline, deletions by ~~strikeout~~.

case management and employment and training block grant money at the end of the fourth quarter of the biennium and each quarter after that, and may reallocate unencumbered or unexpended money allocated under this section to those counties that can demonstrate a need for additional money. Reallocation of funds must be based on the formula set forth in paragraph (a), excluding the counties that have not demonstrated a need for additional funds.

Sec. 34. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

Subd. 18. PROGRAM OPERATION BY INDIAN TRIBES. (a) The commissioner may enter into agreements with any federally recognized Indian tribe with a reservation in the state to provide employment and training programs under this section to members of the Indian tribe receiving AFDC. For purposes of this section, "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.

(b) Agreements entered into under this subdivision must require the governing body of the Indian tribe to fulfill all county responsibilities required under this section in operation of the employment and training services covered by the contract, excluding the county share of costs in subdivision 13 and any county function related to AFDC eligibility determination or grant payment. The commissioner may enter into an agreement with a consortium of Indian tribes providing the governing body of each Indian tribe in the consortium agrees to these conditions.

(c) Agreements entered into under this subdivision must require the Indian tribe to operate the employment and training services within a geographic service area not to exceed the counties within which a border of the reservation falls. Indian tribes may also operate services in Hennepin and Ramsey counties or other geographic areas as approved by the commissioner of human services in consultation with the commissioner of jobs and training.

(d) Agreements entered into under this section must require the Indian tribe to operate a federal jobs program under Public Law Number 100-485, section 482(i).

(e) Agreements entered into under this section must require conformity with section 13.46 and any applicable federal regulations in the use of data about AFDC recipients.

(f) Agreements entered into under this section must require financial and program participant activity record keeping and reporting in the manner and using the forms and procedures specified by the commissioner and that federal reimbursement received must be used to expand operation of the employment and training services.

New language is indicated by underline, deletions by ~~strikeout~~.

(g) Agreements entered into under this section must require that the Indian tribe coordinate operation of the programs with county employment and training programs, Indian Job Training Partnership Act programs, and educational programs in the counties in which the tribal unit's program operates.

(h) Agreements entered into under this section must require the Indian tribe to allow inspection of program operations and records by representatives of the department.

(i) Agreements entered into under this subdivision must require the Indian tribe to contract with an employment and training service provider certified by the commissioner of jobs and training for operation of the programs, or become certified itself.

(j) Agreements entered into under this subdivision must require the Indian tribe to specify a starting date for each program with a procedure to enable tribal members participating in county-operated employment and training services to make the transition to the program operated by the tribal unit. Programs must begin on the first day of a month specified by the agreement.

(k) If the commissioner and Indian tribe enter into an agreement, the commissioner may immediately reallocate county case management and employment and training block grant money from the counties in the Indian tribe's service area to the Indian tribe, prorating each county's annual allocations according to that percentage of the number of tribal unit members receiving AFDC residing in the county compared to the total number of AFDC recipients residing in the county and also prorating the annual allocation according to the month in which the Indian tribe program starts. If the Indian tribe cancels the agreement or fails, in the commissioner's judgment, to fulfill any requirement of the agreement, the commissioner shall reallocate money back to the counties in the Indian tribe's service area.

(l) Indian tribe members receiving AFDC and residing in the service area of an Indian tribe operating employment and training services under an agreement with the commissioner must be referred by county agencies in the service area to the Indian tribe for employment and training services.

(m) The Indian tribe shall bill the commissioner of human services for services performed under the contract. The commissioner shall bill the United States Department of Health and Human Services for reimbursement. Federal receipts are appropriated to the commissioner to be provided to the Indian tribe that submitted the original bill.

Sec. 35. Minnesota Statutes 1988, section 256.737, is amended to read:

256.737 COMMUNITY WORK EXPERIENCE PROGRAM.

Subdivision 1. **PILOT PROGRAMS ESTABLISHMENT AND PURPOSE.** In order that persons receiving aid under this chapter may be assisted in

New language is indicated by underline, deletions by ~~strikeout~~.

achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of human services ~~may shall~~ continue the pilot community work experience demonstration programs that were approved by January 1, 1984. ~~No new pilot community work experience demonstration programs may be established under this subdivision.~~ The commissioner may establish additional community work experience programs in as many counties as necessary to comply with the participation requirements of the family support act of 1988, Public Law Number 100-485. Programs established on or after July 1, 1989, must be operated on a volunteer basis.

Subd. 1a. COMMISSIONER'S DUTIES. The commissioner shall: (a) assist counties in the design; and implementation; ~~and evaluation~~ of these demonstration programs; (b) promulgate, in accordance with chapter 14, emergency rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until the ~~termination of the demonstration programs June 30, 1990 unless superseded by permanent rules;~~ and (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law. ~~The commissioner shall;~~ and (d) prohibit the use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1985 1989. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work experience program. Concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

As the commissioner phases in case management and other employment and training services under section 256.736, and no later than June 30, 1989, the commissioner may phase out projects under this section.

Subd. 2. ADDITIONAL PROGRAMS PROGRAM REQUIREMENTS. In addition to the pilot programs established in subdivision 1, the commissioner may approve the application of up to eight additional counties to enter into a community work experience program. The programs under this subdivision are governed by subdivision 1 except as in paragraphs (a) and (b): (a) Programs under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety and child care. To the extent possible, the prior training, skills, and experience of a recipient must be used in making appropriate work experience assignments.

~~(a)~~ (b) As a condition to placing a person receiving aid to families with dependent children in a program under this subdivision, the county agency shall first provide the recipient the opportunity to participate in the following services:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) placement in suitable subsidized or unsubsidized employment through participation in job search under section 256.736, subdivision 14; or

(2) basic educational or vocational or occupational training for an identifiable job opportunity.

(b) (c) If the recipient refuses suitable employment and a training program, the county agency may, subject to subdivision 1, require the recipient to participate in a community work experience program as a condition of eligibility.

(d) The county agency shall limit the maximum number of hours any participant under this section may be required to work in any month to a number equal to the amount of the aid to families with dependent children payable to the family divided by the greater of the federal minimum wage or the applicable state minimum wage.

(e) After a participant has been assigned to a position under this section for nine months, the participant may not be required to continue in that assignment unless the maximum number of hours a participant is required to work is no greater than the amount of the aid to families with dependent children payable with respect to the family divided by the higher of (1) the federal minimum wage or the applicable state minimum wage, whichever is greater, or (2) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

(f) After each six months of a recipient's participation in an assignment, and at the conclusion of each assignment under this section. The county agency shall reassess and revise, as appropriate, each participant's employability development plan.

(g) The county agency shall apply the grant reduction sanctions specified in section 256.736, subdivision 4, clause (6), when it is determined that a mandatory participant has failed, without good cause, to participate in the program.

Sec. 36. [256.738] ON-THE-JOB TRAINING.

(a) County agencies may, in accordance with section 256.736, subdivision 10, develop on-the-job training programs that permit voluntary participation by AFDC recipients. A county agency that chooses to provide on-the-job training as one of its optional employment and training services may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.

(b) County agencies shall limit the length of training based on the complexity of the job and the recipient's previous experience and training. Placement in an on-the-job training position with an employer is for the purpose of training and employment with the same employer, who has agreed to retain the person upon satisfactory completion of training.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Placement of any recipient in an on-the-job training position must be compatible with the assessment and employability development plan established for the recipient under section 256.736, subdivision 10, paragraph (a), clauses (14) and (15).

(d) Provision of an on-the-job training program under the job training partnership act, in and of itself, does not qualify as an on-the-job training program under section 256.736, subdivision 10, paragraph (a), clause (13).

Sec. 37. Minnesota Statutes 1988, section 256.74, subdivision 1, is amended to read:

Subdivision 1. **AMOUNT.** The amount of assistance which shall be granted to or on behalf of any dependent child and mother or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an assistance unit must be budgeted in the normal retrospective cycle. The number of months of ineligibility is determined by dividing the amount of the lump sum income and all other income, after application of the applicable disregards, by the standard of need for the assistance unit. An amount remaining after this calculation is income in the first month of eligibility. If the total monthly income including the lump sum income is larger than the standard of need for a single month the first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. In making its determination the county agency shall disregard the following from family income:

(1) all of the earned income of each dependent child receiving aid to families with dependent children who is a full-time student or part-time student, and not a full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment as well as all the earned income derived from the job training and partnership act (JTPA) for a dependent child for six calendar months per year, together with unearned income derived from the job training and partnership act;

(2) all educational grants and loans;

(3) the first ~~\$75~~ \$90 of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) an amount equal to the actual expenditures but not to exceed \$160 for the care of each dependent child or incapacitated individual living in the same home and receiving aid. In the case of a person not engaged in full-time employment or not employed throughout the month, the commissioner shall prescribe by rule a lesser amount to be disregarded;

New language is indicated by underline, deletions by ~~strikeout~~.

~~(5)~~ thirty dollars plus one-third of the remainder of each individual's earned income ~~not already disregarded~~ for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has: (a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; ~~or~~ (b) refused without good cause to accept an offer of suitable employment; ~~or~~ (c) left employment or reduced earnings without good cause and applied for assistance so as to be able later to return to employment with the advantage of the income disregard; or (d) failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services. Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment. The disregard of \$30 and one-third of the remainder of earned income described in this clause (5) shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of sub clauses (5) (a) to (5) (d) shall be considered as one of the four months. An additional \$30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined \$30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under this clause (5), the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

(5) an amount equal to the actual expenditures for the care of each dependent child or incapacitated individual living in the same home and receiving aid, not to exceed: (a) \$175 for each individual age two and older, and \$200 for each individual under the age of two, when the family member whose needs are included in the eligibility determination is employed for 30 or more hours per week; or (b) \$174 for each individual age two or older, and \$199 for each individual under the age of two, when the family member whose needs are included in the eligibility determination is not employed throughout the month or when employment is less than 30 hours per week. The dependent care disregard must be applied after all other disregards under this subdivision have been applied;

(6) the first \$50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit; ~~and~~. The first \$50 of periodic

New language is indicated by underline, deletions by ~~strikeout~~.

support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit must be paid to the assistance unit within 15 days after the end of the month in which the collection of the periodic support payments occurred and must be disregarded when determining the amount of assistance;

(7) that portion of an insurance settlement earmarked and used to pay medical expenses, funeral and burial costs, or to repair or replace insured property; and

(8) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments by an employer.

The first \$50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit shall be paid to the assistance unit within 15 days after the end of the month in which the collection of such periodic support payments occurred and shall be disregarded in determining the amount of assistance.

Sec. 38. Minnesota Statutes 1988, section 256.74, subdivision 1a, is amended to read:

Subd. 1a. **STEPPARENT'S INCOME.** In determining income available, the county agency shall take into account the remaining income of the dependent child's stepparent who lives in the same household after disregarding:

(1) the first \$75 of the stepparent's gross earned income. ~~The commissioner shall prescribe by rule lesser amounts to be disregarded for stepparents who are not engaged in full-time employment or not employed throughout the month;~~

(2) an amount for support of the stepparent and any other individuals whom the stepparent claims as dependents for determining federal personal income tax purposes liability and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.72 to 256.87. The amount equals the standard of need for a family of the same composition as the stepparent and these other individuals;

(3) amounts the stepparent actually paid to individuals not living in the same household but whom the stepparent claims as dependents for determining federal personal income tax purposes liability; and

(4) alimony or child support, or both, paid by the stepparent for individuals not living in the same household.

Sec. 39. Minnesota Statutes 1988, section 256.74, is amended by adding a subdivision to read:

Subd. 1b. REVIEW OF STANDARD OF NEED. The commissioner of human services shall develop a household budget sufficient to maintain a family in Minnesota. The budget must be based on a market survey of the cost of

New language is indicated by underline, deletions by ~~strikeout~~.

items needed by families raising children to the extent these factors are consistent with the requirements of federal regulations. The commissioner shall develop recommendations for an AFDC standard of need and level of payment that are based on the budget. The commissioner shall submit to the legislature by January 1, 1990, a report identifying the methods proposed for the conduct of the market survey, the funds required for the survey, and a timetable for completion of the survey, establishment of a family budget, and recommendation of an AFDC standard of need.

Sec. 40. Minnesota Statutes 1988, section 256.85, is amended to read:

256.85 **LIBERAL CONSTRUCTION.**

Sections 256.031 to 256.036 and 256.72 to 256.87 shall be liberally construed with a view to accomplishing their purpose, which is to enable the state and its several counties to cooperate with responsible primary caretakers of children in rearing future citizens, when the cooperation is necessary on account of relatively permanent conditions, in order to keep the family together in the same household, reasonably safeguard the health of the children's primary caretaker and secure personal care and training to the children during their tender years.

Sec. 41. **[256.983] FRAUD PREVENTION INVESTIGATIONS.**

(a) Within the limits of available appropriations, and to the extent either required or authorized by applicable federal regulations, the commissioner of human services shall select and fund not less than four pilot projects for a two-year period to test the effectiveness of fraud prevention investigations conducted at the point of application for assistance. County agencies must be selected to be involved in the pilot projects based on their response to requests for proposals issued by the commissioner. One of the county agencies selected must be located in either Hennepin or Ramsey county, one must be from a county in the seven-county metropolitan area other than Hennepin and Ramsey counties, and two must be located outside the metropolitan area.

(b) If proposals are not submitted, the commissioner may select the county agencies to be involved. The county agencies must be selected from the locations described in paragraph (a).

Sec. 42. Minnesota Statutes 1988, section 256D.01, subdivision 1, is amended to read:

Subdivision 1. **POLICY.** The objectives of sections 256D.01 to 256D.21 are to provide a sound administrative structure for public assistance programs; to maximize the use of federal money for public assistance purposes; ~~and~~ to provide an integrated public assistance program for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health; and to provide work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work.

New language is indicated by underline, deletions by ~~strikeout~~.

It is declared to be the policy of this state that persons unable to provide for themselves and not otherwise provided for by law and who meet the eligibility requirements of sections 256D.01 to 256D.21 are entitled to receive grants of general assistance necessary to maintain a subsistence reasonably compatible with decency and health. Providing this assistance is a matter of public concern and a necessity in promoting the public health and welfare.

Sec. 43. Minnesota Statutes 1988, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. **STANDARDS.** (1) (a) A principal objective in providing general assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

(2) (b) The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from children and spouse and who does not live with a parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard ~~shall~~ must also be increased by the same percentage.

(3) (c) For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance ~~shall be equal to~~ is the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parent and all of that parent's family members, ~~provided except~~ that the standard ~~shall may~~ not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, ~~shall may~~ not be counted in the determination of eligibility or benefit level for the assistance unit. Except as provided below, the assistance unit is ineligible for general assistance if the available resources or the countable income of the assistance unit and the parent or parents with whom the assistance unit lives are such that a family consisting of the assistance unit's parent or parents, the parent or parents' other family members and the assistance unit as the only or additional minor child would be financially ineligible for general assistance. For the purposes of calculating the countable income of the assistance unit's parent or parents, ~~use~~ the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple must be used.

(4) (d) For an assistance unit consisting of a childless couple, the standards of assistance ~~shall be equal to~~ are the same as the first and second adult standards of the aid to families with dependent children program. If one member of

New language is indicated by underline, deletions by ~~strikeout~~.

the couple is not included in the general assistance grant, ~~then~~ the standard of assistance for the other ~~shall be equal to~~ is the second adult standard of the aid to families with dependent children program; ~~except that, when one member of the couple is not included in the general assistance grant because that member is not categorically eligible for general assistance under section 256D.05, subdivision 1, and has exhausted work readiness eligibility under section 256D.051, subdivision 4 or 5, for the period of time covered by the general assistance grant, then the standard of assistance for the remaining member of the couple shall be equal to the first adult standard of the aid to families with dependent children program.~~

~~(5)~~ (e) For an assistance unit consisting of all members of a family, the standards of assistance ~~shall be~~ are the same as the standards of assistance ~~applicable that apply~~ applicable that apply to a family under the aid to families with dependent children program if that family had the same number of parents and children as the assistance unit under general assistance and if all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members ~~shall be equal to~~ are the same as the standards of assistance ~~applicable that apply~~ applicable that apply to an assistance unit composed of the entire family, less the standards of assistance ~~applicable to~~ for a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance. ~~Notwithstanding the foregoing~~ However, if an assistance unit consists solely of the minor children because their parent or parents have been sanctioned from receiving benefits from the aid to families with dependent children program, the standard for the assistance unit ~~shall be equal to~~ is the same as the special child standard of the aid to families with dependent children program. A child ~~shall~~ may not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program or supplemental security income. The income of a child who is excluded from the assistance unit ~~shall~~ may not be counted in the determination of eligibility or benefit level for the assistance unit.

