

Sec. 11. VULNERABLE ADULTS STUDY.

The commissioners of health and human services shall establish an advisory committee including consumers and their advocates, providers, county officials, and state officials to make recommendations on the means of preventing maltreatment of vulnerable adults and for the provisions of protective services to vulnerable adults. In making recommendations, the advisory committee shall review all services and protections available under existing state and federal laws with the focus on eliminating duplication of effort among various local, state, and federal agencies and minimizing possible conflicts of interest by establishing a statewide process of coordination of responsibilities. A report with recommendations for state law changes and changes to Minnesota Rules, parts 9555.8000 to 9555.8500, shall be made to the governor and legislature not later than February 1, 1994.

Sec. 12. EFFECTIVE DATE.

Section 4 is effective the day immediately following final enactment.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 12:10 p.m.

 CHAPTER 339—S.F.No. 748

An act relating to human services; clarifying day training and habilitation transportation exemptions; clarifying that counties may contract with hospitals to provide outpatient mental health services; clarifying the definition of crisis assistance; increasing the allowable duration of unlicensed, single-family respite care; clarifying the definition of related condition and application procedures for family support grants; correcting references to case management and hospital appeals; clarifying eligibility for case management services; clarifying nursing facility rate adjustments; clarifying the calculation and allowing 12-month plans for special needs exceptions; clarifying requirements for health care provider participation; clarifying voluntary spend-down procedures; amending Minnesota Statutes 1992, sections 174.30, subdivision 1; 245.470, subdivision 1; 245.4871, subdivision 9a; 245.488, subdivision 1; 245A.03, subdivision 2; 252.27, subdivisions 1 and 1a; 252.32, subdivision 1a; 256.045, subdivision 4a; 256.9686, subdivision 6; 256.9695, subdivisions 1 and 3; 256B.056, subdivision 5; 256B.0644; 256B.092, subdivisions 1, 1b, 1g, 7, and 8a; 256B.431, subdivision 10; 256B.48, subdivision 3a; 256B.501, subdivision 8; and 609.115, subdivision 9; repealing Minnesota Statutes 1992, section 256B.0629.

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

Section 1. Minnesota Statutes 1992, section 174.30, subdivision 1, is amended to read:

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Subdivision 1. **APPLICABILITY LIMITATIONS; BY TYPE OF PROVIDER; BY SOURCE OF FUNDS.** The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

- (a) A common carrier operating on fixed routes and schedules;
- (b) A volunteer driver using a private automobile;
- (c) A school bus as defined in section 169.01, subdivision 6; or
- (d) An emergency ambulance regulated under chapter 144.

The operating standards adopted under this section only apply to providers of special transportation service who receive grants or other financial assistance from either the state or the federal government, or both, to provide or assist in providing that service; except that the operating standards adopted under this section do not apply to any nursing home licensed under section 144A.02, to any board and care facility licensed under section 144.50, or to any day training and habilitation services, day care, or group home facility licensed under sections 245A.01 to ~~245A.16~~ 245A.19 unless the facility or program provides transportation to nonresidents on a regular basis and the facility receives reimbursement, other than per diem payments, for that service under rules promulgated by the commissioner of human services.

Sec. 2. Minnesota Statutes 1992, section 245.470, subdivision 1, is amended to read:

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 adults with mental illness residing in the county. Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with hospital mental health outpatient programs certified by the Joint Commission on Accreditation of Hospital Organizations; or by contract with a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (4). Clients may be required to pay a fee according to section 245.481. Outpatient services include:

- (1) conducting diagnostic assessments;
- (2) conducting psychological testing;
- (3) developing or modifying individual treatment plans;
- (4) making referrals and recommending placements as appropriate;
- (5) treating an adult's mental health needs through therapy;

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(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. 3. Minnesota Statutes 1992, section 245.4871, subdivision 9a, is amended to read:

Subd. 9a. **CRISIS ASSISTANCE.** "~~Crisis assistance~~" means assistance to the child, ~~family, and the child's school in recognizing and resolving the child's~~ family, and all providers of services to the child to: recognize factors precipitating a mental health crisis, identify behaviors related to the crisis, and be informed of available resources to resolve the crisis. It shall include, at a minimum, working with the child, family, and school to develop a crisis assistance plan Crisis assistance requires the development of a plan which addresses prevention and intervention strategies to be used in a potential crisis. Other interventions include: (1) arranging for admission to acute care hospital inpatient treatment; (2) crisis placement; (3) community resources for follow-up; and (4) emotional support to the family during crisis. Crisis assistance does not include services designed to secure the safety of a child who is at risk of abuse or neglect or necessary emergency services.

