

### Sec. 5. EFFECTIVE DATE.

Sections 1 to 4 are effective August 1, 1999, and apply to crimes committed on or after that date.

Presented to the governor May 24, 1999

Signed by the governor May 25, 1999, 11:45 a.m.

## CHAPTER 245—S.F.No. 2225

*An act relating to the operation of state government; modifying provisions relating to health; health department; human services; human services department; long-term care; medical assistance; general assistance medical care; MinnesotaCare; senior drug program; home and community-based waivers; services for persons with disabilities; medical assistance reimbursement for special education and other services; county-based purchasing; group residential housing; state-operated services; chemical dependency; mental health; Minnesota family investment program; general assistance program; child support enforcement; adoption; recreational licenses; paternity; children in need of protection or services; termination of parental rights; child protection; veterans nursing homes board; health-related licensing boards; emergency medical services regulatory board; Minnesota state council on disability; ombudsman for mental health and mental retardation; ombudsman for families; creating a medical education endowment fund and a tobacco use prevention and local public health endowment fund; establishing the state board of physical therapy; modifying fees; providing penalties; requiring reports; appropriating money; amending Minnesota Statutes 1998, sections 13.46, subdivision 2; 13.99, subdivision 38a, and by adding a subdivision; 15.059, subdivision 5a; 16C.10, subdivision 5; 62A.045; 62E.11, by adding a subdivision; 62J.04, subdivision 3; 62J.06; 62J.07, subdivisions 1 and 3; 62J.09, subdivision 8; 62J.2930, subdivision 3; 62Q.03, subdivision 5a; 62Q.075; 62R.06, subdivision 1; 116L.02; 122A.09, subdivision 4; 125A.08; 125A.744, subdivision 3; 125A.76, subdivision 2; 144.05, by adding a subdivision; 144.065; 144.121, by adding a subdivision; 144.148; 144.1483; 144.1492, subdivision 3; 144.1761, subdivision 1; 144.413, subdivision 2; 144.414, subdivision 1; 144.4165; 144.56, subdivision 2b; 144.99, subdivision 1, and by adding a subdivision; 144A.073, subdivision 5; 144A.10, by adding subdivisions; 144A.46, subdivision 2; 144A.4605, subdivision 2; 144D.01, subdivision 4; 144E.001, by adding subdivisions; 144E.10, subdivision 1; 144E.11, by adding a subdivision; 144E.16, subdivision 4; 144E.18; 144E.27, by adding subdivisions; 144E.50, by adding a subdivision; 145.924; 145.9255, subdivisions 1 and 4; 145A.02, subdivision 10; 148.5194, subdivisions 2, 3, 4, and by adding a subdivision; 148.66; 148.67; 148.70; 148.705; 148.71; 148.72, subdivisions 1, 2, and 4; 148.73; 148.74; 148.75; 148.76; 148.78; 198.003, by adding a subdivision; 214.01, subdivision 2; 245.462, subdivisions 4 and 17; 245.4711, subdivision 1; 245.4712, subdivision 2; 245.4871, subdivisions 4 and 26; 245.4881, subdivision 1; 245A.04, subdivision 3a; 245A.08, subdivision 5; 245A.30; 245B.05, subdivision 7; 245B.07, subdivisions 5, 8, and 10; 246.18, subdivision 6; 252.28, subdivision 1; 252.291, by adding a subdivision; 252.32, subdivision 3a; 252.46, subdivision 6; 253B.045, by adding subdivisions; 253B.07, subdivision 1; 253B.185, by adding a subdivision; 254B.01, by adding a subdivision; 254B.03, subdivision 2; 254B.04, subdivision 1; 254B.05, subdivision 1; 256.01, subdivisions 2, 6, and by adding a subdivision; 256.014, by adding a subdivision; 256.015, subdivisions 1 and 3; 256.485; 256.87, subdivision 1a; 256.955, subdivisions 3, 4, 7, 8, and 9; 256.9685, subdivision 1a; 256.969, subdivision 1; 256.978, subdivision 1; 256B.04, subdivision 16, and by adding a subdivision; 256B.042, subdivisions 1, 2, and 3; 256B.055, subdivision 3a; 256B.056, subdivision 4; 256B.057, subdivision 3, and by adding a subdivision; 256B.0575;*

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

256B.061; 256B.0625, subdivisions 6a, 8, 8a, 13, 19c, 20, 26, 28, 30, 32, 35, and by adding subdivisions; 256B.0627, subdivisions 1, 2, 4, 5, 8, and by adding subdivisions; 256B.0635, subdivision 3; 256B.0911, subdivision 6; 256B.0913, subdivisions 5, 10, 12, and 16; 256B.0916; 256B.0917, subdivision 8; 256B.094, subdivisions 3, 5, and 6; 256B.0951, subdivisions 1 and 3; 256B.0955; 256B.37, subdivision 2; 256B.431, subdivisions 2i, 17, 26, and by adding a subdivision; 256B.434, subdivisions 3, 4, 13, and by adding a subdivision; 256B.435; 256B.48, subdivisions 1, 1a, 1b, and 6; 256B.50, subdivision 1e; 256B.501, subdivision 8a; 256B.5011, subdivisions 1 and 2; 256B.69, subdivisions 3a, 5a, 5b, 5c, 6a, 6b, and by adding subdivisions; 256B.692, subdivision 2; 256B.75; 256B.76; 256B.77, subdivisions 7a, 8, 10, 14, and by adding subdivisions; 256D.03, subdivisions 3, 4, and 8; 256D.051, subdivision 2a, and by adding a subdivision; 256D.053, subdivision 1; 256D.06, subdivision 5; 256F.03, subdivision 5; 256F.05, subdivision 8; 256F.10, subdivisions 1, 4, 6, 7, 8, 9, and 10; 256I.04, subdivision 3; 256I.05, subdivisions 1, 1a, and by adding a subdivision; 256J.02, subdivision 2; 256J.08, subdivisions 11, 24, 65, 82, 83, 86a, and by adding subdivisions; 256J.11, subdivisions 2 and 3; 256J.12, subdivisions 1a and 2; 256J.14; 256J.20, subdivision 3; 256J.21, subdivisions 2, 3, and 4; 256J.24, subdivisions 2, 3, 7, 8, 9, and by adding a subdivision; 256J.26, subdivision 1; 256J.30, subdivisions 2, 7, 8, and 9; 256J.31, subdivisions 5 and 12; 256J.32, subdivisions 4 and 6; 256J.33; 256J.34, subdivisions 1, 3, and 4; 256J.35; 256J.36; 256J.37, subdivisions 1, 1a, 2, 9, and 10; 256J.38, subdivision 4; 256J.39, subdivision 1; 256J.42, subdivisions 1 and 5; 256J.43; 256J.45, subdivision 1, and by adding a subdivision; 256J.46, subdivisions 1, 2, and 2a; 256J.47, subdivision 4; 256J.48, subdivisions 2 and 3; 256J.50, subdivision 1; 256J.515; 256J.52, subdivisions 1, 3, 4, 5, and by adding a subdivision; 256J.54, subdivision 2; 256J.55, subdivision 4; 256J.56; 256J.57, subdivision 1; 256J.62, subdivisions 1, 6, 7, 8, 9, and by adding a subdivision; 256J.67, subdivision 4; 256J.74, subdivision 2; 256J.76, subdivisions 1, 2, and 4; 256L.03, subdivisions 5 and 6; 256L.04, subdivisions 2, 8, 11, and 13; 256L.05, subdivision 4, and by adding a subdivision; 256L.06, subdivision 3; 256L.07; 256L.15, subdivisions 1, 1b, and 2; 257.071, subdivisions 1, 1a, 1c, 1d, 1e, 3, and 4; 257.62, subdivision 5; 257.66, subdivision 3; 257.75, subdivision 2; 257.85, subdivisions 2, 3, 4, 5, 6, 7, 9, and 11; 259.67, subdivisions 6 and 7; 259.73; 259.85, subdivisions 2, 3, and 5; 259.89, by adding a subdivision; 260.011, subdivision 2; 260.012; 260.015, subdivisions 2a, 13, and 29; 260.131, subdivision 1a; 260.133, subdivisions 1 and 2; 260.135, by adding a subdivision; 260.155, subdivisions 4 and 8; 260.172, subdivision 1, and by adding a subdivision; 260.191, subdivisions 1, 1a, 1b, and 3b; 260.192; 260.221, subdivisions 1, 1a, 1b, 1c, 3, and 5; 326.40, subdivisions 2, 4, and 5; 518.10; 518.551, by adding a subdivision; 518.5851, by adding a subdivision; 518.5853, by adding a subdivision; 518.64, subdivision 2; 548.09, subdivision 1; 548.091, subdivisions 1, 1a, 2a, 3a, 4, 10, 11, 12, and by adding a subdivision; 626.556, subdivisions 2, 3, 4, 7, 10, 10b, 10d, 10e, 10f, 10i, 10j, 11, 11b, 11c, and by adding a subdivision; 626.558, subdivision 1; Laws 1995, chapters 178, article 2, section 46, subdivision 10; 207, articles 3, section 21; 8, section 41, as amended; 257, article 1, section 35, subdivision 1; Laws 1997, chapters 203, article 9, section 19; 225, article 4, section 4; and Laws 1998 chapter 407, article 7, section 2, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 16A; 62J; 116L; 127A; 137; 144; 144A; 144E; 148; 214; 245; 246; 252; 254A; 256; 256B; 256J; and 626; repealing Minnesota Statutes 1998, sections 13.99, subdivision 19m; 62J.69; 62J.77; 62J.78; 62J.79; 144.0723; 144.9507, subdivision 4; 144.9511; 144E.16, subdivisions 1, 2, 3, and 6; 144E.17; 144E.25; 144E.30, subdivisions 1, 2, and 6; 145.46; 254A.145; 256.973; 256B.434, subdivision 17; 256B.501, subdivision 3g; 256B.5011, subdivision 3; 256B.74, subdivisions 2 and 5; 256D.051, subdivisions 6 and 19; 256D.053, subdivision 4; 256J.03; 256J.30, subdivision 6; 256J.62, subdivisions 2, 3, and 5; 257.071, subdivisions 8 and 10; 462A.208; 548.091, subdivisions 3, 5, and 6; Laws 1997, chapters 85, article 1, section 63; 203, article 4, section 55; 225, article 6, section 8; and Laws 1998, chapter 407, article 2, section 104; Minnesota Rules, parts 4690.0100, subparts 4, 13, 15, 19, 20, 21, 22, 23, 24, 26, 27, and 29; 4690.0300; 4690.0400; 4690.0500; 4690.0600; 4690.0700; 4690.0800, subparts 1 and 2; 4690.0900; 4690.1000; 4690.1100;