Sec. 44. Minnesota Statutes 1988, section 256D.01, subdivision 1b, is amended to read:

Subd. 1b. **RULES.** The commissioner may adopt emergency rules and shall adopt permanent rules to set standards of assistance and methods of calculating payment to conform with subdivision 1a. The minimum standards of assistance shall authorize the payment of rates negotiated by ~~local~~ county agencies for recipients living in a room and board arrangement according to sections 256L.01 to 256L.07. ~~Except for payments made to a secure crisis shelter under section 256D.05, subdivision 3, monthly general assistance payments for rates negotiated by a local agency on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement must not exceed the limits established under the Minnesota supplemental aid program. In order to maximize the use of federal funds, the commissioner shall adopt rules, to the extent permitted by federal law for eligibility for the emergency~~

New language is indicated by underline, deletions by ~~strikeout~~.

assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children as the primary financial resource when available. The commissioner shall provide by rule for eligibility for general assistance of persons with seasonal income, and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient. When a recipient is a resident of a regional treatment center, or a residence with a negotiated rate, the recipient is not eligible for a full general assistance standard. The state standard of assistance for those recipients is the personal needs allowance authorized for medical assistance recipients under section 256B.35.

Sec. 45. Minnesota Statutes 1988, section 256D.01, subdivision 1c, is amended to read:

Subd. 1c. **GENERAL ASSISTANCE PAYMENTS TO FACILITIES.** (a) The commissioner shall make authorize the payment of rates negotiated by local agencies for recipients living in a room and board arrangement. Except for payments made to a secure crisis shelter under section 256D.05, subdivision 3, monthly general assistance payments for rates negotiated by a local agency on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement may not exceed the limits established under the Minnesota supplemental aid program. No payments under subdivision 4b this paragraph may be made to facilities a facility licensed after August 1, 1987, which have that has more than four residents with a diagnosis of mental illness except for facilities unless the facility is specifically licensed to serve persons with mental illness. The commissioner of health shall monitor newly-licensed facilities and shall report to the commissioner of human services facilities that are not in compliance with this section.

(b) In order to maximize the use of federal funds, the commissioner shall adopt rules, to the extent permitted by federal law, for eligibility for the emergency assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children as the primary financial resource when available.

(c) The commissioner shall adopt rules for eligibility for general assistance of persons with seasonal income, and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient.

(d) General assistance payments may not be made for foster care, child welfare services, or other social services.

(e) Vendor payments and vouchers may be issued only as authorized in sections 256D.05, subdivision 6, and 256D.09.

Sec. 46. Minnesota Statutes 1988, section 256D.02, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **SCOPE.** For purposes of sections 256D.01 to 256D.21, the terms defined in this section shall have the meanings given them unless otherwise provided or indicated by the context.

Sec. 47. Minnesota Statutes 1988, section 256D.02, subdivision 4, is amended to read:

Subd. 4. **GENERAL ASSISTANCE.** "General assistance" means cash payments to persons unable to provide themselves with a reasonable subsistence compatible with decency and health and who are not otherwise provided for under the laws of this state or the United States. ~~General assistance shall not include payments for foster care, child welfare services, or other social services. Voucher payments and vouchers may be issued only as provided for in section 256D.09.~~

Sec. 48. Minnesota Statutes 1988, section 256D.02, is amended by adding a subdivision to read:

Subd. 12a. **RESIDENT.** For purposes of eligibility for general assistance under section 256D.05, and work readiness payments under section 256D.051, a "resident" is a person living in the state with the intention of making his or her home here and not for any temporary purpose. All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:

(1) by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner;

(2) by providing written documentation that the applicant came to the state in response to an offer of employment;

(3) by providing verification that the applicant has been a long-time resident of the state or was formerly a resident of the state for at least 365 days and is returning to the state from a temporary absence, as those terms are defined in rules to be adopted by the commissioner; or

(4) by providing other persuasive evidence to show that the applicant is a resident of the state, according to rules adopted by the commissioner.

Sec. 49. Minnesota Statutes 1988, section 256D.03, subdivision 2, is amended to read:

Subd. 2. For the period from January 1 to June 30, state aid shall be paid to local agencies for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provid-

New language is indicated by underline, deletions by ~~strikeout~~.

ed for under section 256.017. Subsequent to July 1 of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017.

For the period from July 1 to December 31, state aid shall be paid to local agencies for 100 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 and except that, after December 31, 1988, state aid is reduced to 65 percent of all ~~general assistance grants~~ work readiness assistance if the local agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section ~~256D.05, subdivision 1, paragraph (a); clause (15)~~ 256D.051.

After December 31, 1988, state aid must be paid to local agencies for 65 percent of work readiness assistance paid under section 256D.051 if the county does not have an approved and operating community investment program.

Any local agency may, from its own resources, make payments of general assistance and work readiness assistance; (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or, (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, or 256D.051 but for whom the aid would further the purposes established in the general assistance or work readiness program in accordance with rules ~~promulgated~~ adopted by the commissioner pursuant to the administrative procedure act.

Sec. 50. Minnesota Statutes 1988, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner and who is a resident of the state shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a medically certified permanent or temporary illness, injury, or incapacity which is ~~medically certified~~ expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the medically certified illness, injury, incapacity, or age of another member of the household;

(3) a person who has been placed in, and is residing in, a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency through its director or designated representative;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) a person who resides in a shelter facility described in subdivision 3;

(5) ~~a person who is or may be eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;~~

(6) ~~a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program;~~

(7) a person not described in clause (1) or (3) who is diagnosed by a licensed physician ~~or~~, licensed consulting psychologist, or other qualified professional, as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

(8) ~~(6)~~ a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, provided that within 60 days of the initial denial of the application by the social security administration, the person produces medical evidence in support of the person's application; or a person who has been terminated from either program and has an appeal from that termination pending. A person whose benefits are terminated for failure to produce any medical evidence within 60 days of the denial of the application, is eligible as soon as medical evidence in support of the application for the social security disability program or the program of supplemental security income for the aged, blind, and disabled is produced. Except for a person whose application is based in whole or in part on mental illness or chemical dependency, a person whose application for either program is denied and who does not pursue an appeal is eligible under this paragraph based on a new application only if the new application concerns a different disability or alleges new or aggravated symptoms of the original disability;

(9) ~~(7)~~ a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(10) a person completing a secondary education program;

(11) a family with one or more minor children; provided that, if all the children are six years of age or older, all the adult members of the family register for and cooperate in the work readiness program under section 256D.051; and provided further that, if one or more of the children are under the age of six and if the family contains more than one adult member, all the adult members except one adult member register for and cooperate in the work readiness program under section 256D.051. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member

New language is indicated by underline, deletions by ~~strikeout~~.

fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination. The time limits of section 256D.051, subdivisions 4 and 5, do not apply to people eligible under this clause;

(12) a person who has substantial barriers to employment, including but not limited to factors relating to work or training history, as determined by the local agency in accordance with permanent or emergency rules adopted by the commissioner after consultation with the commissioner of jobs and training;

(13) a person who is certified by the commissioner of jobs and training before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment, as defined in a permanent or emergency rule adopted by the commissioner of jobs and training in consultation with the commissioner;

(8) a person who has been assessed by a qualified professional or a vocational specialist as not being likely to obtain permanent employment. The assessment must consider the recipient's age, physical and mental health, education, trainability, prior work experience, and the local labor market;

(14) (9) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be learning disabled;

(15) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be functionally illiterate, provided that the person complies with literacy training requirements set by the local agency under section 256D.052. A person who is terminated for failure to comply with literacy training requirements may not reapply for assistance under this clause for 60 days. The local agency must provide an oral explanation to the person of the person's responsibilities under this clause, the penalties for failure to comply, the agency's duties under section 256D.0505, subdivision 2, and the person's right to appeal (1) at the time an application is approved based on this clause; and (2) at the time the person is referred to literacy training; or

(16) (10) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the local agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the local agency;

(b) The following persons or families with income and resources that are less than the standard of assistance established by the commissioner are eligible for and entitled to a maximum of six months of general assistance during any consecutive 12-month period, after registering with and completing six months in a work readiness program under section 256D.051:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) a person who has borderline mental retardation; and

(2) a person who exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under paragraph (a); because the mental illness interferes with the medical certification process; provided that the person cooperates with social services, treatment, or other plans developed by the local agency to address the illness.

In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency.

(11) a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;

(12) a person whose need for general assistance will not exceed 30 days;

(13) a person who lives more than two hours round-trip traveling time from any potential suitable employment; and

(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day.

(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.

Sec. 51. Minnesota Statutes 1988, section 256D.05, is amended by adding a subdivision to read:

Subd. 6. ASSISTANCE FOR PERSONS WITHOUT A VERIFIED RESIDENCE. (a) For applicants or recipients of general assistance, emergency general assistance, or work readiness assistance who do not have a verified residence address, the local agency may provide assistance using one or more of the following methods:

(1) the local agency may provide assistance in the form of vouchers or vendor payments and provide separate vouchers or vendor payments for food, shelter, and other needs;

(2) the local agency may divide the monthly assistance standard into weekly payments, whether in cash or by voucher or vendor payment; or, if actual need is greater than the standards of assistance established under section 256D.01, subdivision 1a, issue assistance based on actual need. Nothing in this clause prevents the local agency from issuing voucher or vendor payments for emergency general assistance in an amount less than the standards of assistance; and

(3) the local agency may determine eligibility and provide assistance on a

New language is indicated by underline, deletions by ~~strikeout~~.

weekly basis. Weekly assistance can be issued in cash or by voucher or vendor payment and can be determined either on the basis of actual need or by prorating the monthly assistance standard.

(b) An individual may verify a residence address by providing a driver's license; a state identification card; a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address; or other written documentation approved by the commissioner.

(c) If the local agency elects to provide assistance on a weekly basis, the agency may not provide assistance for a period during which no need is claimed by the individual. The individual must be notified, each time weekly assistance is provided, that subsequent weekly assistance will not be issued unless the individual claims need. The advance notice required under section 256D.10 does not apply to weekly assistance issued under this paragraph.

(d) The local agency may not issue assistance on a weekly basis to an applicant or recipient who has medically certified mental illness or mental retardation or a related condition, or to an assistance unit that includes minor children, unless requested by the assistance unit.

Sec. 52. Minnesota Statutes 1988, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. **WORK REGISTRATION.** (a) A person, family, or married couple who are residents of the state and whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a the work readiness program. Upon registration, a registrant is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivision 3. The local agency shall pay work readiness assistance in monthly payments beginning at the time of registration.

(b) Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs.

Sec. 53. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 1a. **WORK READINESS PAYMENTS.** Grants of work readiness shall be determined using the standards of assistance, exclusions, disregards, and procedures which are used in the general assistance program. Work readiness shall be granted in an amount that, when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance.

New language is indicated by underline, deletions by ~~strikeout~~.

Work readiness payments must be provided to persons determined eligible for the work readiness program as provided in this subdivision except when the special payment provisions in subdivision 1b are utilized. The initial payment must be prorated to provide assistance for the period beginning with the date the completed application is received by the county agency or the date the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the final day of that month. The amount of the first payment must be determined by dividing the number of days to be covered under the payment by the number of days in the month, to determine the percentage of days in the month that are covered by the payment, and multiplying the monthly payment amount by this percentage. Subsequent payments must be paid monthly on the first day of each month.

There shall be an initial certification period which shall begin on the date the completed application is received by the county agency or the date that the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the date that mandatory registrants in the assistance unit must attend a work readiness orientation. This initial certification period may not cover a period in excess of 30 calendar days. All mandatory registrants in the assistance unit must be informed of the period of certification, the requirement to attend orientation, and that work readiness eligibility will end at the end of the certification period unless the registrants attend orientation. A registrant who fails to comply with requirements during the certification period, including attendance at orientation, will lose work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b).

Sec. 54. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 1b. SPECIAL PAYMENT PROVISIONS. A county agency may, at its option, provide work readiness payments as provided under section 256D.05, subdivision 6, during the initial certification period. The initial certification period shall cover the time from the date the completed application is received by the county agency or the date that the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the date that mandatory registrants in the assistance unit must attend a work readiness orientation. This initial certification period may not cover a period in excess of 30 calendar days. All mandatory registrants in the assistance unit must be informed of the period of certification, the requirement to attend orientation, and that work readiness eligibility will end at the end of the certification period unless the registrants attend orientation. A registrant who fails to comply with requirements during the certification period, including attendance at orientation, will lose work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b). If all mandatory registrants attend orientation, an additional grant of work readiness assistance must be issued to cover the period beginning the day after the scheduled orientation and ending on the final day of that month. Subsequent payments of work readiness shall be governed by subdivision 1a or section 256D.05, subdivision 6. If one or more mandatory registrants from the assistance unit fail to attend the orientation, those who failed to attend orientation will be removed from the assistance unit without further notice and shall be

New language is indicated by underline, deletions by ~~strikeout~~.

ineligible for additional assistance. Subsequent assistance to such persons shall be dependent upon the person completing application for assistance and being determined eligible.

A local agency that utilizes the provisions in this subdivision must implement the provisions consistently for all applicants or recipients in the county. A local agency must pay emergency general assistance to a registrant whose prorated work readiness payment does not meet emergency needs. A local agency which elects to pay work readiness assistance on a prorated basis under this subdivision may not provide payments under section 256D.05, subdivision 6, for the same time period.

Sec. 55. Minnesota Statutes 1988, section 256D.051, subdivision 2, is amended to read:

Subd. 2. **LOCAL AGENCY DUTIES.** (a) The local agency shall provide to registrants ~~under subdivision 4~~ a work readiness program. The work readiness program must include:

- (1) orientation to the work readiness program;
- (2) an individualized employability assessment and development plan in which the local agency that includes assessment of literacy, ability to communicate in the English language, eligibility for displaced homemaker services under section 268.96, educational history, and that estimates the length of time it will take the registrant to obtain employment. The employability assessment and development plan must assess the registrant's assets, barriers, and strengths, and must identify steps necessary to overcome barriers to employment;
- (3) referral to available accredited remedial or skills training programs designed to address registrant's barriers to employment;
- (~~2~~) (4) referral to available employment assistance programs including the Minnesota employment and economic development program;
- (~~3~~) (5) a job search program, including job seeking skills training; and
- (4) (6) other activities, including public employment experience programs to the extent of available resources designed by the local agency to prepare the registrant for permanent employment.

In order to allow time for job search, the local agency ~~shall~~ may not require an individual to participate in the work readiness program for more than 32 hours a week. The local agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) The local agency may provide a work readiness program to recipients under section 256D.05, subdivision 4, paragraph (b) and shall provide a work readiness program to recipients referred under section 256D.052, subdivision 5, paragraph (b). The local agency shall prepare an annual plan for the operation

New language is indicated by underline, deletions by ~~strikeout~~.

of its work readiness program. The plan must be submitted to and approved by the commissioner of jobs and training. The plan must include:

- (1) a description of the services to be offered by the local agency;
- (2) a plan to coordinate the activities of all public entities providing employment-related services in order to avoid duplication of effort and to provide services more efficiently;
- (3) a description of the factors that will be taken into account when determining a client's employability development plan; and
- (4) provisions to assure that applicants and recipients are evaluated for eligibility for general assistance prior to termination from the work readiness program.