Sec. 4. Minnesota Statutes 1992, section 245.488, subdivision 1, is amended to read:

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. Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with hospital mental health outpatient programs certified by the Joint Commission on Accreditation of Hospital Organizations; or by contract with a licensed mental health professional as defined in section 245.4871, subdivision 27, clauses (1) to (4). 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;
- (3) developing or modifying individual treatment plans;

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- (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.

Sec. 5. Minnesota Statutes 1992, 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 in a school as defined in section 120.101, subdivision 4, and programs serving children in combined special education and regular prekindergarten programs that are operated or assisted by the commissioner of education;

(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 ill-

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ness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, 1990;

(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 whose primary purpose is to provide, for adults or school-age children, including children who will be eligible to enter kindergarten within not more than four months, social and recreational activities, 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;

(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) mental health outpatient services for adults with mental illness or children with emotional disturbance;

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

(21) unrelated individuals who provide out-of-home respite care services to persons with mental retardation or related conditions from a single related family for no more than 30 ~~90~~ days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home- and community-based service to a person with mental retardation or a related condition, in the person's primary residence; or

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(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17.

Sec. 6. Minnesota Statutes 1992, section 252.27, subdivision 1, is amended to read:

Subdivision 1. **COUNTY RESPONSIBILITY.** Whenever any child who has mental retardation or a related condition, or a physical disability or emotional ~~handicap~~ disturbance is in 24-hour care outside the home including respite care, in a facility licensed by the commissioner of human services, the cost of services shall be paid by the county of financial responsibility determined pursuant to chapter 256G. If the child's parents or guardians do not reside in this state, the cost shall be paid by 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.

Sec. 7. Minnesota Statutes 1992, section 252.27, subdivision 1a, is amended to read:

Subd. 1a. **DEFINITIONS.** A person has a "related condition" if that person has a severe, chronic disability that meets all of the following conditions: (a) is attributable to cerebral palsy, epilepsy, autism, Prader-Willi syndrome, or any other condition, other than mental illness as defined under section 245.462, subdivision 20, or an emotional disturbance, as defined under section 245.4871, subdivision 15, 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 and requires treatment or services similar to those required for persons with mental retardation; (b) is manifested before the person reaches 22 years of age; (c) is likely to continue indefinitely; and (d) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) understanding and use of language, (3) learning, (4) mobility, (5) self-direction, (6) 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. 8. Minnesota Statutes 1992, section 252.32, subdivision 1a, is amended to read:

Subd. 1a. **SUPPORT GRANTS.** (a) Provision of support grants must be limited to families who require support and whose dependents are under the age of 22 and who have mental retardation or who have a related condition and who have been determined by a screening team established under section 256B.092 to require the level of care provided by an intermediate care facility for persons with mental retardation or related conditions be at risk of institutionalization. Families who are receiving home- and community-based waivered services for

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persons with mental retardation or related conditions are not eligible for support grants. Families whose annual adjusted gross income is \$60,000 or more are not eligible for support grants except in cases where extreme hardship is demonstrated. Beginning in state fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the projected change in the average value in the United States Department of Labor Bureau of Labor Statistics consumer price index (all urban) for that year.

(b) Support grants may be made available as monthly subsidy grants and lump sum grants.

(c) Support grants may be issued in the form of cash, voucher, and direct county payment to a vendor.

(d) Applications for the support grant shall be made by the county social service agency to the department of human services. The application shall specify the needs of the family families, the form of the grant requested by the family families, and how the family intends to use the support grant that the families have agreed to use the support grant for items and services within the designated reimbursable expense categories and recommendations of the county.