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4690.1200; 4690.1300; 4690.1600; 4690.1700; 4690.2100; 4690.2200, subparts 1, 3, 4, and 5; 4690.2300; 4690.2400, subparts 1, 2, and 3; 4690.2500; 4690.2900; 4690.3000; 4690.3700; 4690.3900; 4690.4000; 4690.4100; 4690.4200; 4690.4300; 4690.4400; 4690.4500; 4690.4600; 4690.4700; 4690.4800; 4690.4900; 4690.5000; 4690.5100; 4690.5200; 4690.5300; 4690.5400; 4690.5500; 4690.5700; 4690.5800; 4690.5900; 4690.6000; 4690.6100; 4690.6200; 4690.6300; 4690.6400; 4690.6500; 4690.6600; 4690.6700; 4690.6800; 4690.7000; 4690.7100; 4690.7200; 4690.7300; 4690.7400; 4690.7500; 4690.7600; 4690.7700; 4690.7800; 4690.8300, subparts 1, 2, 3, 4, and 5; and 4735.5000.

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

## ARTICLE 1

### APPROPRIATIONS

#### Section 1. HEALTH AND HUMAN SERVICES 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 article, to be available for the fiscal years indicated for each purpose. The figures "2000" and "2001" where used in this article, mean that the appropriation or appropriations listed under them are available for the fiscal year ending June 30, 2000, or June 30, 2001, respectively. Where a dollar amount appears in parentheses, it means a reduction of an appropriation.

#### SUMMARY BY FUND

	2000	2001	BIENNIAL TOTAL
General	\$ 2,650,812,000	\$ 2,774,558,000	\$ 5,425,370,000
State Government			
Special Revenue	36,424,000	36,103,000	72,527,000
Health Care			
Access	146,224,000	175,017,000	321,241,000
Trunk Highway	1,726,000	1,773,000	3,499,000
Lottery Prize	1,300,000	1,300,000	2,600,000
TOTAL	\$ 2,836,486,000	\$ 2,988,751,000	\$ 5,825,237,000

APPROPRIATIONS Available for the Year Ending June 30	
2000	2001

#### Sec. 2. COMMISSIONER OF HUMAN SERVICES

Subdivision 1. Total Appropriation	\$ 2,694,991,000	\$ 2,847,745,000
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	Summary by Fund	
General	2,556,927,000	2,680,977,000
State Government		
Special Revenue	485,000	507,000
Health Care		
Access	136,279,000	164,961,000
Lottery Prize	1,300,000	1,300,000

**INDIRECT COSTS NOT TO FUND PROGRAMS.** The commissioner shall not use indirect cost allocations to pay for the operational costs of any program for which the commissioner is responsible.

**FUND AND ACCOUNT REPORTING REQUIRED.** On December 1, 1999, and December 1, 2000, the commissioner shall provide the chairs of the house health and human services finance committee and the senate health and family security budget division with detailed fund balance statements for: (1) each fund or account used by the commissioner in the ongoing operations of the agency; (2) each state-operated computer system under Minnesota Statutes, section 256.014, including but not limited to MAX-IS, the current Medicaid management information system (MMIS II), the child support enforcement system (PRISM), the electronic benefit transfer system (EBT), and the executive information system (EIS); and (3) the social services information system (SSIS).

Subd. 2. Agency Management		
General	28,311,000	28,345,000
State Government		
Special Revenue	371,000	392,000
Health Care		
Access	3,268,000	3,321,000

The amounts that may be spent from the appropriation for each purpose are as follows:

(a) Financial Operations

General	7,471,000	7,647,000
Health Care		
Access	691,000	702,000

**RECEIPTS FOR SYSTEMS PROJECTS.** Appropriations and federal receipts

for information system projects for MAXIS, electronic benefit system, social services information system, child support enforcement, and Minnesota Medicaid information system (MMIS II) must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota office of technology, 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 of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

(b) Legal & Regulation Operations

General	6,541,000	6,593,000
State Government		
Special Revenue	371,000	392,000
Health Care		
Access	141,000	145,000

**REIMBURSEMENT OF COUNTY**

**COSTS.** Of the general fund appropriation, \$10,000 is for the commissioner for the biennium beginning July 1, 1999, to reimburse counties for the legal and related costs of contesting through the administrative and judicial systems decisions that affect state spending but not county spending on programs administered or financed by the commissioner. The commissioner may reimburse expenses that occurred on or after January 1, 1998.

(c) Management Operations

General	14,299,000	14,105,000
Health Care		
Access	2,436,000	2,474,000
Subd. 3. Children's Grants		
General	52,845,000	54,931,000

**ADOPTION ASSISTANCE.** Federal funds available during the biennium ending June 30, 2001, for adoption incentive grants,

adoption and foster care recruitment, and other adoption services, are appropriated to the commissioner for these purposes.

Subd. 4. Children's Services Management General	3,900,000	3,740,000
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Subd. 5. Basic Health Care Grants

	Summary by Fund	
General	867,174,000	916,234,000
Health Care Access	116,490,000	145,469,000

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

(a) Minnesota Care Grants--

Health Care Access	116,490,000	145,469,000
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**HOSPITAL INPATIENT COPAYMENTS.** The commissioner of human services may require hospitals to refund hospital inpatient copayments paid by enrollees pursuant to Minnesota Statutes, section 256L.03, subdivision 5, between March 1, 1999, and December 31, 1999. If the commissioner requires hospitals to refund these copayments, the hospitals shall collect the copayment directly from the commissioner.

**MINNESOTACARE OUTREACH FEDERAL MATCHING FUNDS.** Any federal matching funds received as a result of the MinnesotaCare outreach activities authorized by Laws 1997, chapter 225, article 7, section 2, subdivision 1, shall be deposited in the health care access fund and dedicated to the commissioner to be used for those outreach purposes.

**FEDERAL RECEIPTS FOR ADMINISTRATION.** Receipts received as a result of federal participation pertaining to administrative costs of the Minnesota health care reform waiver shall be deposited as nondedicated revenue in the health care access fund. Receipts received as a result of federal participation pertaining to grants shall be deposited in the federal fund and shall offset health care access funds for payments to providers.

**HEALTH CARE ACCESS FUND.** The commissioner may expend money appropriated from the health care access fund for MinnesotaCare in either fiscal year of the biennium.

(b) MA Basic Health Care Grants—  
Families and Children

General	307,053,000	320,112,000
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**COMMUNITY DENTAL CLINICS.** Of this appropriation, \$600,000 in fiscal year 2000 is for the commissioner to provide start-up grants to establish community dental clinics under Minnesota Statutes, section 256B.76, paragraph (b), clause (5). The commissioner shall award grants and shall require grant recipients to match the state grant with nonstate funding on a one-to-one basis. This is a one-time appropriation and shall not become part of base level funding for this activity for the 2002-2003 biennium.

(c) MA Basic Health Care Grants—  
Elderly & Disabled

General	404,814,000	451,928,000
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**SURCHARGE COMPLIANCE.** In the event that federal financial participation in the Minnesota medical assistance program is reduced as a result of a determination that the surcharge and intergovernmental transfers governed by Minnesota Statutes, sections 256.9657 and 256B.19 are out of compliance with United States Code, title 42, section 1396b(w), or its implementing regulations or with any other federal law designed to restrict provider tax programs or intergovernmental transfers, the commissioner shall appeal the determination to the fullest extent permitted by law and may ratably reduce all medical assistance and general assistance medical care payments to providers other than the state of Minnesota in order to eliminate any shortfall resulting from the reduced federal funding. Any amount later recovered through the appeals process shall be used to reimburse providers for any ratable reductions taken.

**BLOOD PRODUCTS LITIGATION.** To the extent permitted by federal law, Minnesota Statutes, section 256.015, 256B.042, and 256B.15, are waived as necessary for the limited purpose of resolving the state's claims in connection with In re Factor VIII or IX Concentrate Blood Products Litigation, MDL-986, No. 93-C7452 (N.D.III.).

(d) General Assistance Medical Care		
General	141,805,000	128,012,000
(e) Basic Health Care – Nonentitlement		
General	13,502,000	16,182,000

**DENTAL ACCESS GRANT.** Of this appropriation, \$75,000 is from the general fund to the commissioner in fiscal year 2000 for a grant to a nonprofit dental provider group operating a dental clinic in Clay county. The grant must be used to increase access to dental services for recipients of medical assistance, general assistance medical care, and the MinnesotaCare program in the northwest area of the state. This appropriation is available the day following final enactment.