Sec. 56. Minnesota Statutes 1988, section 256D.051, subdivision 3, is amended to read:

Subd. 3. **REGISTRANT DUTIES.** In order to receive work readiness assistance, a registrant shall: (1) cooperate with the local agency in all aspects of the work readiness program and shall; (2) accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options; and (3) participate in work readiness activities assigned by the local agency. The local agency may terminate assistance to a registrant who fails to cooperate in the work readiness program, as provided in subdivision 3b. A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible.

Sec. 57. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 3a. PERSONS REQUIRED TO REGISTER FOR AND PARTICIPATE IN THE WORK READINESS PROGRAM. Each person in a work readiness assistance unit who is 18 years old or older must register for and participate in the work readiness program. A child in the assistance unit who is at least 16 years old but less than 19 years old and who is not a full-time secondary school student is required to register and participate. A student who was enrolled as a full-time student during the last school term must be considered a full-time student during summers and school holidays. If an assistance unit includes children under age six and suitable child care is not available at no cost to the family, one adult member of the assistance unit is exempt from registration for and participation in the work readiness program. The local agency shall designate the adult who must register. The registrant must be the adult who is the principal wage earner, having earned the greater of the incomes, except for income received in-kind, during the 24 months immediately preceding the month of application for assistance. When there are no earnings or when

New language is indicated by underline, deletions by ~~strikeout~~.

earnings are identical for each parent, the applicant must designate the principal wage earner, and that designation must not be transferred after program eligibility is determined as long as assistance continues without interruption.

Sec. 58. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 3b. WORK READINESS PARTICIPATION REQUIREMENTS. A work readiness registrant meets the work readiness participation requirements if the registrant:

(1) completes the specific tasks or assigned duties that were identified by the county agency in the notice required under section 256D.101, subdivision 1, paragraph (a); and

(2) meets the requirements in subdivisions 3 and 8.

Sec. 59. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 3c. WORK READINESS DISQUALIFICATION PERIOD. Mandatory registrants who fail without good cause to meet the work readiness participation requirements will be terminated and disqualified from work readiness. If after the initial certification period the county agency determines that a registrant has failed without good cause to meet the work readiness participation requirements, the agency will notify the registrant of its determination according to section 256D.101, subdivision 1, paragraph (b). For the first time in a six-month period after the initial certification period that the registrant has failed without good cause to comply with program requirements, the notification shall inform the registrant of the particular actions that must be taken by the registrant by a date certain to achieve compliance. Failure to take the required action by the specified date will result in termination and disqualification from work readiness. Failure to comply a second or subsequent time during a six-month period shall result in termination and disqualification without opportunity for corrective action. The first time in a six-month period that a registrant is terminated from work readiness for failure to comply with participation requirements, that person is disqualified from receiving work readiness for one month. If less than six months have passed since the end of a disqualification period and the registrant is terminated from work readiness for failure to comply with participation requirements, the person is disqualified from receiving work readiness for two months. If an assistance unit includes more than one mandatory work readiness participant and it is determined that one or more, but not all, of the mandatory participants have failed to comply with work readiness requirements, those who failed to comply shall be removed from the assistance unit for the appropriate time period, subject to the notice and appeal rights in section 256D.101. If an assistance unit includes persons who are exempt from participation in work readiness activities and all of the mandatory registrants have been terminated for failure to participate, the county agency shall remove the terminated registrants from the assistance unit after notice and an opportunity to be heard, and provide assistance to the remaining persons using vendor or protective payments.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 60. Minnesota Statutes 1988, section 256D.051, subdivision 6, is amended to read:

Subd. 6. **LOCAL AGENCY OPTIONS SERVICE COSTS.** ~~The local agency may, at its option, provide up to \$200~~ The commissioner shall reimburse 92 percent of local agency expenditures for providing work readiness services including direct participation expenses and administrative costs. Reimbursement must not exceed an average of \$260 each year for each registrant who has completed an employment development plan for direct expenses incurred by the registrant for transportation, clothes, and tools necessary for employment. After paying direct expenses as needed by individual registrants, the local agency may use any remaining money to provide additional services as needed by any registrant including employability assessments and employability development plans, education, orientation, employment search assistance, placement, other work experience, on-the-job training, and other appropriate activities and the administrative costs incurred providing these services.

Sec. 61. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 6b. FEDERAL REIMBURSEMENT. Federal financial participation from the United States Department of Agriculture for work readiness expenditures that are eligible for reimbursement through the food stamp employment and training program are dedicated funds and are annually appropriated to the commissioner of human services for the operation of the work readiness program. Federal financial participation for the nonstate portion of work readiness costs must be paid to the county agency that incurred the costs.

Sec. 62. Minnesota Statutes 1988, section 256D.051, subdivision 8, is amended to read:

Subd. 8. **VOLUNTARY QUIT.** A person is not eligible for work readiness payments or services if, without good cause, the person refuses a legitimate offer of suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving work readiness payments or services shall be terminated from the work readiness program and disqualified for two months according to rules adopted by the commissioner.

Sec. 63. Minnesota Statutes 1988, section 256D.051, subdivision 13, is amended to read:

Subd. 13. **RIGHT TO NOTICE AND HEARING.** (a) The local agency shall provide notice and opportunity for hearings ~~for adverse actions as required under this section according to sections 256D.10 and section 256D.101, for~~ adverse actions based on a determination that a recipient has failed to participate in work readiness activities, or 256D.10 for all other adverse actions. A determination made under subdivision 1, that a person is not eligible for general assistance is a denial of general assistance for purposes of notice, appeal, and

New language is indicated by underline, deletions by strikeout.

hearing requirements. The local agency must notify the person that this determination will result in a limit on the number of months of assistance for which the person will be eligible requirement that the person participate in the work readiness program as a condition of receiving assistance.

Sec. 64. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 15. GENERAL ASSISTANCE REQUIREMENTS APPLY. The laws and rules that apply to general assistance also apply to the work readiness program, unless superseded by a specific inconsistent provision in this section or section 256D.101.

Sec. 65. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 16. START WORK GRANTS. Within the limit of available appropriations, the local agency may make grants necessary to enable work readiness recipients to accept bona fide offers of employment. The grants may be made for costs directly related to starting employment, including transportation costs, clothing, tools and equipment, license or other fees, and relocation. Start work grants are available once in any 12-month period to a recipient. The commissioner shall allocate money appropriated for start work grants to counties based on each county's work readiness caseload in the 12 months ending in March for each following state fiscal year and may reallocate any unspent amounts.

Sec. 66. Minnesota Statutes 1988, section 256D.052, subdivision 1, is amended to read:

Subdivision 1. **OCCUPATIONAL AND VOCATIONAL PROGRAMS.** The local agency must work with local educational institutions and job training programs in the identification, development, and utilization of occupational and vocational literacy programs for general assistance recipients work readiness registrants who are functionally illiterate. Occupational and vocational literacy programs are programs which provide literacy training to adults who lack formal education or job skills. The programs emphasize particular language and reading skills needed for successful job performance.

Sec. 67. Minnesota Statutes 1988, section 256D.052, subdivision 2, is amended to read:

Subd. 2. **ASSESSMENT AND ASSIGNMENT.** The local agency must:

(1) assess existing reading level, learning disabilities, reading potential, and vocational or occupational interests of people eligible under section 256D.05, subdivision 1, paragraph (a), clause (15) work readiness registrants who are functionally illiterate;

(2) assign suitable recipients to openings in occupational and vocational literacy programs;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) if no openings are available in accessible occupational or vocational literacy programs, assign suitable recipients to openings in other accessible literacy training programs; ~~and~~

(4) reassign to another accessible literacy program any recipient who does not complete an assigned program and who wishes to try another program; ~~and~~

(5) within the limits of funds available contract with technical institutes or other groups who have literacy instructors trained in occupational literacy methods, to provide literacy training sessions so that county registrants eligible for literacy training will have the opportunity to attend training.

Sec. 68. Minnesota Statutes 1988, section 256D.052, subdivision 3, is amended to read:

Subd. 3. **SERVICES PROVIDED.** The local agency must provide child care and transportation to enable people to participate in literacy training under this section. The state shall reimburse local agencies for the costs of providing transportation under this section. Counties must make every effort to ensure that child care is available as needed by recipients who are pursuing literacy training.

Sec. 69. Minnesota Statutes 1988, section 256D.052, subdivision 4, is amended to read:

Subd. 4. **~~PAYMENT OF GENERAL ASSISTANCE~~ WORK READINESS.** The local agency must provide assistance under section ~~256D.05, subdivision 4, paragraph (a), clause (15)~~ 256D.051 to people persons who:

(1) participate in a literacy program assigned under subdivision 2. To "participate" means to attend regular classes, complete assignments, and make progress toward literacy goals; or

~~(2) despite participation for a period of six months or more, fail to progress in assigned literacy programs;~~

~~(3) are not assigned to literacy training because there is no program available or accessible to them; or~~

~~(4) have failed for good cause to complete an assigned literacy program.~~

Work readiness payments may be terminated for persons who fail to attend the orientation and participate in the assessment and development of the employment development plan.

Sec. 70. Minnesota Statutes 1988, section 256D.101, is amended to read:

256D.101 FAILURE TO COMPLY WITH WORK REQUIREMENTS; NOTICE.

Subdivision 1. **~~DISQUALIFICATION~~ NOTICE REQUIREMENTS.** (a)

New language is indicated by underline, deletions by ~~strikeout~~.

At the time a registrant is registered for the work readiness program, and at least every 30 days after that, the local agency shall provide, in advance, a clear, written description of the specific tasks and assigned duties the registrant must complete to receive work readiness pay. The notice must explain that the registrant will be terminated from the work readiness program unless the registrant has completed the specific tasks and assigned duties. The notice must inform the registrant that if the registrant fails without good cause to comply with work readiness requirements more than once every six months, the registrant will be terminated from the work readiness program and disqualified from receiving assistance for one month if it is the registrant's first disqualification within the preceding six months, or for two months if the registrant has been previously disqualified within the preceding six months.

(b) If after the initial certification period the local agency determines that a registrant has failed to comply with the work readiness requirements of section 256D.051, the local agency shall notify the registrant of the determination. Notice must be hand delivered or mailed to the registrant within three days after the agency makes the determination but no later than the date work readiness pay was scheduled to be paid. For a recipient who has failed to provide the local agency with a mailing address, the recipient must be assigned a schedule by which a recipient is to visit the agency to pick up any notices. For a recipient without a mailing address, notices must be deemed delivered on the date of the registrant's next scheduled visit with the local agency. The notification shall be in writing and shall state the facts that support the local agency's determination. For the first two times time in a six-month period that the registrant has failed without good cause to comply with program requirements, the notification shall inform the registrant that the registrant may lose eligibility for work readiness pay and must specify the particular actions that must be taken by the registrant to achieve compliance; shall and reinstate work readiness payments. The notice must state that the recipient must take the specified actions by a date certain, which must be at least ten five working days following the date the notification is mailed or delivered to the registrant; shall must explain the ramifications of the registrant's failure to take the required actions by the specified date; and shall must advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification. A registrant who fails without good cause to comply with requirements of the program more than two times once in a six-month period must be notified of termination.

Subd. 2. **NOTICE OF GRANT REDUCTION, SUSPENSION, OR TERMINATION.** ~~The notice of grant reduction, suspension, or termination on the ground that a registrant has failed to comply with section 256D.051 work readiness requirements shall be mailed or hand delivered by the local agency concurrently with the notification required by subdivision 1, paragraph (b). Prior to giving the notification, the local agency must assess the registrant's eligibility for general assistance under section 256D.05 to the extent possible using information contained in the case file, and determine that the registrant is not eligible under that section. The determination that the registrant is not eligible shall must be stated in the notice of grant reduction, suspension, or termination. The notice of termination shall indicate the applicable disqualification period.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **BENEFITS AFTER NOTIFICATION.** Assistance payments otherwise due to the registrant under section 256D.051 ~~shall~~ may not be paid after the notification required in subdivision 1 has been provided to the registrant unless, before the date stated in the notification, the registrant takes the specified action necessary to achieve compliance or, within five days after the effective date stated in the notice, files an appeal of the grant reduction, suspension, or termination. If, by the required date, the registrant does take the specified action necessary to achieve compliance, both the notification required by subdivision 1 and the notice required by subdivision 2 shall be canceled and all benefits due to the registrant shall be paid promptly. If, by the required date, the registrant files an appeal of the grant ~~reduction, suspension, or~~ termination, benefits otherwise due to the registrant shall be continued pending the outcome of the appeal. An appeal of a proposed termination shall be brought under section 256.045, except that the timelines specified in this section shall apply, notwithstanding the requirements of section 256.045, subdivision 3. Appeals of proposed terminations from the work readiness program shall be heard within 30 days of the date that the appeal was filed.

Sec. 71. Minnesota Statutes 1988, section 256D.111, subdivision 5, is amended to read:

Subd. 5. **RULEMAKING.** The commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for the disqualification from the receipt of ~~general assistance or~~ work readiness assistance for a recipient who has been ~~finally~~ determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a ~~recipient described in clause (a) or section 256D.09, subdivision 4~~ disqualified recipient; and

(c) providing that at the time of the approval of an application for assistance, the local agency gives to the recipient a written notice in plain and easily understood language describing the recipient's job registration, search, and acceptance obligations, and the disqualification that will be imposed for a failure to comply with those obligations.

Sec. 72. **[256D.33] CITATION.**

Sections 256D.33 to 256D.54 may be cited as the Minnesota supplemental aid act.

Sec. 73. **[256D.34] POLICY.**

The purpose of sections 256D.33 to 256D.54 is to (1) provide a sound administrative structure for public assistance programs; (2) maximize the use of federal funds for public assistance purposes; and (3) provide an integrated public

New language is indicated by underline, deletions by ~~strikeout~~.

assistance program for all Minnesota residents who are recipients of supplemental security income or who, except for excess income, would be receiving supplemental security income and who are found to have maintenance needs as determined by application of state standards of assistance according to section 256D.44.

Sec. 74. Minnesota Statutes 1988, section 256D.35, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** ~~For the purposes of Laws 1974, chapter 487,~~ The terms defined in this section shall have the meanings given them. The definitions in this section apply to sections 256D.33 to 256D.54.

Sec. 75. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 2a. AGED. "Aged" means having reached age 65 or reaching the age of 65 during the month of application.

Sec. 76. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 3a. ASSISTANCE UNIT. "Assistance unit" means the individual applicant or recipient.

Sec. 77. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 4a. BLIND. "Blind" means the condition of a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or, if visual acuity is greater than 20/200, the condition is accompanied by limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. A person who receives supplemental security income based on other visual disabilities may also be eligible for the Minnesota supplemental aid program.

Sec. 78. Minnesota Statutes 1988, section 256D.35, subdivision 7, is amended to read:

Subd. 7. "Local County agency" means the county welfare boards in the several counties of the state except that it may also include any multicounty welfare boards or departments where those have been established in accordance with law.

Sec. 79. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8a. DISABILITY. "Disability" means disability as determined under the criteria used by the Title II program of the Social Security Act.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 80. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8b. EMERGENCY. "Emergency" means circumstances that demand immediate action to safeguard against threats to health or safety of an individual.

Sec. 81. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8c. FINANCIALLY RESPONSIBLE RELATIVE. "Financially responsible relative" means a spouse or a parent of a minor child.

Sec. 82. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8d. GOOD CAUSE. "Good cause" means a reason for taking an action or failing to take an action that is reasonable and justified when viewed in the context of surrounding circumstances.

Sec. 83. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 10. GROSS INCOME. "Gross income" means the total amount of earned and unearned money received in a month before any deductions or disregards are applied.

Sec. 84. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 11. IN-KIND INCOME. "In-kind income" means income, benefits, or payments that are provided in a form other than money or liquid asset. In-kind income includes goods, produce, services, privileges, or payments on behalf of a person by a third party.

Sec. 85. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 12. LUMP SUM. "Lump sum" means money received on an irregular or unexpected basis.