(e) Families who were receiving subsidies on the date of implementation of the \$60,000 income limit in paragraph (a) continue to be eligible for a family support grant until December 31, 1991, if all other eligibility criteria are met. After December 31, 1991, these families are eligible for a grant in the amount of one-half the grant they would otherwise receive, for as long as they remain eligible under other eligibility criteria.

Sec. 9. Minnesota Statutes 1992, 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 4b~~ who contests the county agency's action or failure to act in the provision of those services, 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 a conciliation conference to the county agency. The county agency shall inform the commissioner of the receipt of a request ~~for review~~ when it is submitted and shall schedule a conciliation conference. The county 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 county agency shall conduct the conciliation conference and inform the recipient in writing of the action the county 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 pursuant to Minnesota Rules, parts 9525.0075, subpart 5, and 9525.0105, subpart 6 ~~the~~

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commissioner's instructions. 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 county 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 county 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 county agency review process or an appeal brought by a recipient under this subdivision is pending, or for the period of time necessary for the county 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. 10. Minnesota Statutes 1992, section 256.9686, subdivision 6, is amended to read:

Subd. 6. **HOSPITAL**. "Hospital" means a facility defined in section 144.696, subdivision 3, and licensed under sections 144.50 to 144.58, an out-of-state facility licensed to provide acute care under the requirements of that state in which it is located, or an Indian health service facility designated to provide acute care by the federal government.

Sec. 11. Minnesota Statutes 1992, section 256.9695, subdivision 1, is amended to read:

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 14.57 to 14.62, 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

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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. ~~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 requirements of paragraph (a) apply. However, the appeal must be filed with the commissioner within 120 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.

Sec. 12. Minnesota Statutes 1992, section 256.9695, subdivision 3, is amended to read:

Subd. 3. **TRANSITION.** Except as provided in section 256.969, subdivision 8, the commissioner shall establish a transition period for the calculation of payment rates from July 1, 1989, to the implementation date of the upgrade to the Medicaid management information system or July 1, 1992, whichever is earlier.

During the transition period:

(a) Changes resulting from section 256.969, subdivisions 7, 9, 10, 11, and 13, shall not be implemented, except as provided in section 256.969, subdivisions 12 and 20.

(b) The beginning of the 1991 rate year shall be delayed and the rates notification requirement shall not be applicable.

(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. For payments made for admissions occurring on or after June 1, 1990, until the implementation date of the upgrade to the Medicaid management information system the hospital cost index excluding the technology factor shall not exceed five percent. This hospital cost index limitation shall not apply to hospitals that meet the requirements of section 256.969, subdivision 20, paragraphs (a) and (b).

(d) Property and pass-through payment rates shall be maintained at the

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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 the transition period. The laws in effect on the day before July 1, 1989, apply to the retroactive settlement.

(e) If the upgrade to the Medicaid management information system has not been completed by July 1, 1992, the commissioner shall make adjustments for admissions occurring on or after that date as follows:

(1) provide a ten percent increase to hospitals that meet the requirements of section 256.969, subdivision 20, or, upon written request from the hospital to the commissioner, 50 percent of the rate change that the commissioner estimates will occur after the upgrade to the Medicaid management information system; and

(2) adjust the rebased payment rates that are established after the upgrade to the Medicaid management information system to compensate for a rebasing effective date of July 1, 1992. The adjustment shall be based on the change in rates from July 1, 1992, to the rebased rates in effect under the systems upgrade. The adjustment shall reflect payments under clause (1), differences in the hospital cost index and dissimilar rate establishment procedures such as the variable outlier and the treatment of transfers, births, and rehabilitation units of hospitals. The adjustment shall be in effect ~~for a period not to exceed the amount of time~~ until the amount due or owed on a per admission basis from July 1, 1992, to the systems upgrade is fully paid.