Subd. 6. Basic Health Care Management		
General	23,268,000	23,227,000
Health Care		
Access	15,208,000	14,853,000

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

(a) Health Care Policy Administration		
General	3,109,000	3,008,000
Health Care		
Access	570,000	582,000

**TELEMEDICINE REPORT.** The commissioner shall report to the legislature by January 15, 2001, with an analysis of whether the expansion of medical assistance and general assistance medical care to cover certain telemedicine services resulted in cost savings or other benefits to the health care system and with a recommendation on whether coverage of telemedicine services should be continued beyond June 30, 2001.



**(b) Health Care Operations**

General	20,159,000	20,219,000
Health Care Access	14,638,000	14,271,000

**MINNESOTACARE STAFF.** Of this appropriation, \$1,060,000 for fiscal year 2000 and \$733,000 for fiscal year 2001 is from the health care access fund to the commissioner for staff and other administrative services associated with improving MinnesotaCare processing and caseload management. Of this appropriation, \$483,000 shall become part of the base.

**WORK INCENTIVES FOR DISABLED.**

Of this appropriation, \$28,000 each year is for the commissioner to provide the five percent state match that is required in order for the state to access federal funding in the amount of \$550,000 annually in fiscal years 2000 to 2003, for the Social Security Administration's work incentives demonstration project. The commissioner shall transfer these matching funds to the commissioner of economic security. The base level funding for this activity must be established at \$28,000 for the 2002-2003 biennium.

**SYSTEMS CONTINUITY.** In the event of disruption of technical systems or computer operations, the commissioner may use available grant appropriations to ensure continuity of payments for maintaining the health, safety, and well-being of clients served by programs administered by the department of human services. Grant funds must be used in a manner consistent with the original intent of the appropriation.

**PREPAID MEDICAL PROGRAMS.** The nonfederal share of the prepaid medical assistance program fund, which has been appropriated to fund county managed care advocacy and enrollment operating costs, shall be disbursed as grants using either a reimbursement or block grant mechanism and may also be transferred between grants and nongrant administration costs with approval of the commissioner of finance.

## Subd. 7. State-Operated Services

General	206,929,000	212,002,000
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The amounts that may be spent from this appropriation for each purpose are as follows:

## (a) SOS-Campus Based Programs

General	185,696,000	190,143,000
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**DAY TRAINING SERVICES.** In order to ensure eligible individuals have access to day training and habilitation services, the regional treatment centers, the Minnesota extended treatment options program, and state-operated community services operating according to Minnesota Statutes, section 252.50, are exempt from the provisions of Minnesota Statutes, section 252.41, subdivision 9, clause (2). Notwithstanding section 13, this provision shall not expire.

**MITIGATION RELATED TO DEVELOPMENTAL DISABILITIES**

**DOWNSIZING.** Money appropriated to finance mitigation expenses related to the downsizing of regional treatment center developmental disabilities programs may be transferred between fiscal years within the biennium.

**REGIONAL TREATMENT CENTER CHEMICAL DEPENDENCY PROGRAMS.**

When the operations of the regional treatment center chemical dependency fund created in Minnesota Statutes, section 246.18, subdivision 2, are impeded by projected cash deficiencies resulting from delays in the receipt of grants, dedicated income, or other similar receivables, and when the deficiencies would be corrected within the budget period involved, the commissioner of finance may transfer general fund cash reserves into this account as necessary to meet cash demands. The cash flow transfers must be returned to the general fund in the fiscal year that the transfer was made. Any interest earned on general fund cash flow transfers accrues to the general fund and not the regional treatment center chemical dependency fund.

**LEAVE LIABILITIES.** The accrued leave liabilities of state employees transferred to state-operated community services programs may be paid from the appropriation in this subdivision for state-operated services. Funds set aside for this purpose shall not exceed the amount of the actual leave liability calculated as of June 30, 2000, and shall be available until expended.

**REGIONAL TREATMENT CENTER RESTRUCTURING.** For purposes of restructuring the regional treatment centers and state nursing homes, any regional treatment center or state nursing home employee whose position is to be eliminated shall be afforded the options provided in applicable collective bargaining agreements. All salary and mitigation allocations from fiscal year 2000 shall be carried forward into fiscal year 2001. Provided there is no conflict with any collective bargaining agreement, any regional treatment center or state nursing home position reduction must only be accomplished through mitigation, attrition, transfer, and other measures as provided in state or applicable collective bargaining agreements and in Minnesota Statutes, section 252.50, subdivision 11, and not through lay-off.

**REGIONAL TREATMENT CENTER POPULATION.** If the resident population at the regional treatment centers is projected to be higher than the estimates upon which the medical assistance forecast and budget recommendations for the 2000-2001 biennium is based, the amount of the medical assistance appropriation that is attributable to the cost of services that would have been provided as an alternative to regional treatment center services, including resources for community placements and waived services for persons with mental retardation and related conditions, is transferred to the residential facilities appropriation.

**REPAIRS AND BETTERMENTS.** The commissioner may transfer unencumbered appropriation balances between fiscal years

for the state residential facilities repairs and betterments account and special equipment.

**PROJECT LABOR.** Wages for project labor may be paid by the commissioner out of repairs and betterments money if the individual is to be engaged in a construction project or a repair project of short-term and non-recurring nature. Compensation for project labor shall be based on the prevailing wage rates, as defined in Minnesota Statutes, section 177.42, subdivision 6. Project laborers are excluded from the provisions of Minnesota Statutes, sections 43A.22 to 43A.30, and shall not be eligible for state-paid insurance and benefits.

**YEAR 2000 COSTS AT RTCS.** Of this appropriation, \$44,000 is for the costs associated with addressing potential year 2000 problems. Of this amount, \$19,000 is available the day following final enactment.

(b) State-Operated Community Services – Northeast Minnesota Mental Health Services		
General	3,983,000	4,055,000
(c) State-Operated Community Services – Statewide DD Supports		
General	15,493,000	16,047,000
(d) State-Operated Services – Enterprise Activities		
General	1,757,000	1,757,000
Subd. 8. Continuing Care and Community Support Grants		
General	1,174,195,000	1,259,767,000
Lottery Prize	1,158,000	1,158,000

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

(a) Community Social Services		
Block Grants		
	42,597,000	43,498,000

**CSSA TRADITIONAL APPROPRIATION.** Notwithstanding Minnesota Statutes, section 256E.06, subdivisions 1 and 2, the appropriations available under that sec-

tion in fiscal years 2000 and 2001 must be distributed to each county proportionately to the aid received by the county in calendar year 1998. The commissioner, in consultation with counties, shall study the formula limitations in subdivision 2 of that section, and report findings and any recommendations for revision of the CSSA formula and its formula limitation provisions to the legislature by January 15, 2000.

(b) Consumer Support Grants

1,123,000	1,123,000
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(c) Aging Adult Service Grants

7,965,000	7,765,000
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**LIVING-AT-HOME/BLOCK NURSE PROGRAM.** Of the general fund appropriation, \$120,000 in fiscal year 2000 and \$120,000 in fiscal year 2001 is for the commissioner to provide funding to six additional living-at-home/block nurse programs. This appropriation shall become part of the base for the 2002-2003 biennium.

**MINNESOTA SENIOR SERVICE CORPS.** Of this appropriation, \$160,000 for the biennium is from the general fund to the commissioner for the following purposes:

(a) \$40,000 in fiscal year 2000 and \$40,000 in fiscal year 2001 is to increase the hourly stipend by ten cents per hour in the foster grandparent program, the retired and senior volunteer program, and the senior companion program.

(b) \$40,000 in fiscal year 2000 and \$40,000 in fiscal year 2001 is for a grant to the tri-valley opportunity council in Crookston to expand services in the ten-county area of northwestern Minnesota.

(c) This appropriation shall become part of the base for the 2002-2003 biennium.

**HEALTH INSURANCE COUNSELING.** Of this appropriation, \$100,000 in fiscal year 2000 and \$100,000 in fiscal year 2001 is

from the general fund to the commissioner to transfer to the board on aging for the purpose of awarding health insurance counseling and assistance grants to the area agencies on aging providing state-funded health insurance counseling services. Access to health insurance counseling programs shall be provided by the senior linkage line service of the board on aging and the area agencies on aging. The board on aging shall explore opportunities for obtaining alternative funding from non-state sources, including contributions from individuals seeking health insurance counseling services. This is a one-time appropriation and shall not become part of base level funding for this activity for the 2002-2003 biennium.

(d) Deaf and Hard-of-Hearing  
Services Grants

1,859,000	1,760,000
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**SERVICES TO DEAF PERSONS WITH MENTAL ILLNESS.** Of this appropriation, \$100,000 each year is to the commissioner for a grant to a nonprofit agency that currently serves deaf and hard-of-hearing adults with mental illness through residential programs and supported housing outreach. The grant must be used to operate a community support program for persons with mental illness that is communicatively accessible for persons who are deaf or hard-of-hearing. This is a one-time appropriation and shall not become part of base level funding for this activity for the 2002-2003 biennium.

**DEAF-BLIND ORIENTATION AND MOBILITY SERVICES.** Of this appropriation, \$120,000 for the biennium is to the commissioner for a grant to DeafBlind Services Minnesota to hire an orientation and mobility specialist to work with deaf-blind people. The specialist will provide services to deaf-blind Minnesotans, and training to teachers and rehabilitation counselors, on a statewide basis. This is a one-time appropriation and shall not become part of base level

funding for this activity for the 2002–2003 biennium.