Sec. 86. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 13. MAINTENANCE BENEFIT. "Maintenance benefit" means cash payments, other than Minnesota supplemental aid, provided under law or rule. Maintenance benefit includes workers' compensation, unemployment compensation, railroad retirement, veterans benefits, supplemental security income, social security disability insurance, or other benefits identified by the county agency that provide periodic benefits that can be used to meet the basic needs of the assistance unit.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 87. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 14. NEGOTIATED RATE. "Negotiated rate" means a monthly rate for payment for room and board for an individual living in a group living arrangement according to sections 256I.01 to 256I.07. This rate may be fully or partially paid from the Minnesota supplemental aid program depending on the net income of the assistance unit.

Sec. 88. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 15. NET INCOME. "Net income" means monthly income remaining after allowable deductions and disregards are subtracted from gross income.

Sec. 89. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 16. OVERPAYMENT. "Overpayment" means an amount of Minnesota supplemental aid paid to a recipient that exceeds the amount to which the recipient is entitled for that month.

Sec. 90. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 17. POTENTIAL ELIGIBILITY. "Potential eligibility" means a determination by a county agency that an assistance unit or a financially responsible relative appears to meet the eligibility requirements of another maintenance benefit program.

Sec. 91. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 18. RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE. "Retirement, survivors, and disability insurance" means benefits paid under the federal program for retired, disabled, and surviving spouses of retired or disabled individuals under Title II of the Social Security Act.

Sec. 92. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 19. SHELTER COSTS. "Shelter costs" means monthly costs for rent, mortgage payments, contract for deed payments, property taxes, and insurance on real or personal property, and utilities, for the home in which the recipient lives and for which the recipient is legally responsible.

Sec. 93. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 20. SUPPLEMENTAL SECURITY INCOME. "Supplemental security income" means benefits paid under the federal program of supplemental

New language is indicated by underline, deletions by ~~strikeout~~.

security income for the aged, blind, and disabled under Title XVI of the Social Security Act.

Sec. 94. Minnesota Statutes 1988, section 256D.36, subdivision 1, is amended to read:

Subdivision 1. **STATE PARTICIPATION.** Commencing January 1, 1974, the commissioner shall certify to each local agency the names of all county residents who were eligible for and did receive aid during December, 1973, pursuant to a categorical aid program of old age assistance, aid to the blind, or aid to the disabled. Each year for the period from January 1 to June 30, the state shall pay 85 percent and the county shall pay 15 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, except as provided for in section 256.017. ~~Subsequent to July 1~~ After June 30 of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, the state agency shall pay 100 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, except as provided for in section 256.017. The amount of supplemental aid for each individual eligible under this section shall be calculated ~~pursuant~~ according to the formula ~~prescribed~~ in title II, section 212 (a) (3) of Public Law Number 93-66, as amended.

Sec. 95. Minnesota Statutes 1988, section 256D.36, is amended by adding a subdivision to read:

Subd. 1a. A negotiated rate payment made according to sections 256I.01 to 256I.07, for a person who is eligible for Minnesota supplemental aid, under sections 256D.33 to 256D.54, is a Minnesota supplemental aid payment for purposes of meeting the total expenditures test under the supplemental security income program state supplement program.

Sec. 96. Minnesota Statutes 1988, section 256D.37, subdivision 1, is amended to read:

Subdivision 1. ~~(a) For all individuals who apply to the appropriate local agency for supplemental aid, the local agency shall determine whether the individual meets the eligibility criteria prescribed in subdivision 2. For each individual who meets the relevant eligibility criteria prescribed in subdivision 2, the local agency shall certify to the commissioner the amount of supplemental aid to which the individual is entitled in accordance with all of the standards in effect December 31, 1973, for the appropriate categorical aid program.~~

~~(b) When a recipient is an adult with mental illness in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, a resident of a state hospital nursing home, regional treatment center, or a dwelling residence with a negotiated rate, the recipient is not eligible for a shelter standard, a basic needs~~

New language is indicated by underline, deletions by ~~strikeout~~.

standard, or for special needs payments. The state standard of assistance for those recipients is the ~~clothing~~ and personal needs allowance for medical assistance recipients under section 256B.35. Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to residents of the facility, up to the maximum negotiated rate specified in this section. The rate for room and board for a licensed facility must not exceed \$800. The maximum negotiated rate does not apply to a facility that, on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690 or a facility that, on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a supplemental aid negotiated rate facility under this chapter. The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:

(1) a facility that only provides services to persons with mental retardation; and

(2) a facility not certified to participate in the medical assistance program that is licensed as a boarding care facility as of March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080. Beginning July 1, 1987, the facilities under clause (1) are subject to applicable supplemental aid limits, and must meet all applicable licensing and reimbursement requirements for programs for persons with mental retardation. The negotiated rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less. From the first of the month in which an effective application is filed, the state and the county shall share responsibility for the payment of the supplemental aid to which the individual is entitled under this section as provided in section 256D.36.

Sec. 97. [256D.385] RESIDENCE.

To be eligible for Minnesota supplemental aid, a person must be a resident

New language is indicated by underline, deletions by ~~strikeout~~.

of Minnesota and (1) a citizen of the United States, (2) an alien lawfully admitted to the United States for permanent residence, or (3) otherwise permanently residing in the United States under color of law as defined by the supplemental security income program.

Sec. 98. [256D.395] APPLICATION PROCEDURES.

Subdivision 1. INFORMATION. The county agency shall provide information about the program and application procedures to a person who inquires about Minnesota supplemental aid.

Subd. 2. FILING OF APPLICATION. The county agency must immediately provide an application form to any person requesting Minnesota supplemental aid. Application for Minnesota supplemental aid must be in writing on a form prescribed by the commissioner. The county agency must determine an applicant's eligibility for Minnesota supplemental aid as soon as the required verifications are received by the county agency and within 30 days after a signed application is received by the county agency for the aged or blind or within 60 days for the disabled. The amount of the first grant of Minnesota supplemental aid awarded to an applicant must be computed to cover the time period starting with the first day of the month in which the county agency received the signed and dated application or the first day of the month in which all eligibility factors were met, whichever is later.

Sec. 99. [256D.405] VERIFICATION AND REPORTING REQUIREMENTS.

Subdivision 1. VERIFICATION. The county agency shall request, and applicants and recipients shall provide and verify, all information necessary to determine initial and continuing eligibility and assistance payment amounts. If necessary, the county agency shall assist the applicant or recipient in obtaining verifications. If the applicant or recipient refuses or fails without good cause to provide the information or verification, the county agency shall deny or terminate assistance.

Subd. 2. REDETERMINATION OF ELIGIBILITY. The eligibility of each recipient must be redetermined at least once every 12 months.

Subd. 3. REPORTS. Recipients must report changes in circumstances that affect eligibility or assistance payment amounts within ten days of the change. Recipients with earned income, and recipients who have income allocated to them from a financially responsible relative with whom the recipient resides, must complete a monthly household report form. If the report form is not received before the end of the month in which it is due, the county agency must terminate assistance. The termination shall be effective on the first day of the month following the month in which the report was due. If a complete report is received within the month the assistance was terminated, the assistance unit is considered to have continued its application for assistance, effective the first day of the month the assistance was terminated.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 100. [256D.415] RESIDENCE; COUNTY OF FINANCIAL RESPONSIBILITY.

The county of financial responsibility is the county specified in section 256G.02, subdivision 4.

Sec. 101. [256D.425] ELIGIBILITY CRITERIA.

Subdivision 1. PERSONS ENTITLED TO RECEIVE AID. A person who is aged, blind, or 18 years of age or older and disabled, whose income is less than the standards of assistance in section 256D.44 and whose resources are less than the limits in subdivision 2 is eligible for and entitled to Minnesota supplemental aid. A person found eligible by the Social Security Administration for supplemental security income under Title XVI on the basis of age, blindness, or disability meets these requirements. A person who would be eligible for the supplemental security income program except for income that exceeds the limit of that program but that is within the limits of the Minnesota supplemental aid program, must have blindness or disability determined by the state medical review team.

Subd. 2. RESOURCE STANDARDS. The resource standards and restrictions for supplemental aid under this section shall be those used to determine eligibility for disabled individuals in the supplemental security income program.

Subd. 3. TRANSFERS. The transfer policies and procedures of the Minnesota supplemental aid program are those used by the medical assistance program under section 256B.17.

Sec. 102. [256D.435] INCOME.

Subdivision 1. EXCLUSIONS. The following is excluded from income in determining eligibility for Minnesota supplemental aid:

- (1) the value of food stamps;
- (2) home-produced food used by the household;
- (3) Indian claim payments made by the United States Congress to compensate members of Indian tribes for the taking of tribal lands by the federal government;
- (4) cash payments to displaced persons who face relocation as a result of the Housing Act of 1965, the Housing and Urban Development Act of 1965, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (5) one-third of child support payments received by an eligible child from an absent parent;
- (6) displaced homemaker payments;

New language is indicated by underline, deletions by ~~strikeout~~.

(7) reimbursement received for maintenance costs of providing foster care to adults or children;

(8) benefits received under Title IV and Title VII of the Older Americans Act of 1965;

(9) Minnesota renter or homeowner property tax refunds;

(10) infrequent, irregular income that does not total more than \$20 per person in a month;

(11) reimbursement payments received from the VISTA program;

(12) in-kind income;

(13) payments received for providing volunteer services under Title I, Title II, and Title III of the Domestic Volunteer Service Act of 1973;

(14) loans that have to be repaid;

(15) federal low-income heating assistance program payments;

(16) any other type of funds excluded as income by state law;

(17) student financial aid, as allowed for the supplemental security income program; and

(18) other income excluded by the supplemental security income program.

Subd. 2. SELF-SUPPORT PLANS. The county agency shall, for up to 36 months, disregard amounts of an individual's income and resources that are needed to fulfill a plan of self-support approved by the county agency, but only for the period during substantially all of which the individual is actually undergoing vocational rehabilitation. If an individual has a plan for self-support approved by the Social Security Administration, the county agency shall disregard income and resources in the amount and for the time approved in that plan.

Subd. 3. APPLICATION FOR FEDERALLY FUNDED BENEFITS. Persons for whom the applicant or recipient has financial responsibility and who have unmet needs must apply for and, if eligible, accept AFDC and other federally funded benefits. If the persons are determined potentially eligible for AFDC by the county agency, the applicant or recipient may not allocate earned or unearned income to those persons while an AFDC application is pending, or after the persons are determined eligible for AFDC. If the persons are determined potentially eligible for other federal benefits, the applicant or recipient may only allocate income to those persons until they are determined eligible for those other benefits unless the amount of those benefits is less than the amount in subdivision 4.

Subd. 4. ALLOCATION OF INCOME. The rate of allocation to relatives for whom the applicant or recipient is financially responsible is one-half the

New language is indicated by underline, deletions by ~~strikeout~~.

individual supplemental security income standard of assistance, except as restricted in subdivision 3.

If the applicant or recipient shares a residence with another person who has financial responsibility for the applicant or recipient, the income of that person is considered available to the applicant or recipient after allowing: (1) the deductions in subdivisions 7 and 8; and (2) a deduction for the needs of the financially responsible relative and others in the household for whom that relative is financially responsible. The rate allowed to meet the needs of each of these people is one-half the individual supplemental security income standard.

Subd. 5. GENERAL INCOME DISREGARD. The local agency shall disregard the first \$20 of the assistance unit's unearned or earned income from the assistance unit's gross earned income.

Subd. 6. EARNED INCOME DISREGARDS. From the assistance unit's gross earned income, the local agency shall disregard \$65 plus one-half of the remaining income.

Subd. 7. EARNED INCOME DEDUCTIONS. From the assistance unit's gross earned income, the local agency shall subtract work expenses allowed by the supplemental security income program.

Subd. 8. SELF-EMPLOYMENT EARNINGS. A local agency must determine gross earned income from self-employment by subtracting business costs from gross receipts.

Subd. 9. RENTAL PROPERTY. Income from rental property is considered self-employment income for each month that the owner of the property who is the assistance unit or a responsible relative of the assistance unit does an average of at least ten hours a week of labor. When no labor is expended, income from rental property is considered unearned income and an additional deduction is allowed for actual, reasonable, and necessary labor costs for upkeep and repair.

Subd. 10. LUMP SUMS. Lump sum payments are considered income in the month received.

Sec. 103. [256D.44] STANDARDS OF ASSISTANCE.

Subdivision 1. USE OF STANDARDS; INCREASES. The state standards of assistance for shelter, basic needs, and special need items that establish the total amount of maintenance need for an applicant for or recipient of Minnesota supplemental aid, are used to determine the assistance unit's eligibility for Minnesota supplemental aid. The state standards of assistance for basic needs must increase by an amount equal to the dollar value, rounded up to the nearest dollar, of any cost of living increases in the supplemental security income program.

Subd. 2. STANDARD OF ASSISTANCE FOR SHELTER. The state standard of assistance for shelter provides for the recipient's shelter costs. The

New language is indicated by underline, deletions by ~~strikeout~~.

monthly state standard of assistance for shelter must be determined according to paragraphs (a) to (c).

(a) If the recipient does not reside with another person, the state standard of assistance is the actual cost for shelter items or \$124, whichever is less.

(b) If the recipient resides with another person, the state standard of assistance is the actual costs for shelter items or \$93, whichever is less.

(c) Actual shelter costs for applicants or recipients are determined by dividing the total monthly shelter costs by the number of persons who share the residence.

Subd. 3. STANDARD OF ASSISTANCE FOR BASIC NEEDS. The state standard of assistance for basic needs provides for the applicant's or recipient's maintenance needs, other than actual shelter costs. Except as provided in subdivision 4, the monthly state standard of assistance for basic needs is as follows:

(a) For an applicant or recipient who does not reside with another person, the state standard of assistance is \$305.

(b) For an individual who resides with another person or persons, the state standard of assistance is \$242.

Subd. 4. TEMPORARY ABSENCE DUE TO ILLNESS. For the purposes of this subdivision, "home" means a residence owned or rented by a recipient or the recipient's spouse. Home does not include a negotiated rate facility. Assistance payments for recipients who are temporarily absent from their home due to hospitalization for illness must continue at the same level of payment during their absence if the following criteria are met:

(1) a physician certifies that the absence is not expected to continue for more than three months;

(2) a physician certifies that the recipient will be able to return to independent living; and

(3) the recipient has expenses associated with maintaining a residence in the community.

Subd. 5. SPECIAL NEEDS. Notwithstanding subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid:

(a) The local agency shall pay a monthly allowance for medically prescribed diets payable under the AFDC program if the cost of those additional dietary needs cannot be met through some other maintenance benefit.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and

New language is indicated by underline, deletions by ~~strikeout~~.

appliances using the payment standard of the AFDC program for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

Subd. 6. COUNTY AGENCY STANDARDS OF ASSISTANCE. The county agency may establish standards of assistance for shelter, basic needs, special needs, clothing and personal needs, and negotiated rates that exceed the corresponding state standards of assistance. State aid is not available for costs above state standards.

Sec. 104. [256D.45] PAYMENT PERIOD.

Subdivision 1. PROSPECTIVE BUDGETING. A calendar month is the payment period for Minnesota supplemental aid. The monthly payment to a recipient must be determined prospectively.

Subd. 2. GROSS INCOME TEST. The local agency shall apply a gross income test prospectively for each month of program eligibility. An assistance unit is ineligible when nonexcluded income, before applying any disregards or deductions, exceeds 300 percent of the supplemental security income standard for an individual.

Subd. 3. AMOUNT OF ASSISTANCE. The amount of assistance is the difference between the recipient's net income and the applicable standards of assistance in section 256D.44, subdivisions 2 to 4, for persons living independently.

Sec. 105. [256D.46] EMERGENCY MINNESOTA SUPPLEMENTAL AID.

Subdivision 1. ELIGIBILITY. Emergency Minnesota supplemental aid must be granted if the recipient is without adequate resources to resolve an emergency that, if unresolved, will threaten the health or safety of the recipient.