Sec. 13. Minnesota Statutes 1992, 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 at the beginning of a one-month budget period or at the beginning of a six-month budget period. Until June 30, 1993, or the date the Medicaid Management Information System (MMIS) upgrade is implemented, whichever occurs last, the commissioner shall allow persons eligible for assistance on a one-month spend-down basis under this subdivision to elect to pay the monthly spend-down amount in advance of the month of eligibility to the local agency in order to maintain eligibility on a continuous basis. If the recipient does not pay the spend-down amount on or before the ~~20th~~ 10th of the month, the recipient is ineligible for this option for the following month. The local agency must deposit spend-down payments into its treasury and issue a monthly payment to the state agency with the necessary individual account information. The local agency shall code the client eligibility system to indicate that the spend-down obligation has been satisfied for the month paid. The state

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agency shall convey this information to providers through eligibility cards which list no remaining spend-down obligation. After the implementation of the MMS upgrade, ~~the a recipient may elect to~~ electing advance payment must pay the state agency the monthly spend-down amount. ~~The recipient must make the payment~~ on or before the 20th 10th of the month in order to be eligible for this option in the following month.

Sec. 14. Minnesota Statutes 1992, section 256B.0644, is amended to read:

256B.0644 PARTICIPATION REQUIRED FOR REIMBURSEMENT UNDER OTHER STATE HEALTH CARE PROGRAMS.

A vendor of medical care, as defined in section 256B.02, subdivision 7, and a health maintenance organization, as defined in chapter 62D, must participate as a provider or contractor in the medical assistance program, general assistance medical care program, and ~~the health right plan~~ MinnesotaCare as a condition of participating as a provider in health insurance plans or contractor for state employees established under section 43A.18, the public employees insurance plan under section 43A.316, the workers' compensation system under section 176.135, and insurance plans provided through the Minnesota comprehensive health association under sections 62E.01 to 62E.17. For providers other than health maintenance organizations, participation in the medical assistance program means that (1) the provider accepts new medical assistance, general assistance medical care, and MinnesotaCare patients or (2) at least 20 percent of the provider's patients are covered by medical assistance, general assistance medical care, ~~or the health right plan and MinnesotaCare~~ and MinnesotaCare as their primary source of coverage. The commissioner shall establish participation requirements for health maintenance organizations. The commissioner shall provide lists of participating medical assistance providers on a quarterly basis to the commissioner of employee relations, the commissioner of labor and industry, and the commissioner of commerce. Each of the commissioners shall develop and implement procedures to exclude as participating providers in the program or programs under their jurisdiction those providers who do not participate in the medical assistance program.

Sec. 15. Minnesota Statutes 1992, section 256B.092, subdivision 1, is amended to read:

Subdivision 1. COUNTY OF FINANCIAL RESPONSIBILITY; DUTIES.
Before any services shall be rendered to persons with mental retardation or related conditions who are in need of social service and medical assistance, the county of financial responsibility shall conduct or arrange for a diagnostic evaluation in order to determine whether the person has or may have mental retardation or has or may have a related condition. If the county of financial responsibility determines that the person has mental retardation or a related condition, the county shall inform the person of case management services available under this section. Except as provided in subdivision 1g or 4b, if a person is diagnosed as having mental retardation or a related condition, the county of

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financial responsibility shall conduct or arrange for a needs assessment, develop or arrange for an individual service plan, provide or arrange for ongoing case management services at the level identified in the individual service plan, provide or arrange for case management administration, and authorize services identified in the person's individual service plan developed according to subdivision 1b. Diagnostic information, obtained by other providers or agencies, may be used to meet the diagnosis requirements of this section by the county agency in determining eligibility for case management. Nothing in this section shall be construed as requiring: (1) assessment in areas agreed to as unnecessary by the case manager and the person, or the person's legal guardian or conservator, or the parent if the person is a minor, or (2) assessments in areas where there has been a functional assessment completed in the previous 12 months for which the case manager and the person or person's guardian or conservator, or the parent if the person is a minor, agree that further assessment is not necessary. For persons under state guardianship, the case manager shall seek authorization from the public guardianship office for waiving any assessment requirements. Assessments related to health, safety, and protection of the person for the purpose of identifying service type, amount, and frequency or assessments required to authorize services may not be waived. To the extent possible, for wards of the commissioner the county shall consider the opinions of the parent of the person with mental retardation or a related condition when developing the person's individual service plan. ~~If the county of financial responsibility places a person in another county for services, the placement shall be made in cooperation with the county where services are provided, according to subdivision 8a, and arrangements shall be made between the two counties for ongoing social service, including annual reviews of the person's individual service plan. The county where services are provided may not make changes in the person's service plan without approval by the county of financial responsibility.~~