(e) Mental Health Grants

General	45,169,000	46,528,000
Lottery Prize	1,158,000	1,158,000

**CRISIS HOUSING.** Of the general fund appropriation, \$126,000 in fiscal year 2000 and \$150,000 in fiscal year 2001 is to the commissioner for the adult mental illness crisis housing assistance program under Minnesota Statutes, section 245.99. This appropriation shall become part of the base for the 2002–2003 biennium.

**ADOLESCENT COMPULSIVE GAMBLING GRANT.** \$150,000 in fiscal year 2000 and \$150,000 in fiscal year 2001 is appropriated from the lottery prize fund created under Minnesota Statutes, section 349A.10, subdivision 2, to the commissioner for the purposes of a grant to a compulsive gambling council located in St. Louis county for a statewide compulsive gambling prevention and education project for adolescents.

(f) Developmental Disabilities

Community Support Grants	9,323,000	10,958,000
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**CRISIS INTERVENTION PROJECT.** Of this appropriation, \$40,000 in fiscal year 2000 is to the commissioner for the action, support, and prevention project of southeastern Minnesota.

**SILS FUNDING.** Of this appropriation, \$1,000,000 each year is for semi-independent living services under Minnesota Statutes, section 252.275. This appropriation must be added to the base level funding for this activity for the 2002–2003 biennium. Unexpended funds for fiscal year 2000 do not cancel but are available to the commissioner for this purpose in fiscal year 2001.

**FAMILY SUPPORT GRANTS.** Of this appropriation, \$1,000,000 in fiscal year 2000 and \$2,500,000 in fiscal year 2001 is to increase the availability of family support

grants under Minnesota Statutes, section 252.32. This appropriation must be added to the base level funding for this activity for the 2002–2003 biennium. Unexpended funds for fiscal year 2000 do not cancel but are available to the commissioner for this purpose in fiscal year 2001.

(g) Medical Assistance Long-Term  
Care Waivers and Home Care

349,052,000	414,240,000
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**PROVIDER RATE INCREASES.** (a) The commissioner shall increase reimbursement rates by four percent the first year of the biennium and by three percent the second year for the providers listed in paragraph (b). The increases shall be effective for services rendered on or after July 1 of each year.

(b) The rate increases described in this section shall be provided to home and community-based waived services for persons with mental retardation or related conditions under Minnesota Statutes, section 256B.501; home and community-based waived services for the elderly under Minnesota Statutes, section 256B.0915; waived services under community alternatives for disabled individuals under Minnesota Statutes, section 256B.49; community alternative care waived services under Minnesota Statutes, section 256B.49; traumatic brain injury waived services under Minnesota Statutes, section 256B.49; nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivision 19a; private-duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7; day training and habilitation services for adults with mental retardation or related conditions under Minnesota Statutes, sections 252.40 to 252.46; alternative care services under Minnesota Statutes, section 256B.0913; adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and



family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760; semi-independent living services under Minnesota Statutes, section 252.275, including SILS funding under county social services grants formerly funded under Minnesota Statutes, chapter 256I; and community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication.

(c) The commissioner shall increase reimbursement rates by two percent for the group residential housing supplementary service rate under Minnesota Statutes, section 256L.05, subdivision 1a, for services rendered on or after January 1, 2000.

(d) Providers that receive a rate increase under this section shall use at least 80 percent of the additional revenue to increase the compensation paid to employees other than the administrator and central office staff.

(e) A copy of the provider's plan for complying with paragraph (d) must be made available to all employees. This must be done by giving each employee a copy or by posting it in an area of the provider's operation to which all employees have access. If an employee does not receive the salary adjustment described in the plan and is unable to resolve the problem with the provider, the employee may contact the employee's union representative. If the employee is not covered by a collective bargaining agreement, the employee may contact the commissioner at a phone number provided by the commissioner and included in the provider's plan.

(f) Section 13, sunset of uncodified language, does not apply to this provision.

**DEVELOPMENTAL DISABILITIES WAIVER SLOTS.** Of this appropriation, \$1,746,000 in fiscal year 2000 and \$4,683,000 in fiscal year 2001 is to increase the availability of home and community-based waiver services for persons with mental retardation or related conditions.

(h) Medical Assistance Long-Term  
Care Facilities

546,228,000      558,349,000

**MORATORIUM EXCEPTIONS.** Of this appropriation, \$250,000 in fiscal year 2000 and \$250,000 in fiscal year 2001 is from the general fund to the commissioner for the medical assistance costs of moratorium exceptions approved by the commissioner of health under Minnesota Statutes, section 144A.073. Unexpended money appropriated for fiscal year 2000 shall not cancel but shall be available for fiscal year 2001.

**NURSING FACILITY OPERATED BY THE RED LAKE BAND OF CHIPPEWA INDIANS.** (1) The medical assistance payment rates for the 47-bed nursing facility operated by the Red Lake Band of Chippewa Indians must be calculated according to allowable reimbursement costs under the medical assistance program, as specified in Minnesota Statutes, section 246.50, and are subject to the facility-specific Medicare upper limits.

(2) In addition, the commissioner shall make available an operating payment rate adjustment effective July 1, 1999, and July 1, 2000, that is equal to the adjustment provided under Minnesota Statutes, section 256B.431, subdivision 28. The commissioner must use the facility's final 1998 and 1999 Medicare cost reports, respectively, to calculate the adjustment. The adjustment shall be available based on a plan submitted and approved according to Minnesota Statutes, section 256B.431, subdivision 28. Section 13, sunset of uncodified language, does not apply to this paragraph.

**ICF/MR DISALLOWANCES.** Of this appropriation, \$65,000 in fiscal 2000 is to reimburse a four-bed ICF/MR in Ramsey county for disallowances resulting from field audit findings. This is a one-time appropriation and shall not become part of base level funding for this activity for the 2002-2003 biennium.\* (**The preceding text**

beginning "ICF/MR DISALLOWANCES." was vetoed by the governor.)

**COSTS RELATED TO FACILITY CERTIFICATION.** Of this appropriation, \$168,000 is for the costs of providing one-half the state share of medical assistance reimbursement for residential and day habilitation services under article 3, section 39. This amount is available the day following final enactment.

(i) Alternative Care Grants		
General	60,873,000	59,981,000

**ALTERNATIVE CARE TRANSFER.** Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but shall be transferred to the medical assistance account.

**PREADMISSION SCREENING AMOUNT.** The preadmission screening payment to all counties shall continue at the payment amount in effect for fiscal year 1999.

**ALTERNATIVE CARE APPROPRIATION.** The commissioner may expend the money appropriated for the alternative care program for that purpose in either year of the biennium.

(j) Group Residential Housing		
General	66,477,000	70,390,000

**GROUP RESIDENTIAL FACILITY FOR WOMEN IN RAMSEY COUNTY.**

(a) Notwithstanding Minnesota Statutes 1998, section 256I.05, subdivision 1d, the new 23-bed group residential facility for women in Ramsey county, with approval by the county agency, may negotiate a supplementary service rate in addition to the board and lodging rate for facilities licensed and registered by the Minnesota department of health under Minnesota Statutes, section 15.17. The supplementary service rate shall not exceed \$564 per person per month and the total rate may not exceed \$1,177 per person per month.

(b) Of the general fund appropriation, \$19,000 in fiscal year 2000 and \$38,000 in fiscal year 2001 is to the commissioner for the costs associated with paragraph (a). This appropriation shall become part of the base for the 2002–2003 biennium.

(k) Chemical Dependency

Entitlement Grants

General	36,751,000	38,847,000
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(l) Chemical Dependency

Nonentitlement Grants

General	6,778,000	6,328,000
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**CHEMICAL DEPENDENCY SERVICES.** Of this appropriation, \$450,000 in fiscal year 2000 is to the commissioner for chemical dependency services to persons who qualify under Minnesota Statutes, section 254B.04, subdivision 1, paragraph (b).

**REPEAT DWI OFFENDER PROGRAM.** Of this appropriation, \$100,000 in fiscal year 2000 and \$100,000 in fiscal year 2001 is for the commissioner to pay for chemical dependency treatment for repeat DWI offenders at Brainerd regional human services center. Payment to the Brainerd regional human services center may only be authorized from this appropriation after all potential public and private third-party payers have been billed and a determination made that the offender is not eligible for reimbursement of the treatment costs. This appropriation shall not become part of the base for the 2002–2003 biennium.\* (The preceding text beginning “REPEAT DWI OFFENDER PROGRAM.” was vetoed by the governor.)

Subd. 9. Continuing Care and

Community Support Management

General	17,318,000	17,616,000
Lottery Prize	142,000	142,000
State Government		
Special Revenue	114,000	115,000

**MINNESOTA SENIOR HEALTH OPTIONS PROJECT.** Of the general fund appropriation, up to \$200,000 may be trans-

ferred to the Minnesota senior health options project special revenue account during the biennium ending June 30, 2001, to serve as matching funds.

**PERSONS WITH BRAIN INJURIES.** (a)

The commissioner shall study and report to the legislature by January 15, 2000, on the status of persons with brain injuries residing in public and private institutions. The report shall include information on lengths of stay, ages of institutionalized persons, and on the supports and services needed to allow these persons to return to their communities.

(b) The commissioner shall apply to the Health Care Financing Administration for a grant to carry out a demonstration project to transition disabled persons out of nursing homes. The project must:

(1) identify persons with brain injuries and other disabled persons residing in nursing homes who could live successfully in the community with appropriate supports;

(2) develop community-based services and supports for institutionalized persons;

(3) eliminate incentives to keep these persons in institutions;

(4) foster the independence of institutionalized persons by involving them in the selection and management of community-based services, such as personal care assistance;

(5) develop innovative funding arrangements to enable funding to follow the individual; and

(6) empower disabled persons, families, and advocacy groups by including them in the design and implementation of service delivery models that maximize consumer choice and direction.