Subd. 2. INCOME AND RESOURCE TEST. All income and resources available to the recipient during the month in which the need for emergency Minnesota supplemental aid arises must be considered in determining the recipient's ability to meet the emergency need. Property that can be liquidated in time to resolve the emergency and income that is normally disregarded or excluded under the Minnesota supplemental aid program must be considered available to meet the emergency need.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. PAYMENT AMOUNT. The amount of assistance granted under emergency Minnesota supplemental aid is limited to the amount necessary to resolve the emergency.

Sec. 106. [256D.47] PAYMENT METHODS.

Minnesota supplemental aid payments must be issued to the recipient, a protective payee, or a conservator or guardian of the recipient's estate in the form of county warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution. Minnesota supplemental aid payments must be issued regularly on the first day of the month. The supplemental aid warrants must be mailed only to the address at which the recipient resides, unless another address has been approved in advance by the local agency. Vendor payments must not be issued by the local agency except for nonrecurring emergency need payments; at the request of the recipient; for special needs, other than special diets; or when the agency determines the need for protective payments exist.

Sec. 107. [256D.48] PROTECTIVE PAYMENTS.

Subdivision 1. NEED FOR PROTECTIVE PAYEE. The county agency shall determine whether a recipient needs a protective payee when a physical or mental condition renders the recipient unable to manage funds and when payments to the recipient would be contrary to the recipient's welfare. Protective payments must be issued when there is evidence of: (1) repeated inability to plan the use of income to meet necessary expenditures; (2) repeated observation that the recipient is not properly fed or clothed; (3) repeated failure to meet obligations for rent, utilities, food, and other essentials; (4) evictions or a repeated incurrence of debts; or (5) lost or stolen checks. The determination of representative payment by the Social Security Administration for the recipient is sufficient reason for protective payment of Minnesota supplemental aid payments.

Subd. 2. ESTABLISHING PROTECTIVE PAYMENT. When the county agency determines that a recipient needs a protective payee, the county agency shall appoint a payee according to the procedures in paragraphs (a) and (b).

(a) The county agency shall consider the recipient's preference of protective payee. The protective payee must have an interest in or concern for the welfare of the recipient. The protective payee must be capable of and willing to provide the required assistance. A vendor of goods or services, including the recipient's landlord, shall not serve as protective payee.

(b) The county agency shall reconsider the need for a protective payee at least annually. The criteria used to determine a person's continuing need for a protective payee are the criteria used in the supplemental security income program to determine if a person is incapable of managing or directing the management of the person's money. If the need for protective payment is likely to continue beyond two years, the county agency shall seek judicial appointment of a guardian or other legal representative.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. PROTECTIVE PAYEE FOR PAYMENTS MADE BY THE SOCIAL SECURITY ADMINISTRATION. If the assistance unit receives benefits from the social security administration, the county agency shall also petition the social security administration to establish a representative payee for those benefits.

Sec. 108. [256D.49] PAYMENT CORRECTION.

Subdivision 1. WHEN. When the county agency finds that the recipient has received less than or more than the correct payment of Minnesota supplemental aid benefits, the county agency shall issue a corrective payment or initiate recovery under subdivision 3, as appropriate.

Subd. 2. UNDERPAYMENT OF MONTHLY GRANTS. When the county agency determines that an underpayment of the recipient's monthly payment has occurred, it shall, during that same month, issue a corrective payment. Corrective payments must be excluded when determining the applicant's or recipient's income and resources for the month of payment.

Subd. 3. OVERPAYMENT OF MONTHLY GRANTS. When the county agency determines that an overpayment of the recipient's monthly payment of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment to the recipient. If the person is no longer receiving Minnesota supplemental aid, the county agency may request voluntary repayment or pursue civil recovery. If the person is receiving Minnesota supplemental aid, the county agency shall recover the overpayment by withholding an amount equal to three percent of the standard of assistance for the recipient or the total amount of the monthly grant, whichever is less. Residents of nursing homes, regional treatment centers, and facilities with negotiated rates shall not have overpayments recovered from their personal needs allowance.

Sec. 109. [256D.50] NOTICE.

Subdivision 1. TEN-DAY NOTICE. The county agency shall give recipients ten days' advance notice when the agency intends to terminate, suspend, or reduce a grant. The ten-day notice must be in writing on a form prescribed by the commissioner. The notice must be mailed or given to the recipient not later than ten days before the effective date of the action. The notice must clearly state the action the county agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued while an appeal is pending.

Subd. 2. FIVE-DAY NOTICE. Five days' advance notice is sufficient when the county agency has verified and documented that the case facts require termination, suspension, or reduction of the grant for probable fraud by a recipient. If the last day of the five-day period falls on a weekend or holiday, the effective date of the action is the next working day.

Subd. 3. ADEQUATE NOTICE. Notice must be given no later than the effective date of the action when: (1) the county agency has factual information confirming the death of a person included in the grant; (2) the county agency receives a clear written statement, signed by a recipient, that the recipient no

New language is indicated by underline, deletions by ~~strikeout~~.

longer wishes assistance; (3) the county agency receives a clear statement, signed by a recipient, reporting information that the recipient acknowledges will require termination of or a reduction in the grant; (4) a recipient has been placed in a skilled nursing home, intermediate care, or a long-term hospitalization facility; (5) a recipient has been admitted to or committed to an institution; or (6) a recipient's whereabouts are unknown and the county agency mail to the recipient has been returned by the post office showing no forwarding address.

Sec. 110. [256D.51] APPEALS.

Subdivision 1. RIGHT TO APPEAL. Applicants and recipients may appeal under section 256.045 if they are aggrieved by an action or by inaction of the county agency.

Subd. 2. CONTINUATION OF PAYMENT PENDING APPEAL DECISION. When assistance is reduced, suspended, or terminated, the client has the right to choose to have the grant continued while an appeal is pending if the appellant files the appeal within ten days after the date the notice is mailed or before the effective date of the proposed action, whichever is later.

Sec. 111. [256D.52] FRAUD.

A person who obtains or tries to obtain, or aids or abets any person in obtaining assistance to which the person is not entitled by a willfully false statement or representation, or by the intentional withholding or concealment of a material fact, or by impersonation, or other fraudulent device, violates section 256.98 and is subject to both the criminal and civil penalties in that section.

Sec. 112. [256D.53] DUTIES OF THE COMMISSIONER.

In addition to other duties imposed by law, the commissioner shall:

(1) supervise the administration of Minnesota supplemental aid by county agencies as provided in sections 256D.33 to 256D.54;

(2) adopt permanent rules consistent with law for carrying out and enforcing the provisions of sections 256D.33 to 256D.54, so that Minnesota supplemental aid may be administered as uniformly as possible throughout the state;

(3) immediately upon adoption, give rules to all county agencies and other interested persons;

(4) establish necessary administrative and fiscal procedures; and

(5) allocate money appropriated for Minnesota supplemental aid to county agencies.

Sec. 113. [256D.54] APPLICATION FOR OTHER BENEFITS.

Subdivision 1. POTENTIAL ELIGIBILITY. An applicant or recipient who is otherwise eligible for supplemental aid and who is potentially eligible for maintenance benefits from any other source shall (1) apply for those benefits within 30 days of the county's determination of potential eligibility for

New language is indicated by underline, deletions by ~~strikeout~~.

those benefits; and (2) execute an interim assistance authorization agreement on a form as directed by the commissioner.

Subd. 2. RECOVERY OF SUPPLEMENTAL AID UNDER AN INTERIM ASSISTANCE AGREEMENT. If a recipient is eligible for benefits from other sources, and receives a payment from another source for a period during which supplemental aid was also issued, the recipient shall reimburse the county agency for the interim assistance paid. Reimbursement shall not exceed the amount of supplemental aid paid during the time period to which the other maintenance benefits apply. Reimbursement shall not exceed the state standard that applies to that time period. Reimbursement may be sought directly from the other source of maintenance income but remains the primary obligation of the recipient when an interim assistance agreement has been executed.

Subd. 3. INTERIM ASSISTANCE ADVOCACY INCENTIVE PROGRAM. From the amount recovered under an interim assistance agreement, county agencies may retain 25 percent plus actual reasonable fees, costs, and disbursements of appeals, litigation, and advocacy assistance given to the recipient for the recipient's claim for supplemental security income. The money kept under this section is from the state share of the recovery. The county agency may contract with qualified persons to provide the special assistance. The methods by which a county agency identifies, refers, and assists recipients who may be eligible for benefits under federal programs for the aged, blind, or disabled are those methods used by the general assistance interim assistance advocacy incentive program.

Sec. 114. Minnesota Statutes 1988, section 256G.03, subdivision 1, is amended to read:

Subdivision 1. **STATE RESIDENCE.** For purposes of this chapter, "state residence" is coincidental with residence in a Minnesota county. The establishment of county residence serves as proof of residence in Minnesota a resident of any Minnesota county is considered a state resident. For purposes of eligibility for general assistance or work readiness, residency must be substantiated according to section 256D.02, subdivision 12a.

Sec. 115. **[256I.01] CITATION.**

Sections 256I.01 to 256I.06 shall be cited as the "negotiated rate act."

Sec. 116. **[256I.02] PURPOSE.**

The negotiated rate act establishes a comprehensive system of rates and payments for persons who reside in a negotiated rate residence and who meet the eligibility criteria of the general assistance program under sections 256D.01 to 256D.21, or the Minnesota supplemental aid program under sections 256D.33 to 256D.54.

Sec. 117. **[256I.03] DEFINITIONS.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. SCOPE. For the purposes of sections 256I.01 to 256I.06, the terms defined in this section have the meanings given them.

Subd. 2. NEGOTIATED RATE. "Negotiated rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for individuals eligible for general assistance under sections 256D.01 to 256D.21 or supplemental aid under sections 256D.33 to 256D.54. Negotiated rate does not include payments for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services. However, the negotiated rate for recipients living in residences in section 256I.05, subdivision 2, paragraph (c), clause (2), includes all items covered by that residence's medical assistance per diem rate. The rate is negotiated by the county agency or the state according to the provisions of sections 256I.01 to 256I.06.

Subd. 3. NEGOTIATED RATE RESIDENCE. "Negotiated rate residence" means a group living situation that provides at a minimum room and board to unrelated persons who meet the eligibility requirements of section 256I.04. To receive payment for a negotiated rate, the residence must comply with applicable laws and rules establishing standards for health, safety, and licensure. Secure crisis shelters for battered women and their children are not negotiated rate residences.

Subd. 4. REPRESENTATIVE PAYEE. "Representative payee" means a person selected to receive and manage general assistance or Minnesota supplemental aid benefits provided by the county agency on behalf of a general assistance or Minnesota supplemental aid recipient.

Sec. 118. [256I.04] ELIGIBILITY FOR NEGOTIATED RATE PAYMENT.

Subdivision 1. ELIGIBILITY REQUIREMENTS. To be eligible for a negotiated rate payment, the individual must be eligible for general assistance under sections 256D.01 to 256D.21, or supplemental aid under sections 256D.33 to 256D.54. If the individual is in the negotiated rate residence due to illness or incapacity, the individual must be in the residence under a plan developed or approved by the county agency. Residence in other negotiated rate residences must be approved by the county agency.

Subd. 2. DATE OF ELIGIBILITY. For a person living in a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, payment shall be made from the date a signed application form is received by the county agency or the date the applicant meets all eligibility factors, whichever is later. For a person living in a negotiated rate residence who is eligible for supplemental aid under sections 256D.33 to 256D.54, payment shall be made from the first of the month in which an approved application is received by a county agency.

Sec. 119. [256I.05] PAYMENT RATES.

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. MONTHLY RATES. Monthly payments for rates negotiated by a county agency on behalf of a recipient living in a negotiated rate residence may be paid at the rates in effect on March 1, 1985, not to exceed \$919.80 in 1989. These rates must be increased annually according to subdivision 7.

Subd. 2. MONTHLY RATES; EXEMPTIONS. (a) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690. For residences in this clause that have less than five percent of their licensed boarding care capacity reimbursed by the medical assistance program, rate increases shall be provided according to section 256B.431, subdivision 4, paragraph (c).

(b) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a negotiated rate residence under general assistance or Minnesota supplemental aid. Rate increases for these residences are subject to the provisions of subdivision 7.

(c) The following residences are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:

(1) a residence that is not certified to participate in the medical assistance program, that was licensed as a boarding care facility by March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080;

(2) a residence certified to participate in the medical assistance program, licensed as a boarding care facility or a nursing home, and declared to be an institution for mental disease by January 1, 1989. Effective January 1, 1989, the actual documented cost for these residences is the individual's appropriate medical assistance case mix rate until the commissioner develops a comprehensive system of rates and payments for persons in all negotiated rate residences. The exclusion from the rate limit for residences under this clause expires July 1, 1991. The commissioner of human services, in consultation with the counties in which these residences are located, shall review the status of each certified nursing home and board and care facility declared to be an institution for mental disease. This review shall include the cost effectiveness of continued payment for residents through general assistance or Minnesota supplemental aid; the appropriateness of placement of general assistance or supplemental aid clients in these facilities; the effects of Public Law Number 100-203 on these facilities; and the role of these facilities in the mental health service delivery system. The commissioner shall make recommendations to the legislature by

New language is indicated by underline, deletions by ~~strikeout~~.

January 1, 1990, regarding the need to continue the exclusion of these facilities from the negotiated rate maximum and the future role of these facilities in serving persons with mental illness.

Subd. 3. LIMITS ON RATES. When a negotiated rate is used to pay for an individual's room and board, the rate payable to the residence must not exceed the rate paid by an individual not receiving a negotiated rate under this chapter.

Subd. 4. CERTAIN RESIDENCES NOT ELIGIBLE. The commissioner shall make no payments under this section to residences licensed after August 1, 1987, that have more than four residents with a diagnosis of mental illness, except for residences specifically licensed to serve persons with mental illness or residences excluded from licensure under chapter 245A. The commissioner of health shall monitor newly licensed residences and shall report to the commissioner of human services residences that do not comply with this section.

Subd. 5. ADULT FOSTER CARE RATES. The commissioner shall annually establish statewide maintenance and difficulty of care rates for adults in foster care. The commissioner shall adopt rules to implement statewide rates. In adopting rules, the commissioner shall consider existing maintenance and difficulty of care rates so that, to the extent possible, an adult for whom a maintenance or difficulty of care rate is established will not be adversely affected.

Subd. 6. STATEWIDE RATE SETTING SYSTEM. The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who reside in residences with negotiated rates to be effective January 1, 1992, or as soon as possible after that date. The commissioner may adopt rules to establish this rate setting system.

Subd. 7. RATE INCREASES. The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less.

Subd. 8. STATE PARTICIPATION. For a resident of a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, state participation in the negotiated rate is determined according to section 256D.03, subdivision 2. For a resident of a negotiated rate facility who is eligible under sections 256D.33 to 256D.54, state participation in the negotiated rate is determined according to section 256D.36.

Subd. 9. PERSONAL NEEDS ALLOWANCE. In addition to the negotiated rate paid for the room and board costs, a person residing in a negotiated rate residence shall receive an allowance for clothing and personal needs. The allowance shall not be less than that authorized for a medical assistance recipient in section 256B.35.

Sec. 120. [2561.06] PAYMENT METHODS.

New language is indicated by underline, deletions by ~~strikeout~~.

When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.01 to 256D.21, the monthly payment may be issued as a voucher or vendor payment. When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.33 to 256D.54, payments must be made to the recipient. If a recipient is not able to manage the recipient's finances, a representative payee must be appointed.

Sec. 121. Minnesota Statutes 1988, section 268.0111, subdivision 4, is amended to read:

Subd. 4. **EMPLOYMENT AND TRAINING SERVICES.** "Employment and training services" means programs, activities, and services related to job training, job placement, and job creation including job service programs, job training partnership act programs, wage subsidies, ~~work incentive programs,~~ work readiness programs, ~~employment job search,~~ counseling, case management, community work experience programs, displaced homemaker programs, disadvantaged job training programs, grant diversion, employment experience programs, youth employment programs, conservation corps, apprenticeship programs, community investment programs, supported work programs, community development corporations, economic development programs, and opportunities industrialization centers.