Sec. 16. Minnesota Statutes 1992, section 256B.092, subdivision 1b, is amended to read:

Subd. 1b. **INDIVIDUAL SERVICE PLAN.** The individual service plan must:

- (1) include the results of the assessment information on the person's need for service, including identification of service needs that will be or that are met by the person's relatives, friends, and others, as well as community services used by the general public;
- (2) identify the person's preferences for services as stated by the person, the person's legal guardian or conservator, or the parent if the person is a minor;
- (3) identify long- and short-range goals for the person;
- (4) identify specific services and the amount and frequency of the services to be provided to the person based on assessed needs, preferences, and available resources. The individual service plan shall also specify other services the person needs that are not available;

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(5) identify the need for an individual program plan to be developed by the provider according to the respective state and federal licensing and certification standards, and additional assessments to be completed or arranged by the provider after service initiation;

(6) identify provider responsibilities to implement and make recommendations for modification to the individual service plan;

(7) include notice of the right to request a conciliation conference or a hearing under section 256.045;

(8) be agreed upon and signed by the person, the person's legal guardian or conservator, or the parent if the person is a minor, and the authorized county representative; and

(9) be reviewed by a health professional if the person has overriding medical needs that impact the delivery of services; ~~and.~~

~~(10) be completed on forms approved by the commissioner, including forms developed for interagency planning such as transition and individual family service plans.~~

Service planning formats developed for interagency planning such as transition, vocational, and individual family service plans may be substituted for service planning formats developed by county agencies.

Sec. 17. Minnesota Statutes 1992, section 256B.092, subdivision 1g, is amended to read:

Subd. 1g. **CONDITIONS NOT REQUIRING DEVELOPMENT OF INDIVIDUAL SERVICE PLAN.** Unless otherwise required by federal law, the county agency is not required to complete an individual service plan as defined in subdivision 1b for:

(1) persons whose families are requesting respite care ~~as a single service~~ for their family member who resides with them, or whose families are requesting ~~only~~ a family ~~subsidy~~ support grant and are not requesting purchase or arrangement of ~~other~~ habilitative or social services; and

(2) persons with mental retardation or related conditions, living independently without authorized services or receiving funding for services at a rehabilitation facility as defined in section 268A.01, subdivision 6, and not in need of or requesting additional services.

Sec. 18. Minnesota Statutes 1992, section 256B.092, subdivision 7, is amended to read:

Subd. 7. **SCREENING TEAMS.** For persons with mental retardation or a related condition, screening teams shall be established which shall evaluate the need for the level of care provided by residential-based habilitation services, res-

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idential services, training and habilitation services, and nursing facility services. The evaluation shall address whether home- and community-based services are appropriate for persons who are at risk of placement in an intermediate care facility for persons with mental retardation or related conditions, or for whom there is reasonable indication that they might require this level of care. 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 a person to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager for persons with mental retardation or related conditions, the person, the person's legal guardian or conservator, or the parent if the person is a minor, and a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 483.430, as amended through June 3, 1988. The case manager may also act as the qualified mental retardation professional if the case manager meets the federal definition. 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 planning process. The contract shall be limited to public guardianship representation for the screening and individual service planning activities. The contract shall require compliance with the commissioner's instructions and may be for paid or voluntary services. For persons determined to have overriding health care needs and are seeking admission to a nursing facility or an ICF/MR, or seeking access to home- and community-based waived services, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. ~~The case manager shall consult with the person's physician, other health professionals or other individuals as necessary to make this evaluation.~~ For persons under the jurisdiction of a correctional agency, the case manager must consult with the corrections administrator regarding additional health, safety, and supervision needs. The case manager, with the concurrence of the person, the person's legal guardian or conservator, or the parent if the person is a minor, may invite other individuals 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. Nothing in this section shall be construed as requiring the screening team meeting to be separate from the service planning meeting.