(c) Paragraph (b) is effective the day following final enactment.

**CAMP.** Of this appropriation, \$15,000 each year is from the mental health special projects account, for adults and children with

mental illness from across the state, for a camping program which utilizes the Boundary Waters Canoe Area and is cooperatively sponsored by client advocacy, mental health treatment, and outdoor recreation agencies.

**DEMO PROJECT EXTERNAL ADVOCACY FUNDING CAP.** Of the appropriation for the demonstration project for people with disabilities under Minnesota Statutes, section 256B.77, no more than \$79,000 per year may be paid for external advocacy under Minnesota Statutes, section 256B.77, subdivision 14.

**REGION 10 QUALITY ASSURANCE COMMISSION.** (1) Of this appropriation, \$210,000 each year is appropriated to the commissioner for a grant to the region 10 quality assurance commission established under Minnesota Statutes, section 256B.0951, for the purposes specified in clauses (2) to (4). Unexpended funds for fiscal year 2000 do not cancel, but are available to the commission for fiscal year 2001.

(2) \$180,000 each year is for the operating costs of the alternative quality assurance licensing system pilot project, and for the commission to provide grants to counties participating in the alternative quality assurance licensing system under Minnesota Statutes, section 256B.0953.

(3) \$20,000 each year is for the commission to contract with an independent entity to conduct a financial review of the alternative quality assurance licensing system, including an evaluation of possible budgetary savings within the affected state agencies as the result of implementing the system.

(4) \$10,000 each year is for the commission, in consultation with the commissioner of human services, to establish an ongoing review process for the alternative quality assurance licensing system.

(5) This appropriation shall not become part of the base for the 2002–2003 biennium.

## Subd. 10. Economic Support Grants

General	142,037,000	124,758,000
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**GIFTS.** Notwithstanding Minnesota Statutes, chapter 7, the commissioner may accept on behalf of the state additional funding from sources other than state funds for the purpose of financing the cost of assistance program grants or nongrant administration. All additional funding is appropriated to the commissioner for use as designated by the grantee of funding.

**CHILD SUPPORT PAYMENT CENTER RECOUPMENT ACCOUNT.**

The child support payment center is authorized to establish an account to cover checks issued in error or in cases where insufficient funds are available to pay the checks. All recoupments against payments from the account must be deposited in the child support payment center recoupment account and are appropriated to the commissioner for the purposes of the account. Any unexpended balance in the account does not cancel, but is available until expended.

**FEDERAL TANF FUNDS.** (1) Federal Temporary Assistance for Needy Families block grant funds authorized under title I, Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and awarded in federal fiscal years 1997 to 2002 are appropriated to the commissioner in amounts up to \$256,265,000 in fiscal year 2000 and \$249,682,000 in fiscal year 2001. In addition to these funds, the commissioner may draw or transfer any other appropriations or transfers of federal TANF block grant funds that are enacted into state law.

(2) Of the amounts in clause (1), \$15,000,000 is transferred each year of the biennium to the state's federal Title XX block grant. Notwithstanding the provisions of Minnesota Statutes, section 256E.07, in each year of the biennium the commissioner shall allocate \$15,000,000 of the state's Title XX block grant funds based on the commu-

nity social services aids formula in Minnesota Statutes, section 256E.06. The commissioner shall ensure that money allocated to counties under this provision is used according to the requirements of United States Code, title 42, section 604(d)(3)(B).

(3) Of the amounts in clause (1), \$10,990,000 is transferred each year from the state's federal TANF block grant to the state's federal Title XX block grant. In each year \$140,000 is for grants according to Minnesota Statutes, section 257.3571, subdivision 2a, to the Indian child welfare defense corporation to promote statewide compliance with the Indian Child Welfare Act of 1978; \$4,650,000 is for grants to counties for concurrent permanency planning; and \$6,200,000 is for the commissioner to distribute according to the formula in Minnesota Statutes, section 256E.07. The commissioner shall ensure that money allocated under this clause is used according to the requirements of United States Code, title 42, section 604(d)(3)(B). In fiscal years 2002 and 2003, \$140,000 per year is for grants according to Minnesota Statutes, section 257.3571, subdivision 2a, to the Indian child welfare defense corporation to promote statewide compliance with the Indian Child Welfare Act of 1978. Section 13, sunset of uncodified language, does not apply to this provision.

(4) Of the amounts in clause (1), \$13,360,000 each year is for increased employment and training efforts and shall be expended as follows:

(a) \$140,000 each year is for a grant to the new chance program. The new chance program shall provide comprehensive services through a private, nonprofit agency to young parents in Hennepin county who have dropped out of school and are receiving public assistance. The program administrator shall report annually to the commissioner on skills development, education, job training, and job placement outcomes for program



participants. This appropriation is available for either year of the biennium.

(b) \$260,000 each year is for grants to counties to operate the parents fair share program to assist unemployed, noncustodial parents with job search and parenting skills.

(c) \$12,960,000 each year is to increase employment and training services grants for MFIP of which \$750,000 each year is to be transferred to the job skills partnership board for the health care and human services worker training and retention program.

(d) \$10,400,000 of these appropriations shall become part of the base for the 2002–2003 biennium.

(5) Of the amounts in clause (1), \$1,094,000 in fiscal year 2000 and \$1,676,000 in fiscal year 2001 is transferred from the state's federal TANF block grant to the state's federal child care and development fund block grant, and is appropriated to the commissioner of children, families, and learning for the purposes of Minnesota Statutes, section 119B.05.

(6) Of the amounts in clause (1), \$1,000,000 for the biennium is for the purposes of creating and expanding adult-supervised supportive living arrangement services under Minnesota Statutes, section 256J.14. The commissioner shall request proposals from interested parties that have knowledge and experience in the area of adult-supervised adolescent housing and supportive services, and award grants for the purpose of either expanding existing or creating new living arrangements and supportive services. Minor parents who are MFIP participants shall be given priority for housing, and excess living arrangements may be used by minor parents who are not MFIP participants.

(7) In order to maximize transfers from Minnesota's 1998 and 1999 federal TANF block grant awards, the commissioner may implement the transfers of TANF funds in clauses (2), (3), and (5) in the first year of the bien-

nium. This must only be done to the extent allowed by federal law and to the extent that program funding requirements can be met in the second year of the biennium.

(8) The commissioner shall ensure that sufficient qualified state expenditures are made each year to meet the TANF basic maintenance of effort requirements. The commissioner may apply any allowable source of state expenditures toward these requirements, as necessary to meet minimum basic maintenance of effort requirements and to prevent the loss of federal funds.

**WORKER TRAINING AND RETENTION ELIGIBILITY PROCEDURES.**

The commissioner shall develop eligibility procedures for TANF expenditures under Minnesota Statutes, section 256J.02, subdivision 2, clause (5).

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

(a) Assistance to Families Grants		
General	64,870,000	66,117,000

**EMPLOYMENT SERVICES CARRY-OVER.** General fund and federal TANF block grant appropriations for employment services that remain unexpended subsequent to the reallocation process required in Minnesota Statutes, section 256J.62, do not cancel but are available for these purposes in fiscal year 2001.

(b) Work Grants		
General	10,731,000	10,731,000

(c) Aid to Families With Dependent Children and Other Assistance		
General	1,053,000	374,000

(d) Child Support Enforcement		
General	5,359,000	5,359,000

**CHILD SUPPORT PAYMENT CENTER.** Payments to the commissioner from other governmental units, private enterprises, and individuals for services performed by the child support payment center

must be deposited in the state systems account authorized under Minnesota Statutes, section 256.014. These payments are appropriated to the commissioner for the operation of the child support payment center or system, according to Minnesota Statutes, section 256.014.

**CHILD SUPPORT EXPEDITED PROCESS.** Of this appropriation for child support enforcement, \$2,340,000 for the biennium shall be transferred to the state court administrator to fund the child support expedited process, in accordance with a cooperative agreement to be negotiated between the parties. State funds transferred for this purpose in fiscal year 2000 may exceed the base funding amount of \$1,170,000 to the extent that there is an increase in the number of orders issued in the expedited process, but may not exceed \$1,420,000 in any case. Unexpended expedited process appropriations in fiscal year 2000 may be transferred to fiscal year 2001 for this purpose. Base funding for this program is set at \$1,170,000 for each year of the 2002–2003 biennium. The commissioner shall include cost reimbursement claims from the state court administrator for the child support expedited process in the department of human services federal cost reimbursement claim process according to federal law. Federal dollars earned under these claims are appropriated to the commissioner and shall be disbursed to the state court administrator according to department procedures and schedules.

(e) General Assistance

General	33,927,000	14,973,000
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**TRANSFERS FROM STATE TANF RESERVE.** \$4,666,000 in fiscal year 2000 is transferred from the state TANF reserve account to the general fund.

**GENERAL ASSISTANCE STANDARD.**

The commissioner shall set the monthly standard of assistance for general 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 commissioner may reduce this amount in accordance with Laws 1997, chapter 85, article 3, section 54.

(f) Minnesota Supplemental Aid		
General	25,767,000	26,874,000
(g) Refugee Services		
General	330,000	330,000
Subd. 11. Economic Support		
Management		
General	40,950,000	40,357,000
Health Care		
Access	1,313,000	1,318,000

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

(a) Economic Support Policy		
Administration		
General	7,100,000	6,951,000

**FOOD STAMP ADMINISTRATIVE RE-IMBURSEMENT.** The commissioner shall reduce quarterly food stamp administrative reimbursement to counties in fiscal years 1999, 2000, and 2001 by the amount that the United States Department of Health and Human Services determines to be the county random moment study share of the food stamp adjustment under Public Law Number 105-185. The reductions shall be allocated to each county in proportion to each county's contribution, if any, to the amount of the adjustment. Any adjustment to medical assistance administrative reimbursement that is based on the United States Department of Health and Human Services' determinations under Public Law Number 105-185 shall be distributed to counties in the same manner. This provision is effective the day following final enactment.