Sec. 122. Minnesota Statutes 1988, section 268.0111, is amended by adding a subdivision to read:

Subd. 5a. **INDIAN TRIBE.** For purposes of employment and training services, "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.

Sec. 123. Minnesota Statutes 1988, section 268.0122, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC POWERS.** The commissioner of jobs and training shall:

- (1) administer and supervise all forms of unemployment insurance provided for under federal and state laws that are vested in the commissioner;
- (2) administer and supervise all employment and training services assigned to the department of jobs and training under federal or state law;
- (3) review and comment on local service unit plans and community investment program plans and approve or disapprove the plans;
- (4) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department;

New language is indicated by underline, deletions by ~~strikeout~~.

(5) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(6) establish administrative standards and payment conditions for providers of employment and training services;

(7) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner; ~~and~~

(8) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services; and

(9) review and comment on plans for Indian tribe employment and training services and approve or disapprove the plans.

Sec. 124. Minnesota Statutes 1988, section 268.0122, subdivision 3, is amended to read:

Subd. 3. **DUTIES AS A STATE AGENCY.** The commissioner shall:

(1) administer the unemployment insurance laws and related programs;

(2) administer the aspects of aid to families with dependent children, general assistance, work readiness, and food stamps that relate to employment and training services, subject to the contract under section 268.86, subdivision 2;

(3) administer wage subsidies and the discretionary employment and training fund;

(4) administer a national system of public employment offices as prescribed by United States Code, title 29, chapter 4B, the Wagner-Peyser Act, and other federal employment and training programs;

(5) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;

(6) enter into agreements with other departments of the state and local units of government as necessary;

(7) certify employment and training service providers and decertify service providers that fail to comply with performance criteria according to standards established by the commissioner;

(8) provide consistent, integrated employment and training services across the state;

(9) establish the standards for all employment and training services administered under this chapter;

New language is indicated by underline, deletions by ~~strikeout~~.

(10) develop standards for the contents and structure of the local service unit plans and plans for Indian tribe employment and training services;

(11) provide current state and substate labor market information and forecasts, in cooperation with other agencies;

(12) identify underserved populations, unmet service needs, and funding requirements;

(13) consult with the council for the blind on matters pertaining to programs and services for the blind and visually impaired; ~~and~~

(14) submit to the governor, the commissioners of human services and finance, and the chairs of the senate finance and house appropriations committees a semiannual report that:

(a) reports, by client classification, an unduplicated count of the kinds and number of services furnished through each program administered or supervised by the department or coordinated with it;

(b) reports on the number of job openings listed, developed, available, and obtained by clients;

(c) identifies the number of cooperative agreements in place, the number of individuals being served, and the kinds of service provided them;

(d) evaluates the performance of services, such as wage subsidies, community investments, work readiness, and grant diversions; and

(e) explains the effects of current employment levels, unemployment rates, and program performance on the unemployment insurance fund and general assistance, work readiness, and aid to families with dependent children caseloads and program expenditures; and

(15) enter into agreements with Indian tribes as necessary to provide employment and training services as funds become available.

Sec. 125. Minnesota Statutes 1988, section 268.86, subdivision 2, is amended to read:

Subd. 2. **INTERAGENCY AGREEMENTS.** By October 1, 1987, the commissioner and the commissioner of human services shall enter into a written contract for the design, delivery, and administration of employment and training services for applicants for or recipients of food stamps or aid to families with dependent children and work readiness, including AFDC employment and training programs, grant diversion, and supported work. The contract must be approved by the coordinator and must address:

(1) specific roles and responsibilities of each department;

(2) assignment and supervision of staff for interagency activities including

New language is indicated by underline, deletions by ~~strikeout~~.

any necessary interagency employee mobility agreements under the administrative procedures of the department of employee relations;

(3) mechanisms for determining the conditions under which individuals participate in services, their rights and responsibilities while participating, and the standards by which the services must be administered;

(4) procedures for providing technical assistance to local service units, Indian tribes, and employment and training service providers;

(5) access to appropriate staff for ongoing development and interpretation of policy, rules, and program standards;

(6) procedures for reimbursing appropriate agencies for administrative expenses; and

(7) procedures for accessing available federal funds.

Sec. 126. Minnesota Statutes 1988, section 268.871, subdivision 5, is amended to read:

Subd. 5. **REPORTS.** Each employment and training service provider under contract with a local service unit or an Indian tribe to deliver employment and training services must submit an annual report by March 1 to the local service unit or the Indian tribe. The report must specify:

(1) the types of services provided;

(2) the number of priority and nonpriority AFDC recipients served, the number of work readiness assistance recipients served, and the number of other clients served;

(3) how resources will be prioritized to serve priority and nonpriority public assistance recipients and other clients; and

(4) the manner in which state employment and training funds and programs are being coordinated with federal and local employment and training funds and programs.

Sec. 127. Minnesota Statutes 1988, section 268.88, is amended to read:

268.88 LOCAL SERVICE UNIT PLANS.

(a) Local service units shall prepare and submit to the commissioner by April 15 of each year an annual plan for the subsequent ~~calendar~~ fiscal year. The commissioner shall notify each local service unit ~~by May 1 of each year if~~ within 60 days of receipt of its plan that the plan has been approved or disapproved. The plan must include:

(1) a statement of objectives for the employment and training services the local service unit administers;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the establishment of public assistance caseload reduction goals and the strategies and programs that will be used to achieve these goals;

(3) a statement of whether the goals from the preceding year were met and an explanation if the local service unit failed to meet the goals;

(4) the amount proposed to be allocated to each employment and training service;

(5) the proposed types of employment and training services the local service unit plans to utilize;

(6) a description of how the local service unit will use funds provided under section 256.736 to meet the requirements of that section. The description must include the two work programs required by section 256.736, subdivision 10, paragraph (a), clause (13), what services will be provided, number of clients served, per service expenditures, type of clients served, and projected outcomes;

(7) a report on the use of wage subsidies, grant diversions, community investment programs, ~~sliding fee day care~~, and other services administered under this chapter;

(8) an annual update of the community investment program plan according to standards established by the commissioner;

(9) a performance review of the employment and training service providers delivering employment and training services for the local service unit; ~~and~~

(10) a copy of any contract between the local service unit and an employment and training service provider including expected outcomes and service levels for public assistance clients; and

(11) a copy of any other agreements between educational institutions, family support services, and child care providers.

(b) In counties with a city of the first class, the county and the city shall develop and submit a joint plan. The plan may not be submitted until agreed to by both the city and the county. The plan must provide for the direct allocation of employment and training money to the city and the county unless waived by either. If the county and the city cannot concur on a plan, the commissioner shall resolve their dispute. In counties in which a federally recognized Indian tribe is operating an employment and training program under an agreement with the commissioner of human services, the plan must provide that the county will coordinate its employment and training programs, including developing a system for referrals, sanctions, and the provision of supporting services such as access to child care funds and transportation with programs operated by the Indian tribe. The plan may not be given final approval by the commissioner until the tribal unit and county have submitted written agreement on these provisions in the plan. If the county and Indian tribe cannot agree on these provisions, the local service unit shall notify the commissioner of jobs and training and the commissioners of jobs and training and human services shall resolve the dispute.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The commissioner may withhold the distribution of employment and training money from a local service unit that does not submit a plan to the commissioner by the date set by this section, and shall withhold the distribution of employment and training money from a local service unit whose plan has been disapproved by the commissioner until an acceptable amended plan has been submitted.

(d) ~~For 1987, local service unit plans must be submitted by October 1, 1987. The plan must include the implementation plan for aid to families with dependent children employment and training services as required under Laws 1987, chapter 403, article 3, section 91. Notwithstanding Minnesota Statutes 1988, section 268.88, local service units shall prepare and submit to the commissioner by June 1, 1989, an annual plan for fiscal year 1990. The commissioner shall notify each local service unit within 30 days of receipt of its plan if its plan has been approved or disapproved.~~

Sec. 128. [268.881] INDIAN TRIBE PLANS.

The commissioner, in consultation with the commissioner of human services, shall review and comment on Indian tribe plans submitted to the commissioner for provision of employment and training services. The plan must be submitted by April 15 for the state fiscal year ending June 30, 1990. For subsequent years, the plan must be submitted at least 60 days before the program commences. The commissioner shall approve or disapprove the plan for the state fiscal year ending June 30, 1990, within 30 days of receipt. The commissioner shall notify the Indian tribe of approval or disapproval of plans for subsequent years within 60 days of submission of the plans. The grant proposal must contain information that has been established by the commissioner and the commissioner of human services for the employment and training services grant program for Indian tribes.

Sec. 129. Laws 1987, chapter 403, article 3, section 98, is amended to read:

Sec. 98. REPEALER.

Minnesota Statutes 1986, sections 257.34, subdivision 2; and section 268.86, subdivisions 1, 3, 4, and 5, are repealed. Section 95 is repealed effective ~~June 30, 1989~~ October 1, 1990.

Sec. 130. IMPLEMENTATION.

The commissioner is authorized to proceed with the planning and designing of the Minnesota family investment plan, according to the requirements of Minnesota Statutes, sections 256.031 to 256.036. Sections 256.031 to 256.036 may not be implemented or enforced until the legislature authorizes a specific date for implementation either statewide or on a field trial basis. The definition of family in section 256.032, subdivision 7, shall not be construed to define what an assistance unit or filing unit is in the Minnesota family investment plan on and after the effective date of sections 256.031 to 256.036, this section, and

New language is indicated by underline, deletions by ~~strikeout~~.

amendments to section 256.045, subdivision 3, in section 13. The commissioner shall study the relevance of these concepts for the Minnesota family investment plan and include recommendations in the Minnesota family investment plan and funding request. The commissioner shall include in the Minnesota family investment plan a mechanism to empower the parental caregiver in a dispute regarding the contents of a contract. This mechanism shall be available before the caregiver is given a notice of intent to implement sanctions as required under section 256.035, subdivision 3. This mechanism may be a hearing under section 256.045.

Sec. 131. MIGRANT ISSUES TASK FORCE.

The department of human services, in coordination with the Minnesota housing finance agency, shall convene a task force to consider issues relating to public assistance and housing for migrant farm workers. The task force shall include migrant workers, representatives of communities in which migrant workers reside, employers of migrant workers, particularly agricultural employers, representatives of housing agencies, and representatives of advocacy groups. The task force shall report back to the legislature by February 1, 1990, with recommendations.

Sec. 132. PLAN AND FUNDING REQUEST.

After securing federal approval to implement the Minnesota family investment plan on a field trial basis, the commissioner shall submit a plan and funding request to the legislature for specific appropriations for the implementation of field trials.

Sec. 133. REPEALER.

Subdivision 1. WELFARE REFORM. Minnesota Statutes 1988, sections 256D.051, subdivision 6a, and 268.86, subdivision 7, are repealed.

Subd. 2. AFDC AND MSA SIMPLIFICATION. (a) Sections 256D.01, subdivision 1c; and 256D.06, subdivisions 3, 4, and 6, are repealed.

(b) Sections 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; and 256D.43, are repealed.

Subd. 3. GENERAL ASSISTANCE AND WORK READINESS. Minnesota Statutes 1988, sections 256D.06, subdivisions 3, 4, 6, and 6a; and 256D.052, subdivisions 5, 6, and 7, are repealed effective October 1, 1990.

Sec. 134. EFFECTIVE DATES.

Sections 21; 42; 43; the changes in section 44 relating to the general assistance and work readiness programs; 45, subdivision 1c, paragraphs (b), (c), (d), and (e); 46 to 61; and 63 to 71, are effective October 1, 1990. Section 37 is effective October 1, 1989. Sections 92; 103, subdivisions 1, 2, 3, and 5; and 104, subdivision 3, are effective July 1, 1990. Section 129 is effective the day following final enactment.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 6

REGIONAL TREATMENT CENTERS

Section 1. FINDING.

The legislature finds that it is beneficial to encourage the placement of persons requiring residential, health care, and treatment services in community-based facilities and in the regional treatment centers. It is the policy of the state to:

(1) carry out measures that encourage the delivery of these services in a manner that ensures fair and equitable arrangements to protect the interests of the affected residents, family members, employees, providers, and communities; and

(2) provide adequate staff and funding at regional treatment centers and all state facilities to ensure that existing programs and new programs that may be developed meet all licensing and certification standards and contemporary standards of care.

Sec. 2. [245.073] TECHNICAL TRAINING ASSISTANCE TO COMMUNITY-BASED PROGRAMS.

In conjunction with the discharge of persons from regional treatment centers and their admission to state-operated and privately operated community-based programs, the commissioner may provide technical training assistance to the community-based programs. The commissioner may apply for and accept money from any source including reimbursement charges from the community-based programs for reasonable costs of training. Money received must be deposited in the general fund and is appropriated annually to the commissioner of human services for training under this section.

Sec. 3. Minnesota Statutes 1988, section 245.463, is amended by adding a subdivision to read:

Subd. 4. REVIEW OF FUNDING. The commissioner shall complete a review of funding for mental health services and make recommendations for any changes needed. The commissioner shall submit a report on the review and recommendations to the legislature by January 31, 1991.

Sec. 4. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

Subd. 5. REPORT ON PREADMISSION SCREENING. The commissioner shall review the statutory preadmission screening requirements for psychiatric hospitalization, both in the regional treatment centers and other hospitals, to determine if changes in preadmission screening are needed. The commissioner shall deliver a report of the review to the legislature by January 31, 1990.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 5. [245.652] **CHEMICAL DEPENDENCY SERVICES FOR REGIONAL TREATMENT CENTERS.**

Subdivision 1. PURPOSE. The regional treatment centers shall provide services designed to end a person's reliance on chemical use or a person's chemical abuse and increase effective and chemical-free functioning. Clinically effective programs must be provided in accordance with section 246.64.

Subd. 2. SERVICES OFFERED. Services provided must include, but are not limited to, the following:

(1) primary and extended residential care, including residential treatment programs of varied duration intended to deal with a person's chemical dependency or chemical abuse problems;

(2) follow-up care to persons discharged from regional treatment center programs;

(3) outpatient treatment programs; and

(4) other treatment services, as appropriate and as provided under contract or shared service agreements.

Subd. 3. PERSONS SERVED. The regional treatment centers shall provide services primarily to adolescent and adult residents of the state.

Subd. 4. SYSTEM LOCATIONS. Programs shall be located in Anoka, Brainerd, Fergus Falls, Moose Lake, St. Peter, and Willmar.

Sec. 6. Minnesota Statutes 1988, section 246.18, is amended by adding a subdivision to read:

Subd. 3a. CONTINGENCY FUND. A separate interest-bearing account must be established in accordance with subdivision 3 for use by the commissioner of human services in contingency situations related to chemical dependency programs operated by the regional treatment centers or state nursing homes. Within the limits of appropriations made available for this purpose, money must be provided to each regional treatment center to enable each center to continue to provide chemical dependency services.

Sec. 7. Minnesota Statutes 1988, section 246.18, subdivision 4, is amended to read:

Subd. 4. COLLECTIONS DEPOSITED IN MEDICAL ASSISTANCE ACCOUNT. Except as provided in subdivision 2, all receipts from collection efforts for the regional treatment centers and state nursing homes, and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimburse-

New language is indicated by underline, deletions by ~~strikeout~~.

ment for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 8. Minnesota Statutes 1988, section 246.36, is amended to read:

246.36 ACCEPTANCE OF VOLUNTARY, UNCOMPENSATED SERVICES.

For the purpose of carrying out a duty, the commissioner of human services shall have authority to accept uncompensated and voluntary services and to enter into contracts or agreements with private or public agencies, or persons, for uncompensated and voluntary services, as the commissioner may deem practicable. Uncompensated and voluntary services do not include services mandated by licensure and certification requirements for health care facilities. The volunteer agencies, organizations, or persons who provide services to residents of state ~~hospitals~~ shall facilities operated under the authority of the commissioner are not be subject to the procurement requirements of chapters 16A and 16B. The agencies, organizations, or persons may purchase supplies, services, and equipment to be used in providing services to residents of state ~~hospitals~~ facilities through the department of administration.