Sec. 19. Minnesota Statutes 1992, section 256B.092, subdivision 8a, is amended to read:

Subd. 8a. COUNTY CONCURRENCE. (a) If the county of financial responsibility wishes to place a person in another county for services, the county of financial responsibility shall seek concurrence from the proposed county of service and the placement shall be made cooperatively between the two counties. Arrangements shall be made between the two counties for ongoing social service, including annual reviews of the person's individual service plan. The county where services are provided may not make changes in the person's service plan without approval by the county of financial responsibility.

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(b) When a person has been screened and authorized for services in an intermediate care facility for persons with mental retardation or related conditions or for home- and community-based services for persons with mental retardation or related conditions, the case manager shall assist that person in identifying a service provider who is able to meet the needs of the person according to the person's individual service plan. If the identified service is to be provided in a county other than the county of financial responsibility, the county of financial responsibility shall request concurrence of the county where the person is requesting to receive the identified services. The county of service may refuse to concur if:

(1) it can demonstrate that the provider is unable to provide the services identified in the person's individual service plan as services that are needed and are to be provided;

(2) in the case of an intermediate care facility for persons with mental retardation or related conditions, there has been no authorization for admission by the admission review team as required in section 256B.0926; or

(3) in the case of home- and community-based services for persons with mental retardation or related conditions, the county of service can demonstrate that the prospective provider has failed to substantially comply with the terms of a past contract or has had a prior contract terminated within the last 12 months for failure to provide adequate services, or has received a notice of intent to terminate the contract.

(b) (c) The county of service shall notify the county of financial responsibility of concurrence or refusal to concur no later than 20 working days following receipt of the written request. Unless other mutually acceptable arrangements are made by the involved county agencies, the county of financial responsibility is responsible for costs of social services and the costs associated with the development and maintenance of the placement. The county of service may request that the county of financial responsibility purchase case management services from the county of service or from a contracted provider of case management when the county of financial responsibility is not providing case management as defined in this section and rules adopted under this section, unless other mutually acceptable arrangements are made by the involved county agencies. Standards for payment limits under this section may be established by the commissioner. Financial disputes between counties shall be resolved as provided in section 256G.09.

Sec. 20. Minnesota Statutes 1992, section 256B.431, subdivision 10, is amended to read:

Subd. 10. APPRAISAL SAMPLE STABILIZATION PROPERTY RATE ADJUSTMENTS AND SPECIAL REAPPRAISALS CONSTRUCTION PROJECTS. (a) The percentage change in appraised values for nursing facilities 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

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sample of nursing facility those appraisals that represent the five highest and the five lowest deviations from those nursing facilities' previously established appraised values.

(b) A special reappraisal nursing facility's request for a property-related payment rate adjustment and the related supporting documentation of project construction cost information must be submitted to the commissioner within 60 days after the construction project's completion date to be considered eligible for a special reappraisal property-related payment rate adjustment. 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 facility'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 facilities in the sample. Construction projects with completion dates within one year of the completion date associated with the property rate adjustment request and phased projects with project completion dates within three years of the last phase of the phased project must be aggregated for purposes of the minimum thresholds in subdivisions 16 and 17, and the maximum threshold in section 144A.071, subdivision 2, "Construction project," "project construction costs," and "phased project" have the meanings given them in Minnesota Rules, part 4655.1110 (Emergency).

Sec. 21. Minnesota Statutes 1992, section 256B.48, subdivision 3a, is amended to read:

Subd. 3a. **AUDIT ADJUSTMENTS.** If the commissioner requests supporting documentation during a field an audit for an item of cost reported by a long-term care facility, and the long-term care facility's response does not adequately document the item of cost, the commissioner may make reasoned assumptions considered appropriate in the absence of the requested documentation to reasonably establish a payment rate rather than disallow the entire item of cost. This provision shall not diminish the long-term care facility's appeal rights.