**SPENDING AUTHORITY FOR FOOD STAMP ENHANCED FUNDING.** In the event that Minnesota qualifies for United States Department of Agriculture Food and Nutrition Services Food Stamp Program enhanced funding beginning in federal fiscal

year 1998, the money is appropriated to the commissioner for the purposes of the program. The commissioner may retain 25 percent of the enhanced funding, with the remaining 75 percent divided among the counties according to a formula that takes into account each county's impact on the statewide food stamp error rate.

**ELIGIBILITY DETERMINATION FUNDING.** Increased federal funds for the costs of eligibility determination and other permitted activities that are available to the state through section 114 of the Personal Responsibility and Work Opportunity Reconciliation Act, Public Law Number 104-193, are appropriated to the commissioner.

(b) Economic Support Operations		
General	33,850,000	33,406,000
Health Care Access	1,313,000	1,318,000

**MAXIS BASE REDUCTION.** The base level appropriation for MAXIS shall be reduced by \$2,500,000 each year of the biennium beginning July 1, 2001. Section 13, sunset of uncodified language, does not apply to this provision.

**FRAUD PREVENTION AND CONTROL FUNDING.** Unexpended funds appropriated for the provision of program integrity activities for fiscal year 2000 are also available to the commissioner to fund fraud prevention and control initiatives, and do not cancel but are available to the commissioner for these purposes for fiscal year 2001. Unexpended funds may be transferred between the fraud prevention investigation program and fraud control programs to promote the provisions of Minnesota Statutes, sections 256.983 and 256.9861.

**TRANSFERS TO TITLE XX FOR CSSA.** When preparing the governor's budget for the 2002-2003 biennium, the commissioner of finance shall ensure that the base level funding for the community social services aids includes \$11,000,000 in fiscal year 2002 and \$11,000,000 in fiscal year 2003 in fund-

ing that is transferred from the state's federal TANF block grant to the state's federal Title XX block grant. Notwithstanding the provisions of Minnesota Statutes, section 256E.07, the commissioner shall allocate the portion of the state's community social services aids funding that is comprised of these transferred funds based on the community social services aids formula in Minnesota Statutes, section 256E.06. The commissioner shall ensure that money allocated under this provision is used in accordance with the requirements of United States Code, title 42, section 604(d)(3)(B). Any reductions to the amount of the state community social services (CSSA) block grant funding in fiscal year 2002 or 2003 shall not reduce the base for the CSSA block grant for the 2004-2005 biennial budget. Section 13, sunset of uncodified language, does not apply to this provision.

### Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. Total			
Appropriation		100,424,000	98,641,000
	Summary by Fund		
General	64,916,000	63,565,000	
State Government			
Special Revenue	25,563,000	25,020,000	
Health Care			
Access	9,945,000	10,056,000	

**INDIRECT COSTS NOT TO FUND PROGRAMS.** The commissioner shall not use indirect cost allocations to pay for the operational costs of any program for which the commissioner is responsible.

**GENERAL FUND GRANT REDUCTIONS.** The commissioner may not reduce general fund appropriations for grants without specific legislative authority.

Subd. 2. Health Systems			
and Special Populations		66,999,000	66,269,000
	Summary by Fund		
General	46,593,000	46,299,000	
State Government			
Special Revenue	10,557,000	10,012,000	
Health Care			
Access	9,849,000	9,958,000	

**WIC TRANSFERS.** The general fund appropriation for the women, infants, and children (WIC) food supplement program is available for either year of the biennium. Transfers of these funds between fiscal years must either be to maximize federal funds or to minimize fluctuations in the number of program participants.

**MINNESOTA CHILDREN WITH SPECIAL HEALTH NEEDS CARRYOVER.**

General fund appropriations for treatment services in the services for Minnesota children with special health needs program are available for either year of the biennium.

**SUICIDE PREVENTION STUDY.** Of the general fund appropriation, \$100,000 in fiscal year 2000 is for the commissioner to study suicide issues and develop a suicide prevention plan. The study must be conducted in consultation with local community health boards, mental health professionals, schools, and other interested parties. The plan must be reported to the legislature by January 15, 2000.

**FAMILY PRACTICE RESIDENCY PROGRAM.** Of the general fund appropriation, \$300,000 in fiscal year 2000 is to the commissioner to make a grant to the city of Duluth for a family practice residency program for northeastern Minnesota.

**UNCOMPENSATED CARE.** The commissioner shall study and report to the legislature by January 15, 2000, with:

(1) statistical information on the amount of uncompensated health care provided in Minnesota, the types of care provided, the settings in which the care is provided, and, if known, the most common reasons why the care is uncompensated; and

(2) recommendations for reducing the level of uncompensated care, including, but not limited to, methods to enroll eligible persons in public health care programs through simplification of the application process and other efforts.

**RURAL HOSPITAL CAPITAL IMPROVEMENT GRANT PROGRAM.** (a)

Of this appropriation, \$2,800,000 for each fiscal year is from the health care access fund to the commissioner for the rural hospital capital improvement grant program described in Minnesota Statutes, section 144.148. This appropriation shall not become part of the base for the 2002-2003 biennium.

(b) The commissioner may provide up to \$300,000 for the Westbrook health center for hospital and clinic improvements, upon receipt of information from the Westbrook health center indicating how it has fulfilled the requirements of Minnesota Statutes, section 144.148, and evidence that it has raised at least a dollar-for-dollar match from non-state sources.

**ACCESS TO SUMMARY MINIMUM**

**DATA SET (MDS).** The commissioner, in cooperation with the commissioner of administration, shall work to obtain access to Minimum Data Set (MDS) data that is electronically transmitted by nursing facilities to the health department. The MDS data shall be made available on a quarterly basis to industry trade associations for use in quality improvement efforts and comparative analysis. The MDS data shall be provided to the industry trade associations in the form of summary aggregate data, without patient identifiers, to ensure patient privacy. The commissioner may charge for the actual cost of production of these documents.

**NURSING HOME MORATORIUM RE-**

**PORT.** In preparing the report required by Minnesota Statutes, section 144A.071, subdivision 5, the commissioner and the commissioner of human services shall analyze the adequacy of the supply of nursing home beds by measuring the ability of hospitals to promptly discharge patients to a nursing home within the hospital's primary service area. If it is determined that a shortage of beds exists, the report shall present a plan to correct the service deficits. The report shall



also analyze the impact of assisted living services on the medical assistance utilization of nursing homes.

**HEALTH CARE PURCHASING ALLIANCES.** Of the health care access fund appropriation, \$100,000 each year is to the commissioner for grants to two local organizations to develop health care purchasing alliances under Minnesota Statutes, section 62T.02, to negotiate the purchase of health care services from licensed entities. Of this amount, \$50,000 each year is for a grant to the Southwest Regional Development Commissioner to coordinate purchasing alliance development in the southwest area of the state, and \$50,000 each year is for a grant to the University of Minnesota extension services in Crookston to coordinate purchasing alliance development in the northwest area of the state. This is a one-time appropriation and shall not become part of base level funding for this activity for the 2002–2003 biennium.

**GENERAL FUND TOBACCO BASE REDUCTION.** The general fund base level appropriation for tobacco prevention and control programs and activities shall be reduced by \$1,100,000 each year of the biennium beginning July 1, 2001. Section 13, sunset of uncodified language, does not apply to this provision.

**STANDARDS FOR SPECIAL CASE AUTOPSIES.** Of this general fund appropriation, \$20,000 for the biennium is for a grant to a professional association representing coroners and medical examiners in Minnesota to conduct case studies, and develop and disseminate guidelines, for autopsy practice in special cases. This is a one-time appropriation and shall not become part of base level funding for the 2002–2003 biennium.

Subd. 3. Health Protection		27,046,000	27,240,000
	Summary by Fund		
General	12,221,000	12,417,000	
State Government			
Special Revenue	14,825,000	14,823,000	

**PORTABLE WADING POOLS.** (a) Portable wading pools used in the following settings are defined as private residential pools, and not public pools, for purposes of public swimming pool regulation under Minnesota Rules, chapter 4717, provided they have a maximum depth of 24 inches and are capable of being manually emptied and moved:

(1) a portable wading pool operated at a family day care or group family day care home that is licensed under Minnesota Rules, chapter 9502; and

(2) a portable wading pool operated at a home at which child care services are provided under Minnesota Statutes, section 245A.03, subdivision 2, clause (2), or under Laws 1997, chapter 248, section 46, including subsequent amendments.

(b) Portable wading pools may not be used by a child at a setting specified in paragraph (a), clause (1) or (2), unless the parent or legal guardian for the child in care has provided written consent. The written consent shall include a statement that the parent or legal guardian has received and read material provided by the department of health to the department of human services for distribution to all child care facilities, related to the use of portable wading pools concerning the risk of disease transmission as well as other health risks.

(c) This provision is effective the day following final enactment.

**Subd. 4. Management and Support Services**

		6,379,000	5,132,000
	Summary by Fund		
General	6,102,000	4,849,000	
State Government			
Special Revenue	181,000	185,000	
Health Care			
Access	96,000	98,000	

**HEALTH NEEDS OF SPECIAL POPULATIONS.** Of the general fund appropriation, \$400,000 in fiscal year 2000 is for grants to local health agencies to conduct a

health needs assessment that is specific to populations of color. Any portion of this appropriation that is unspent does not cancel but shall be available for these purposes in fiscal year 2001. This appropriation shall not become part of the base for the 2002–2003 biennium.