Sec. 9. Minnesota Statutes 1988, section 246.57, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZED.** The commissioner of human services may authorize any ~~regional center or state operated nursing home~~ state facility operated under the authority of the commissioner to enter into agreement with other governmental entities and both nonprofit and ~~profit health service for-profit~~ organizations for participation in shared service agreements that would be of mutual benefit to the state, other governmental entities and ~~health service~~ organizations involved, and the public. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of shared services contracts to the chief executive officers of the regional centers or state operated nursing homes. No additional employees shall be added to the legislatively approved complement for any regional center or state nursing home as a result of entering into any shared service agreement. However, positions funded by a shared service agreement may be authorized by the commissioner of finance for the duration of the shared service agreement. The charges for the services shall be on an actual cost basis ~~and~~. All receipts shall be deposited in the general fund. ~~The receipts are appropriated to the commissioner of human services for the duration of the shared service agreement to make expenditures under the agreement that are not covered by other appropriations for shared services may be retained by the regional treatment center or state-operated nursing home that provided the services, in addition to other funding the regional treatment center or state-operated nursing home receives.~~

Sec. 10. **[246.70] SERVICES TO FAMILIES.**

(a) The commissioner shall publicize the planned changes to the facilities operated by the commissioner. A parent, other involved family member, or private guardian of a resident of a facility must be notified of the changes

New language is indicated by underline, deletions by ~~strikeout~~.

planned for each facility. When new services developed for a person require the person to move, the commissioner shall provide each parent, family member, and guardian of that person with the following:

- (1) names and telephone numbers of the state and county contacts;
 - (2) information on types of services to be developed;
 - (3) information on how the individual planning process works, including how alternative placements will be determined, and how family members can be involved;
 - (4) information on the process to be followed when a parent, other family member, or guardian disagrees with the proposed services; and
 - (5) a list of additional resources such as advocates, local volunteer coordinators, and family groups.
- (b) At least one staff person in each facility must be available to provide information about:

- (1) community placements;
- (2) the opportunity for interested family members and guardians to participate in program planning; and
- (3) family support groups.

Sec. 11. Minnesota Statutes 1988, section 251.011, subdivision 4, is amended to read:

Subd. 4. **OAK TERRACE NURSING HOME.** Any portion or unit of Glen Lake Sanitarium not used for the treatment of tuberculosis patients may be used by the commissioner of human services for the care of geriatric patients, under the name of Oak Terrace Nursing Home.

The commissioner of administration may lease any portion or unit of Oak Terrace Nursing Home for the purpose of providing food and shelter for the homeless.

The facility at Oak Terrace must be closed as soon as a reasonable plan for relocation of its residents can be safely implemented and employee mitigation measures completed, but no later than July 1, 1992. Relocation of persons must be carefully planned and take into account any remaining ties the person has to family or community, available capacity in private and state-operated nursing homes, and personal choices and needs of the resident. Relocation must be implemented according to Minnesota Rules, parts 4655.6810 to 4655.6830 and 9546.0010 to 9546.0060.

Sec. 12. Minnesota Statutes 1988, section 251.011, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4a. NURSING HOME BEDS AT REGIONAL TREATMENT CENTERS. The commissioner shall operate the following number of nursing home beds at regional treatment centers in addition to current capacity: at Brainerd, 105 beds; at Cambridge, 70 beds; and at Fergus Falls, 85 beds. The commissioner may operate nursing home beds at other regional treatment centers as necessary to provide an appropriate level of care for persons served at those centers.

Sec. 13. [251.012] PROVISION OF NURSING HOME SERVICES.

Subdivision 1. NURSING HOME CARE. (a) The commissioner shall provide nursing home care to a person requiring and eligible for that level of care when the person:

- (1) is medically fragile or clinically challenging;
- (2) exhibits severe or challenging behaviors; or
- (3) requires treatment for an underlying mental illness.

(b) A person may be accepted for admission only after nursing home preadmission screening by the county.

Subd. 2. TECHNICAL ASSISTANCE. Within the limits of appropriations, the commissioner may expand the provision of technical assistance to community providers in handling the behavior problems of their residents, and with community placements for younger persons who have heavy nursing needs and behavior problems. Technical assistance may include site visits, consultation with providers, or provider training.

Subd. 3. AUXILIARY SERVICES. The nursing homes may enter into agreements according to section 246.57 to provide other services needed in the region that build on the services provided by the regional nursing homes and that are offered in conjunction with a community or community group.

Subd. 4. RESPITE CARE. Respite care may be offered when space is available if payment for the cost of care is guaranteed by the person, the person's family or legal representative, or a source other than a direct state appropriation to the nursing home, and if the individual meets the facility's admission criteria.

Sec. 14. Minnesota Statutes 1988, section 252.025, is amended by adding a subdivision to read:

Subd. 4. STATE-PROVIDED SERVICES. (a) It is the policy of the state to capitalize and recapitalize the regional treatment centers as necessary to prevent depreciation and obsolescence of physical facilities and to ensure they retain the physical capability to provide residential programs. Consistent with that policy and with section 252.50, and within the limits of appropriations made available for this purpose, the commissioner may establish, by June 30, 1991, the following state-operated, community-based programs for the least vulnerable regional

New language is indicated by underline, deletions by strikeout.

treatment center residents: at Brainerd regional services center, two residential programs and two day programs; at Cambridge regional treatment center, four residential programs and two day programs; at Faribault regional treatment center, ten residential programs and six day programs; at Fergus Falls regional treatment center, two residential programs and one day program; at Moose Lake regional treatment center, four residential programs and two day programs; and at Willmar regional treatment center, two residential programs and one day program.

(b) By January 15, 1991, the commissioner shall report to the legislature a plan to provide continued regional treatment center capacity and state-operated, community-based residential and day programs for persons with developmental disabilities at Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter, and Willmar, as follows:

(1) by July 1, 1998, continued regional treatment center capacity to serve 350 persons with developmental disabilities as follows: at Brainerd, 80 persons; at Cambridge, 12 persons; at Faribault, 110 persons; at Fergus Falls, 60 persons; at Moose Lake, 12 persons; at St. Peter, 35 persons; at Willmar, 25 persons; and up to 16 crisis beds in the Twin Cities metropolitan area; and

(2) by July 1, 1999, continued regional treatment center capacity to serve 254 persons with developmental disabilities as follows: at Brainerd, 57 persons; at Cambridge, 12 persons; at Faribault, 80 persons; at Fergus Falls, 35 persons; at Moose Lake, 12 persons; at St. Peter, 30 persons; at Willmar, 12 persons, and up to 16 crisis beds in the Twin Cities metropolitan area. In addition, the plan shall provide for the capacity to provide residential services to 570 persons with developmental disabilities in 95 state-operated, community-based residential programs.

Sec. 15. [252.032] ADMINISTRATIVE STRUCTURE.

Subdivision 1. REGIONAL STRUCTURE. The administrative structure of the state-operated system must be regional in character.

Subd. 2. STAFF; LOCATION OF FACILITIES. The administrative and professional staffs of the regional treatment centers must be based on campus. Community-based facilities and services must be located and operated so they facilitate the delivery of professional and administrative staff services from the regional treatment center campus. The regional treatment center professional staff and all other staff may deliver services that they deliver on campus throughout the catchment area.

Sec. 16. [252.035] REGIONAL TREATMENT CENTER CATCHMENT AREAS.

The commissioner may administratively designate catchment areas for regional treatment centers and state nursing homes. Catchment areas may vary by client group served. Catchment areas in effect on January 1, 1989, may not be

New language is indicated by underline, deletions by ~~strikeout~~.

modified until the commissioner has consulted with the regional planning committees of the affected regional treatment centers and with the chairs of the senate health and human services finance division and the house of representatives health and human services appropriation division.

Sec. 17. **[252.038] PROVISION OF RESIDENTIAL SERVICES.**

Subdivision 1. RESIDENTIAL CARE. The commissioner of human services may continue to provide residential care in regional treatment centers.

Subd. 2. TECHNICAL ASSISTANCE. To the extent of available money, the commissioner of human services may expand the capacity to provide technical assistance to community providers in handling the behavior problems of their patients. Technical assistance may include site visits, consultation with providers, or provider training.

Subd. 3. RESPITE CARE. Respite care may be provided in a regional treatment center when space is available if (1) payment for 20 percent of the prevailing facility per diem is guaranteed by the person, the person's family or legal representative, or a source other than a direct state appropriation to the regional treatment center and (2) provision of respite care to the individual meets the facility's admission criteria and licensing standards. The parent or guardian must consent to admission and sign a waiver of liability. Respite care is limited to 30 days within a calendar year. No preadmission screening process is required for a respite care stay under this subdivision.

Sec. 18. Minnesota Statutes 1988, section 252.291, subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** (a) The commissioner of human services in coordination with the commissioner of health may approve a newly constructed or newly established publicly or privately operated community intermediate care facility for six or fewer persons with mental retardation or related conditions only when the following circumstances exist:

(a) ~~when~~ (1) the facility is developed in accordance with a request for proposal approved by the commissioner of human services;

(b) ~~when~~ (2) the facility is necessary to serve the needs of identified persons with mental retardation or related conditions who are seriously behaviorally disordered or who are seriously physically or sensorily impaired. At least 50 No more than 40 percent of the capacity of the facility specified in the proposal submitted to the commissioner must be used for persons coming being discharged from regional treatment centers; and

(c) ~~when~~ (3) the commissioner determines that the need for increased service capacity cannot be met by the use of alternative resources or the modification of existing facilities.

(b) The percentage limitation in paragraph (a), clause (2), does not apply to state-operated, community-based facilities.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 19. Minnesota Statutes 1988, section 252.31, is amended to read:

252.31 ADVISORY TASK FORCE.

The commissioner of human services may appoint an advisory task force for services to persons with mental retardation, related conditions, or physical handicaps. The task force shall advise the commissioner relative to those laws for which the commissioner is responsible to administer and enforce relating to mental retardation or related conditions and physical disabilities. The commissioner also may request the task force for advice on implementing a comprehensive plan of services necessary to provide for the transition of persons with mental retardation or related conditions from regional treatment centers services to community-based programs. The task force shall consist of persons who are providers or consumers of service for persons with mental retardation, related conditions, or physical handicaps, or who are interested citizens. The task force shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Sec. 20. Minnesota Statutes 1988, section 252.41, subdivision 9, is amended to read:

Subd. 9. **VENDOR.** "Vendor" means a nonprofit legal entity that:

(1) is licensed under sections ~~245.784~~ 245A.01 to ~~245.812~~ 245A.16 and 252.28, subdivision 2, to provide day training and habilitation services to adults with mental retardation and related conditions; and

(2) does not have a financial interest in the legal entity that provides residential services to the same person or persons to whom it provides day training and habilitation services. This clause does not apply to regional treatment centers, state-operated, community-based programs operating according to section 252.50 until July 1, 2000, or vendors licensed prior to April 15, 1983.

Sec. 21. Minnesota Statutes 1988, section 252.50, is amended to read:

252.50 STATE-OPERATED, COMMUNITY-BASED RESIDENTIAL PROGRAMS.

Subdivision 1. **RESIDENTIAL COMMUNITY-BASED PROGRAMS ESTABLISHED.** The commissioner ~~may~~ shall establish a system of ~~noninstitutional~~; state-operated, community-based residential services programs for persons with mental retardation or related conditions. For purposes of this section, "state-operated, community-based residential facility program" means a ~~residential~~ program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with mental retardation or related conditions. Employees of the ~~facilities~~ programs must be state employees under chapters 43A and 179A. The establishment of state-operated, community-based ~~residential facilities~~ programs must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of

New language is indicated by underline, deletions by ~~strikeout~~.

state-operated services must be defined within the context of a comprehensive system of services for persons with mental retardation or related conditions. Services State-operated, community-based programs may include, but are not limited to, community group homes, foster care, supportive living ~~arrangements~~ services, day training and habilitation programs, and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and ~~may shall~~, within the limits of available appropriations, establish additional state-operated, community-based services programs for ~~regional treatment center residents~~ persons with mental retardation or related conditions. Day program services for clients living in state-operated, community-based residential facilities must not be provided by a regional treatment center or a state-operated, community-based program. State-operated, community-based programs may accept admissions from regional treatment centers, from the person's own home, or from community programs. State-operated, community-based programs offering day program services may be provided for persons with mental retardation or related conditions who are living in state-operated, community-based residential programs until July 1, 2000. No later than 1994, the commissioner, together with family members, counties, advocates, employee representatives, and other interested parties, shall begin planning so that by July 1, 2000, state-operated, community-based residential facilities will be in compliance with section 252.41, subdivision 9.

Subd. 2. **AUTHORIZATION TO BUILD OR PURCHASE.** Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based residential facilities programs. Facilities Programs must be ~~homelike and~~ adaptable to the needs of persons with mental retardation or related conditions and residential programs must be homelike.

Subd. 3. **ALTERNATIVE FUNDING MECHANISMS.** To the extent possible, the commissioner may amend the medical assistance home and community-based waiver and, as appropriate, develop special waiver procedures for targeting services to persons currently in state regional treatment centers.

Subd. 4. **COUNTIES.** State-operated, community-based residential facilities programs may be developed in conjunction with existing county responsibilities and authorities for persons with mental retardation or related conditions. Assessment, placement, screening, case management responsibilities, and determination of need procedures must be consistent with county responsibilities established under law and rule. Counties may enter into shared service agreements with state-operated programs.

Subd. 5. **LOCATION OF PROGRAMS.** (a) In determining the location of state-operated, community-based programs, the needs of the individual client shall be paramount. The commissioner shall also take into account:

(1) the personal preferences of the persons being served and their families as determined by Minnesota Rules, parts 9525.0015 to 9525.0165;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) location of the support services established by the individual service plans of the persons being served;

(3) the appropriate grouping of the persons served;

(4) the availability of qualified staff;

(5) the need for state-operated, community-based programs in the geographical region of the state; and

(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

(b) State-operated, community-based programs must be located according to section 252.28.

Subd. 6. RATES FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL RETARDATION. State-operated, community-based programs that meet the definition of a facility in Minnesota Rules, part 9553.0020, subpart 19, must be reimbursed consistent with Minnesota Rules, parts 9553.0010 to 9553.0080. State-operated, community-based programs that meet the definition of vendor in section 252.41, subdivision 9, must be reimbursed consistent with the rate setting procedures in sections 252.41 to 252.47 and Minnesota Rules, parts 9525.1200 to 9525.1330. This subdivision does not operate to abridge the statutorily created pension rights of state employees or collective bargaining agreements reached pursuant to chapter 179A.

Subd. 7. CRISIS SERVICES. Within the limits of appropriations, state-operated regional technical assistance must be available in each region to assist counties, residential and day programming staff, and families to prevent or resolve crises that could lead to a change in placement. Crisis capacity must be provided on all regional treatment center campuses serving persons with developmental disabilities. In addition, crisis capacity may be developed to serve 16 persons in the Twin Cities metropolitan area. Technical assistance and consultation must also be available in each region to providers and counties. Staff must be available to provide:

(1) individual assessments;

(2) program plan development and implementation assistance;

(3) analysis of service delivery problems; and

(4) assistance with transition planning, including technical assistance to counties and providers to develop new services, site the new services, and assist with community acceptance.

Subd. 8. SPIRITUAL CARE SERVICES. An organized means for providing spiritual care services and follow-up may be established as part of the comprehensive health care, congruent with the operational philosophy of the

New language is indicated by underline, deletions by ~~strikeout~~.

department of human services, to residents of state-operated residential facilities and former residents discharged to private facilities, by persons certified for ministry in specialized settings.

Subd. 9. EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT. The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services, including state-operated programs for persons with developmental disabilities.