Sec. 22. Minnesota Statutes 1992, section 256B.501, subdivision 8, is amended to read:

Subd. 8. **PAYMENT FOR PERSONS WITH SPECIAL NEEDS.** The commissioner shall establish by December 31, 1983, procedures to be followed by the counties to seek authorization from the commissioner for medical assistance reimbursement for very dependent persons with special needs in an amount in excess of the rates allowed pursuant to ~~subdivisions~~ subdivision 2 and 4, including rates established under section 252.46 when they apply to services provided to residents of intermediate care facilities for persons with mental retardation or related conditions, and procedures to be followed for rate

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limitation exemptions for intermediate care facilities for persons with mental retardation or related conditions. No excess payment approved by the commissioner after June 30, 1991, shall be authorized unless:

(1) the need for specific level of service is documented in the individual service plan of the person to be served;

(2) the level of service needed can be provided within the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, without a rate exception within 12 months;

(3) staff hours beyond those available under the rates established under section 252.46 and Minnesota Rules, parts 9553.0010 to 9553.0080, necessary to deliver services do not exceed ~~720 hours within six months~~ 1,440 hours within 12 months;

(4) there is a basis for the estimated cost of services;

(5) the provider requesting the exception documents that current per diem rates are insufficient to support needed services;

(6) estimated costs, when added to the costs of current medical assistance-funded residential and day training and habilitation services and calculated as a per diem, do not exceed the per diem established for the regional treatment centers for persons with mental retardation and related conditions on July 1, 1990, indexed annually by the urban consumer price index, all items, ~~published by the United States Department of Labor~~ as forecasted by Data Resources Inc., for the next fiscal year over the current fiscal year;

(7) any contingencies for an approval as outlined in writing by the commissioner are met; and

(8) any commissioner orders for use of preferred providers are met.

The commissioner shall evaluate the services provided pursuant to this subdivision through program and fiscal audits.

The commissioner may terminate the rate exception at any time under any of the conditions outlined in Minnesota Rules, part 9510.1120, subpart 3, for county termination, or by reason of information obtained through program and fiscal audits which indicate the criteria outlined in this subdivision have not been, or are no longer being, met.

The commissioner may approve no more than ~~two consecutive six-month rate exceptions for an eligible client whose first application for funding occurs after June 30, 1991~~ one rate exception, up to 12 months duration, for an eligible client.

Sec. 23. Minnesota Statutes 1992, section 609.115, subdivision 9, is amended to read:

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Subd. 9. **COMPULSIVE GAMBLING ASSESSMENT REQUIRED.** (a) If a person is convicted of a felony for theft under section 609.52, embezzlement of public funds under section 609.54, or forgery under section 609.625, 609.63, or 609.631, the probation officer shall determine in the report prepared under subdivision 1 whether or not compulsive gambling contributed to the commission of the offense. If so, the report shall contain the results of a compulsive gambling assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the ~~defendant~~ offender to undergo the assessment if so indicated.

(b) The compulsive gambling assessment report must include a recommended level of care treatment for the ~~defendant~~ offender if the assessor concludes that the ~~defendant~~ offender is in need of compulsive gambling treatment. The assessment must be conducted by an assessor qualified under section 245.98, subdivision 2a, to perform these assessments or to provide compulsive gambling treatment. An assessor providing a compulsive gambling assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor with a financial interest or referral relationship as authorized under rules adopted by the commissioner of human services under section 245.98, subdivision 2a.

(c) The commissioner of human services shall reimburse the county assessor for the costs associated with a compulsive gambling assessment at a rate established by the commissioner up to a maximum of \$100 for each assessment. The commissioner shall reimburse these costs after receiving written verification from the probation officer that the assessment was performed and found acceptable.

Sec. 24. **REPEALER.**

Minnesota Statutes 1992, section 256B.0629, is repealed.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 12:09 p.m.

CHAPTER 340—H.F.No. 1042

An act relating to human services; modifying provisions dealing with the administration, computation, and enforcement of child support; imposing penalties; amending Minnesota Statutes 1992, sections 136A.121, subdivision 2; 214.101, subdivision 1; 256.87, subdivisions 1, 1a, 3, and 5; 256.978; 256.979, by adding subdivisions; 256.9791, subdivisions 3 and 4; 257.66, subdivision 3; 257.67, subdivision 3; 349A.08, subdivision 8; 484.74, subdivision 1, as amended; 484.76, subdivision 1, as amended; 518.14; 518.171, subdivisions 1, 2, 3,

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