**YEAR 2000 SURVEY OF FACILITIES AND WATER SYSTEMS.** Of this general fund appropriation, \$100,000 is for the costs associated with surveying by July 1, 1999, all hospitals, nursing homes, nontransient community water systems operated by a public entity, and community water supply systems for year 2000 problems and proposed solutions. Of this amount, \$50,000 is available the day following final enactment.

**SINGLE POINT OF ENTRY.** The commissioner, in consultation with the commissioners of commerce and human services, the ombudsman for mental health and mental retardation, and the board on aging, shall report to the chairs of the senate health and family security committee and the house health and human services committee by January 15, 2000, with a plan to:

- (1) create a single point of entry for health care consumer assistance and advocacy services;
- (2) integrate state offices of health care consumer assistance; and
- (3) coordinate and collaborate with other state agencies and nongovernmental entities to provide consumers with assistance and advocacy services related to health insurance and health services.

The report shall also discuss the feasibility of obtaining grants and other revenue to provide these services.

Sec. 4. VETERANS NURSING  
HOMES BOARD

26,121,000

27,103,000

**ALLOWANCE FOR FOOD.** The allowance for food may be adjusted annually to reflect changes in the producer price index, as

prepared by the United States Bureau of Labor Statistics, with the approval of the commissioner of finance. Adjustments for fiscal year 2000 and fiscal year 2001 must be based on the June 1998 and June 1999 producer price index respectively, but the adjustment must be prorated if it would require money in excess of the appropriation.

**IMPROVEMENTS USING DONATED MONEY.** Notwithstanding Minnesota Statutes, section 16B.30, the board may make and maintain the following improvements to the veterans homes using money donated for those purposes:

- (1) a picnic pavilion at the Minneapolis veterans home;
- (2) walking trails at the Hastings veterans home;
- (3) walking trails and landscaping at the Silver Bay veterans home;
- (4) an entrance canopy at the Fergus Falls veterans home; and
- (5) a suspended wooden dining deck at the Luverne veterans home.

**ASSET PRESERVATION; FACILITY REPAIR.** Of the general fund appropriation, \$1,190,000 each year is for asset preservation and facility repair. The appropriations are available in either year of the biennium and may be used for abatement and repair at the Luverne home. This appropriation shall become part of the board's base level funding for the 2002-2003 biennium.

**VETERANS HOMES SPECIAL REVENUE ACCOUNT.** The general fund appropriations made to the board shall be transferred to a veterans homes special revenue account in the special revenue fund in the same manner as other receipts are deposited according to Minnesota Statutes, section 198.34, and are appropriated to the board for the operation of board facilities and programs.

**SETTING COST OF CARE.** (a) The board may set the cost of care at the Fergus Falls fa-

cility for fiscal year 2000 based on the cost of average skilled nursing care provided to residents of the Minneapolis veterans home for fiscal year 2000.

(b) The cost of care for the domiciliary residents at the Minneapolis veterans home and the skilled nursing care residents at the Luverne veterans home for fiscal year 2000 and fiscal year 2001 shall be calculated based on 100 percent occupancy at each facility.

**LICENSED BED CAPACITY FOR MINNEAPOLIS VETERANS HOME.** The commissioner of health shall not reduce the licensed bed capacity for the Minneapolis veterans home pending completion of the project authorized by Laws 1990, chapter 610, article 1, section 9, subdivision 3.

**LUVERNE ENVIRONMENTAL QUALITY.** Of this appropriation, \$591,000 in fiscal year 2000 is from the general fund to the board to ensure an adequate staffing complement during the repairs at the Luverne home. Of that amount, \$229,000 is available the day following final enactment.

#### Sec. 5. HEALTH-RELATED BOARDS

Subdivision 1. Total  
Appropriation

10,376,000	10,576,000
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**STATE GOVERNMENT SPECIAL REVENUE FUND.** The appropriations in this section are from the state government special revenue fund.

**NO SPENDING IN EXCESS OF REVENUES.** 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 or accumulated surplus revenues from fees collected by the boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account.

Subd. 2. Board of Chiropractic Examiners	350,000	361,000
Subd. 3. Board of Dentistry	783,000	806,000
Subd. 4. Board of Dietetic and Nutrition Practice	92,000	95,000
Subd. 5. Board of Marriage and Family Therapy	107,000	111,000
Subd. 6. Board of Medical Practice	3,469,000	3,593,000
Subd. 7. Board of Nursing	2,202,000	2,245,000
Subd. 8. Board of Nursing Home Administrators	548,000	566,000

**HEALTH PROFESSIONAL SERVICES ACTIVITY.** Of these appropriations, \$368,000 the first year and \$380,000 the second year are for the Health Professional Services Activity.

Subd. 9. Board of Optometry	87,000	90,000
Subd. 10. Board of Pharmacy	1,125,000	1,137,000

**ADMINISTRATIVE SERVICES UNIT.**

Of this appropriation, \$259,000 the first year and \$270,000 the second year are for the health boards administrative services unit. The administrative services unit may receive and expend reimbursements for services performed for other agencies.

Subd. 11. Board of Physical Therapy	227,000	185,000
Subd. 12. Board of Podiatry	41,000	42,000
Subd. 13. Board of Psychology	556,000	534,000

**PART-TIME POSITIONS FUNDING.**

Of this appropriation, \$34,000 in fiscal year 2000 is from the state government special revenue fund to the board to fund two part-time positions previously funded through the legislative advisory commission and for a budget shortage due to position reallocations. This appropriation is available the day following final enactment.

Subd. 14. Board of Social Work	641,000	658,000
Subd. 15. Board of Veterinary Medicine	148,000	153,000
Sec. 6. EMERGENCY MEDICAL SERVICES BOARD	2,420,000	2,467,000
Summary by Fund		
General	694,000	694,000
Trunk Highway	1,726,000	1,773,000

**COMPREHENSIVE ADVANCED LIFE SUPPORT (CAL S).** Of the general fund appropriation, \$108,000 each year is for the board to establish a comprehensive advanced life support educational program under Minnesota Statutes, section 144E.37.

**EMERGENCY MEDICAL SERVICES GRANTS.** Of the appropriation from the trunk highway fund, \$18,000 in fiscal year 2000 and \$36,000 in fiscal year 2001 is to the board for grants to regional emergency medical services programs. This appropriation shall become part of the base for the 2002-2003 biennium.

Sec. 7. COUNCIL ON DISABILITY	650,000	670,000
Sec. 8. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION	1,338,000	1,378,000
Sec. 9. OMBUDSMAN FOR FAMILIES	166,000	171,000
Sec. 10. TRANSFERS		

Subdivision 1. Grant Programs

The commissioner of human services, with the approval of the commissioner of finance, and after notification of the chair of the senate health and family security budget division and the chair of the house health and human services finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2001, within fiscal years among the MFIP, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

**Subd. 2. Approval Required**

Positions, salary money, and nonsalary administrative money may be transferred within the departments of human services and health and within the programs operated by the veterans nursing homes board as the commissioners and the board consider necessary, with the advance approval of the commissioner of finance. The commissioner or the board shall inform the chairs of the house health and human services finance committee and the senate health and family security budget division quarterly about transfers made under this provision.

**Sec. 11. PROVISIONS**

(a) Money appropriated to the commissioner of human services for the purchase of provisions must be used solely for that purpose. Money provided and not used for the 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 drugs and medical and hospital supplies and equipment with the approval of the commissioner of finance after notification of the chairs of the house health and human services finance committee and the senate health and family security budget division.

(b) For fiscal year 2000, the allowance for food may be adjusted to the equivalent of the 75th percentile of the comparable raw food costs for community nursing homes as reported to the commissioner of human services. For fiscal year 2001, an adjustment may be made to reflect the annual change in the United States Bureau of Labor Statistics producer price index as of June 2000 with the approval of the commissioner of finance. The adjustments for either year must be prorated if they would require money in excess of this appropriation.



**Sec. 12. CARRYOVER LIMITATION**

None of the appropriations in this act which are allowed to be carried forward from fiscal year 2000 to fiscal year 2001 shall become part of the base level funding for the 2002-2003 biennial budget, unless specifically directed by the legislature.

**Sec. 13. SUNSET OF UNCODIFIED LANGUAGE**

All uncodified language contained in this article expires on June 30, 2001, unless a different expiration date is explicit.

Sec. 14. Minnesota Statutes 1998, section 144.05, is amended by adding a subdivision to read:

**Subd. 3. APPROPRIATION TRANSFERS TO BE REPORTED.** When the commissioner transfers operational money between programs under section 16A.285, in addition to the requirements of that section the commissioner must provide the chairs of the legislative committees that have jurisdiction over the agency's budget with sufficient detail to identify the account to which the money was originally appropriated, and the account to which the money is being transferred.

Sec. 15. Minnesota Statutes 1998, section 198.003, is amended by adding a subdivision to read:

**Subd. 5. APPROPRIATION TRANSFERS TO BE REPORTED.** When the board transfers operational money between programs under section 16A.285, in addition to the requirements of that section the board must provide the chairs of the legislative committees that have jurisdiction over the board's budget with sufficient detail to identify the account to which the money was originally appropriated, and the account to which the money is being transferred.

Sec. 16. Minnesota Statutes 1998, 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 county 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 county agencies in the operation and administration of human services, enforce compliance with statutes, rules, fed-

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eral 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 county 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;

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

(g) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county 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

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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) Act as designated 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. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(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.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county 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 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.