The commissioner shall evaluate the progress of the development and quality of community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1991, and January 31, 1993.

Subd. 10. RULES AND LICENSURE. Each state-operated residential and day habilitation service site shall be separately licensed and movement of residents between them shall be governed by applicable rules adopted by the commissioner.

Subd. 11. AGREEMENT AUTHORIZED. The agreement between the commissioner of human services, the state negotiator, and the bargaining representatives of state employees, dated March 10, 1989, concerning the department of human services plan to restructure the regional treatment centers, is ratified, subject to approval by the legislative commission on employee relations.

Sec. 22. [252.51] COMMUNITY PLANNING.

Each community where there is a regional treatment center shall establish a group to work with and advise the commissioner and the counties to:

(1) ensure community input in the development of community services for persons with developmental disabilities;

(2) assure consideration of family concern about choice of service settings;

(3) assist counties in recruiting new providers, capitalizing, and siting new day services and residential programs;

(4) work with the surrounding counties to coordinate development of services for persons with developmental disabilities;

(5) facilitate community education concerning services to persons with developmental disabilities;

(6) assist in recruiting potential supported employment opportunities;

(7) assist in developing shared services agreements among providers of service;

(8) coordinate with the development of state-operated services; and

New language is indicated by underline, deletions by ~~strikeout~~.

(9) seek to resolve local transportation issues for people with developmental disabilities.

Funds appropriated to the department of human services for this purpose shall be transferred to the city in which the regional treatment center is located upon receipt of evidence from the city that such a group has been constituted and designated. The funds shall be used to defray the expenses of the group.

The membership of each community group must reflect a broad range of community interests, including, at a minimum, families of persons with developmental disabilities, state employee unions, providers, advocates, and counties.

Sec. 23. Minnesota Statutes 1988, section 252A.03, is amended by adding a subdivision to read:

Subd. 4. ALTERNATIVES. Public guardianship or conservatorship may be imposed only when no acceptable, less restrictive form of guardianship or conservatorship is available. The commissioner shall seek parents, near relatives, and other interested persons to assume private guardianship for persons with developmental disabilities who are currently under public guardianship. If a person seeks to become a private guardian or conservator, costs to the person may be reimbursed under section 525.703, subdivision 3, paragraph (b). The commissioner must provide technical assistance to parents, near relatives, and interested persons seeking to become private guardians or conservators.

Sec. 24. Minnesota Statutes 1988, section 253.015, is amended to read:

253.015 LOCATION; MANAGEMENT; COMMITMENT; CHIEF EXECUTIVE OFFICER.

Subdivision 1. STATE HOSPITALS FOR PERSONS WITH MENTAL ILLNESS. The state hospitals located at Anoka, ~~Brainerd~~, Fergus Falls, ~~Hastings~~, Moose Lake, ~~Rochester~~, St. Peter, and Willmar shall constitute the state hospitals for ~~mentally ill~~ persons with mental illness, and shall be maintained under the general management of the commissioner of human services. The commissioner of human services shall determine to what state hospital persons with mental illness shall be committed from each county and notify the probate judge thereof, and of changes made from time to time. The chief executive officer of each hospital for persons with mental illness shall be known as the chief executive officer.

Subd. 2. PLAN FOR NEEDED REGIONAL TREATMENT CENTER SERVICES. (a) By January 30, 1990, the commissioner shall develop and submit to the legislature a plan to implement a program for persons in southeastern Minnesota who are mentally ill.

(b) By January 1, 1990, the commissioner shall develop a plan to establish a comprehensive brain injury treatment program at the Faribault regional center site to meet the needs of people with brain injuries in Minnesota. The program

New language is indicated by underline, deletions by ~~strikeout~~.

shall provide post-acute, community integration and family support services for people with brain injuries which have resulted in behavior, cognitive, emotional, communicative and mobility impairments or deficits. The plan shall include development of a brain injury residential unit, a functional evaluation outpatient clinic and an adaptive equipment center within the outpatient clinic. Health care services already available at the regional center or from the Faribault community must be utilized, and the plan shall include provisions and cost estimates for capital improvements, staff retraining, and program start-up costs.

(c) By January 1, 1990, the commissioner shall develop a plan to establish 35 auxiliary beds at Brainerd regional treatment center for the Minnesota security hospital.

Sec. 25. [253.016] PURPOSE OF REGIONAL TREATMENT CENTERS.

The primary mission of the regional treatment centers for persons with major mental illness is to provide inpatient psychiatric hospital services. The regional treatment centers are part of a comprehensive mental health system. Regional treatment center services must be integrated into an array of services based on assessment of individual needs.

Sec. 26. [253.017] TREATMENT PROVIDED BY REGIONAL TREATMENT CENTERS.

Subdivision 1. ACTIVE PSYCHIATRIC TREATMENT. The regional treatment centers shall provide active psychiatric treatment according to contemporary professional standards. Treatment must be designed to:

- (1) stabilize the individual and the symptoms that required hospital admission;
- (2) restore individual functioning to a level permitting return to the community;
- (3) strengthen family and community support; and
- (4) facilitate discharge, after care, and follow-up as patients return to the community.

Subd. 2. NEED FOR SERVICES. The commissioner shall determine the need for the psychiatric services provided by the department based upon individual needs assessments of persons in the regional treatment centers as required by section 245.474, subdivision 2, and an evaluation of: (1) regional treatment center programs, (2) programs needed in the region for persons who require hospitalization, and (3) available epidemiologic data. Throughout its planning and implementation, the assessment process must be discussed with the state advisory council on mental health in accordance with its duties under section 245.697. Continuing assessment of this information must be considered in planning for and implementing changes in state-operated programs and facilities for persons with mental illness. By January 31, 1990, the commissioner shall

New language is indicated by underline, deletions by ~~strikeout~~.

submit a proposal for renovation or new construction of the facilities at Anoka, Brainerd, Moose Lake, and Fergus Falls. Expansion may be considered only after a thorough analysis of need and in conjunction with a comprehensive mental health plan.

Subd. 3. DISSEMINATION OF ADMISSION AND STAY CRITERIA.
The commissioner shall periodically disseminate criteria for admission and continued stay in a regional treatment center and security hospital. The commissioner shall disseminate the criteria to the courts of the state and counties.

Sec. 27. [253.018] PERSONS SERVED.

The regional treatment centers shall primarily serve adults. Programs treating children and adolescents who require the clinical support available in a psychiatric hospital may be maintained on present campuses until adequate state-operated alternatives are developed off campus according to the criteria of section 253.28, subdivision 2.

Sec. 28. [253.28] STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.

Subdivision 1. PROGRAMS FOR PERSONS WITH MENTAL ILLNESS. Beginning July 1, 1991, the commissioner may establish a system of state-operated, community-based programs for persons with mental illness. For purposes of this section, "state-operated, community-based program" means a program administered by the state to provide treatment and habilitation in community settings to persons with mental illness. Employees of the programs must be state employees under chapters 43A and 179A. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental illness. Services may include, but are not limited to, community residential treatment facilities for children and adults.

Subd. 2. LOCATION OF PROGRAMS FOR PERSONS WITH MENTAL ILLNESS. In determining the location of state-operated, community-based programs, the needs of the individual clients shall be paramount. The commissioner shall take into account:

- (1) the personal preferences of the persons being served and their families;
- (2) location of the support services needed by the persons being served as established by an individual service plan;
- (3) the appropriate grouping of the persons served;
- (4) the availability of qualified staff;
- (5) the need for state-operated, community-based programs in the geographical region of the state; and
- (6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT. The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services including state-operated programs to persons with mental illness. The commissioner shall evaluate the progress of the development and quality of the community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1993.

Sec. 29. Minnesota Statutes 1988, section 256B.092, subdivision 7, is amended to read:

Subd. 7. SCREENING TEAMS ESTABLISHED. (a) Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who are entitled to the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of an individual to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager, the client, a parent or guardian, a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 442.401, as amended through December 31, 1987. For individuals determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the client's physician, other health professionals or other persons as necessary to make this evaluation. The case manager, with the concurrence of the client or the client's legal representative, may invite other persons to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case.

(b) In addition to the requirements of paragraph (a), the following conditions apply to the discharge of persons with mental retardation or a related condition from a regional treatment center:

(1) For a person under public guardianship, at least two weeks prior to each screening team meeting the case manager must notify in writing parents, near relatives, and the ombudsman established under section 245.92 or a designee, and invite them to attend. The notice to parents and near relatives must include: (i) notice of the provisions of section 252A.03, subdivision 4, regarding assistance to persons interested in assuming private guardianship; (ii) notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7); and (iii) information about advocacy services available to assist parents and near relatives of persons with mental retardation or related conditions. In the case of an emergency screening meeting, the notice must be provided as far in advance as practicable.

New language is indicated by underline, deletions by ~~strikeout~~.

(2) Prior to the discharge, a screening must be conducted under subdivision 8 and a plan developed under subdivision 1a. For a person under public guardianship, the county shall encourage parents and near relatives to participate in the screening team meeting. The screening team shall consider the opinions of parents and near relatives in making its recommendations. The screening team shall determine that the services outlined in the plan are available in the community before recommending a discharge. The case manager shall provide a copy of the plan to the person, legal representative, parents, near relatives, the ombudsman established under section 245.92, and the protection and advocacy system established under United States Code, title 42, section 6042, at least 30 days prior to the date the proposed discharge is to occur. The information provided to parents and near relatives must include notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7). If a discharge occurs, the case manager and a staff person from the regional treatment center from which the person was discharged must conduct a monitoring visit as required in Minnesota Rules, part 9525.0115, within 90 days of discharge and provide an evaluation within 15 days of the visit to the person, legal representative, parents, near relatives, ombudsman, and the protection and advocacy system established under United States Code, title 42, section 6042.

(3) In order for a discharge or transfer from a regional treatment center to be approved, the concurrence of a majority of the screening team members is required. The screening team shall determine that the services outlined in the discharge plan are available and accessible in the community before the person is discharged. The recommendation of the screening team cannot be changed except by subsequent action of the team and is binding on the county and on the commissioner. If the commissioner or the county determines that the decision of the screening team is not in the best interests of the person, the commissioner or the county may seek judicial review of the screening team recommendation. A person or legal representative may appeal under section 256.045, subdivision 3 or 4a.

(4) For persons who have overriding health care needs or behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, the following additional conditions must be met:

(i) For a person with overriding health care needs, either a registered nurse or a licensed physician shall review the proposed community services to assure that the medical needs of the person have been planned for adequately. For purposes of this paragraph, "overriding health care needs" means a medical condition that requires daily clinical monitoring by a licensed registered nurse.

(ii) For a person with behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, a qualified mental retardation professional, as defined in paragraph (a), shall review the proposed community services to assure that the

New language is indicated by underline, deletions by strikeout.

behavioral needs of the person have been planned for adequately. The qualified mental retardation professional must have at least one year of experience in the areas of assessment, planning, implementation, and monitoring of individual habilitation plans that have used behavior intervention techniques.

(5) No person with mental retardation or a related condition may be discharged from a regional treatment center before an appropriate community placement is available to receive the person.

(6) A resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than 15 beds. Effective July 1, 1993, a resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than ten beds.

(7) If the person, legal representative, parent, or near relative of the person proposed to be discharged from a regional treatment center objects to the proposed discharge, the individual who objects to the discharge may request a review under section 256.045, subdivision 4a, and may request reimbursement as allowed under section 256.045. The person must not be transferred from a regional treatment center while a review or appeal is pending. Within 30 days of the request for a review, the local agency shall conduct a conciliation conference and inform the individual who requested the review in writing of the action the local agency plans to take. The conciliation conference must be conducted in a manner consistent with section 256.045, subdivision 4a. A person, legal representative, parent, or near relative of the person proposed to be discharged who is not satisfied with the results of the conciliation conference may submit to the commissioner a written request for a hearing before a state human services referee under section 256.045, subdivision 4a. The person, legal representative, parent, or near relative of the person proposed to be discharged may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal on the commissioner and any adverse party of record within 30 days after the day the commissioner issued the order and by filing the original notice and proof of service with the court administrator of the district court. Judicial review must proceed under section 256.045, subdivisions 7 to 10. For a person under public guardianship, the ombudsman established under section 245.92 may object to a proposed discharge by requesting a review or hearing or by appealing to district court as provided in this clause. The person must not be transferred from a regional treatment center while a conciliation conference or appeal of the discharge is pending.

Sec. 30. Minnesota Statutes 1988, section 256B.092, subdivision 8, is amended to read:

Subd. 8. **SCREENING TEAM DUTIES.** The screening team shall:

(a) review diagnostic data;

New language is indicated by underline, deletions by ~~strikeout~~.

(b) review health, social, and developmental assessment data using a uniform screening tool specified by the commissioner;

(c) identify the level of services needed appropriate to maintain the person in the most normal and least restrictive setting that is consistent with the person's treatment needs;

(d) identify other noninstitutional public assistance or social service that may prevent or delay long-term residential placement;

(e) assess whether a client is in serious need of long-term residential care;

(f) make recommendations regarding placement and payment for: (1) social service or public assistance support to maintain a client in the client's own home or other place of residence; (2) training and habilitation service, vocational rehabilitation, and employment training activities; (3) community residential placement; (4) ~~state hospital~~ regional treatment center placement; or (5) a home and community-based alternative to community residential placement or state hospital placement;

(g) evaluate the availability, location, and quality of the services listed in paragraph (f), including the impact of placement alternatives on the client's ability to maintain or improve existing patterns of contact and involvement with parents and other family members;

(h) identify the cost implications of recommendations in paragraph (f); ~~above;~~

~~(h)~~ (i) make recommendations to a court as may be needed to assist the court in making commitments of mentally retarded persons; and

~~(i)~~ (j) inform clients that appeal may be made to the commissioner pursuant to section 256.045.

Sec. 31. [256E.14] GRANTS FOR CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

For the biennium ending June 30, 1991, the commissioner shall distribute to counties the appropriation made available under this section for case management services for persons with mental retardation or related conditions as follows:

(1) one-half of the appropriation must be distributed to the counties according to the formula in section 256E.06, subdivision 1; and

(2) one-half of the appropriation must be distributed to the counties on the basis of the number of persons with mental retardation or a related condition that were receiving case management services from the county on the January 1 preceding the start of the fiscal year in which the funds are distributed.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 32. STUDY OF PARENTAL INVOLVEMENT.

The commissioner of human services shall determine the number of persons transferred from public to private guardianship, and the increased involvement of parents and near relatives in the activities of screening teams established under Minnesota Statutes, section 256B.092, subdivision 7, as a result of the adoption of sections 23, 29, and 30, and report the results of the study to the legislature by December 15, 1990.

Sec. 33. STUDY OF REGIONAL TREATMENT CENTER DISCHARGES.

The commissioner shall contract for a study of the progress of selected citizens who have been discharged from regional treatment centers since 1985 and shall report to the legislature on or before July 1, 1990. The study must be supervised and directed by the commissioner of human services.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:05 p.m.

CHAPTER 283—H.F.No. 1137

An act relating to metropolitan government; regulating the borrowing authority of the regional transit board; amending Minnesota Statutes 1988, section 473.39, subdivision 1a.

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

Section 1. Minnesota Statutes 1988, section 473.39, subdivision 1a, is amended to read:

Subd. 1a. **OBLIGATIONS.** (a) After August 1, 1989, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~\$17,000,000~~ \$26,000,000 for financial assistance to the commission, as prescribed in the implementation ~~plan~~ and capital plans of the board and the capital program of the commission.

(b) After August 1, 1989, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~\$1,500,000~~ \$4,700,000 for ~~land acquisition and capital improvements for park and ride lots and transit transfer stations planned for the interstate highway described in section 161.123, clause (2), commonly known as I-394. These facilities may be constructed and maintained by the metropolitan transit commission~~ other capital expenditures as prescribed in the implementation and capital plans of the board.

(c) The board shall require, as a condition of financial assistance to the

New language is indicated by underline, deletions by ~~strikeout~~.