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

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

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(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, Minnesota family investment program—statewide, 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, MFIP-S, 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, MFIP-S, 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, 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 \$1,000,000. When the balance in the account exceeds \$1,000,000, 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 according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.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) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human ser-

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vices programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered non-compliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) 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.

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(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the senior citizen drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. For each drug, the amount of the rebate shall be equal to the basic rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8(c)(1). This basic rebate shall be applied to single-source and multiple-source drugs. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(22) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account, and is appropriated to the commissioner for purposes of this section.

(23) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(24) Incorporate cost reimbursement claims from First Call Minnesota into the federal cost reimbursement claiming processes of the department according to federal law,

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rule, and regulations. Any reimbursement received is appropriated to the commissioner and shall be disbursed to First Call Minnesota according to normal department payment schedules.

Sec. 17. Minnesota Statutes 1998, section 256.01, is amended by adding a subdivision to read:

**Subd. 17. APPROPRIATION TRANSFERS TO BE REPORTED.** When the commissioner transfers operational money between programs under section 16A.285, in addition to the requirements of that section the commissioner must provide the chairs of the legislative committees that have jurisdiction over the agency's budget with sufficient detail to identify the account to which the money was originally appropriated, and the account to which the money is being transferred.

Sec. 18. Minnesota Statutes 1998, section 256.014, is amended by adding a subdivision to read:

**Subd. 4. ISSUANCE OPERATIONS CENTER.** Payments to the commissioner from other governmental units and private enterprises for: services performed by the issuance operations center; or reports generated by the payment and eligibility systems must be deposited in the account created under subdivision 2. These payments are appropriated to the commissioner for the operation of the issuance center or system, according to the provisions of this section.

Sec. 19. Minnesota Statutes 1998, section 256J.39, subdivision 1, is amended to read:

**Subdivision 1. PAYMENT POLICY.** The following policies apply to monthly assistance payments and corrective payments:

(1) Grant payments may be issued in the form of warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution.

(2) The commissioner shall mail assistance payment checks to the address where a caregiver lives unless the county agency approves an alternate arrangement.

(3) The commissioner shall mail monthly assistance payment checks within time to allow postal service delivery to occur no later than the first day of each month. Monthly assistance payment checks must be dated the first day of the month. The commissioner shall issue electronic benefits transfer payments so that caregivers have access to the payments no later than the first of the month.

(4) The commissioner shall issue replacement checks promptly, but no later than seven calendar days after the provisions of sections 16A.46; 256.01, subdivision 11; and 471.415 have been met.

(5) The commissioner, with the advance approval of the commissioner of finance, may issue cash assistance grant payments up to three days before the first day of each month, including three days before the start of each state fiscal year. Of the money appropriated for cash assistance grant payments for each fiscal year, up to three percent of the annual state appropriation is available to the commissioner in the previous fiscal year. If that amount is insufficient for the costs incurred, an additional amount of the appropri-

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ation as needed may be transferred with the advance approval of the commissioner of finance.

**Sec. 20. REPEALER.**

Minnesota Statutes 1998, section 256J.03, is repealed effective July 2, 1999. Section 13, sunset of uncodified language, does not apply to this section.

**Sec. 21. EFFECTIVE DATE.**

Section 19 is effective the day following final enactment.

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**ARTICLE 2**

**HEALTH DEPARTMENT**

Section 1. Minnesota Statutes 1998, section 15.059, subdivision 5a, is amended to read:

Subd. 5a. **LATER EXPIRATION.** Notwithstanding subdivision 5, the advisory councils and committees listed in this subdivision do not expire June 30, 1997. These groups expire June 30, 2001, unless the law creating the group or this subdivision specifies an earlier expiration date.

Investment advisory council, created in section 11A.08;

Intergovernmental information systems advisory council, created in section 16B.42, expires June 30, 1999;

Feedlot and manure management advisory committee, created in section 17.136;

Aquaculture advisory committee, created in section 17.49;

Dairy producers board, created in section 17.76;

Pesticide applicator education and examination review board, created in section 18B.305;

Advisory seed potato certification task force, created in section 21.112;

Food safety advisory committee, created in section 28A.20;

Minnesota organic advisory task force, created in section 31.95;

Public programs risk adjustment work group, created in section 62Q.03, ~~expires June 30, 1999;~~

Workers' compensation self-insurers' advisory committee, created in section 79A.02;

Youth corps advisory committee, created in section 84.0887;

Iron range off-highway vehicle advisory committee, created in section 85.013;

Mineral coordinating committee, created in section 93.002;

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- Game and fish fund citizen advisory committees, created in section 97A.055;
- Wetland heritage advisory committee, created in section 103G.2242;
- Wastewater treatment technical advisory committee, created in section 115.54;
- Solid waste management advisory council, created in section 115A.12;
- Nuclear waste council, created in section 116C.711;
- Genetically engineered organism advisory committee, created in section 116C.93;
- Environment and natural resources trust fund advisory committee, created in section 116P.06;
- Child abuse prevention advisory council, created in section 119A.13;
- Chemical abuse and violence prevention council, created in section 119A.27;
- Youth neighborhood services advisory board, created in section 119A.29;
- Interagency coordinating council, created in section 125A.28, expires June 30, 1999;
- Desegregation/integration advisory board, created in section 124D.892;
- Nonpublic education council, created in section 123B.445;
- Permanent school fund advisory committee, created in section 127A.30;
- Indian scholarship committee, created in section 124D.84, subdivision 2;
- American Indian education committees, created in section 124D.80;
- Summer scholarship advisory committee, created in section 124D.95;
- Multicultural education advisory committee, created in section 124D.894;
- Male responsibility and fathering grants review committee, created in section 124D.33;
- Library for the blind and physically handicapped advisory committee, created in section 134.31;
- Higher education advisory council, created in section 136A.031;
- Student advisory council, created in section 136A.031;
- Cancer surveillance advisory committee, created in section 144.672;
- Maternal and child health task force, created in section 145.881;
- State community health advisory committee, created in section 145A.10;
- Mississippi River Parkway commission, created in section 161.1419;
- School bus safety advisory committee, created in section 169.435;
- Advisory council on workers' compensation, created in section 175.007;
- Code enforcement advisory council, created in section 175.008;

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Medical services review board, created in section 176.103;

Apprenticeship advisory council, created in section 178.02;

OSHA advisory council, created in section 182.656;

Health professionals services program advisory committee, created in section 214.32;

Rehabilitation advisory council for the blind, created in section 248.10;

American Indian advisory council, created in section 254A.035;

Alcohol and other drug abuse advisory council, created in section 254A.04;

Medical assistance drug formulary committee, created in section 256B.0625;

Home care advisory committee, created in section 256B.071;

Preadmission screening, alternative care, and home and community-based services advisory committee, created in section 256B.0911;

Traumatic brain injury advisory committee, created in section 256B.093;

Minnesota commission serving deaf and hard-of-hearing people, created in section 256C.28;

American Indian child welfare advisory council, created in section 257.3579;

Juvenile justice advisory committee, created in section 268.29;

Northeast Minnesota economic development fund technical advisory committees, created in section 298.2213;

Iron range higher education committee, created in section 298.2214;

Northeast Minnesota economic protection trust fund technical advisory committee, created in section 298.297;

Pipeline safety advisory committee, created in section 299J.06, expires June 30, 1998;

Battered women's advisory council, created in section 611A.34.

Sec. 2. Minnesota Statutes 1998, section 62J.04, subdivision 3, is amended to read:

Subd. 3. **COST CONTAINMENT DUTIES.** ~~After obtaining the advice and recommendations of the Minnesota health care commission,~~ The commissioner shall:

(1) establish statewide and regional cost containment goals for total health care spending under this section and collect data as described in sections 62J.38 to 62J.41 to monitor statewide achievement of the cost containment goals;

(2) divide the state into no fewer than four regions, with one of those regions being the Minneapolis/St. Paul metropolitan statistical area but excluding Chisago, Isanti, Wright, and Sherburne counties, for purposes of fostering the development of regional health planning and coordination of health care delivery among regional health care systems and working to achieve the cost containment goals;

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(3) provide technical assistance to regional coordinating boards;

(4) monitor the quality of health care throughout the state and take action as necessary to ensure an appropriate level of quality;

(5) (4) issue recommendations regarding uniform billing forms, uniform electronic billing procedures and data interchanges, patient identification cards, and other uniform claims and administrative procedures for health care providers and private and public sector payers. In developing the recommendations, the commissioner shall review the work of the work group on electronic data interchange (WEDI) and the American National Standards Institute (ANSI) at the national level, and the work being done at the state and local level. The commissioner may adopt rules requiring the use of the Uniform Bill 82/92 form, the National Council of Prescription Drug Providers (NCPDP) 3.2 electronic version, the Health Care Financing Administration 1500 form, or other standardized forms or procedures;

(6) (5) undertake health planning responsibilities as provided in section 62J.15;

(7) (6) authorize, fund, or promote research and experimentation on new technologies and health care procedures;

(8) (7) within the limits of appropriations for these purposes, administer or contract for statewide consumer education and wellness programs that will improve the health of Minnesotans and increase individual responsibility relating to personal health and the delivery of health care services, undertake prevention programs including initiatives to improve birth outcomes, expand childhood immunization efforts, and provide start-up grants for worksite wellness programs;

(9) (8) undertake other activities to monitor and oversee the delivery of health care services in Minnesota with the goal of improving affordability, quality, and accessibility of health care for all Minnesotans; and

(10) (9) make the cost containment goal data available to the public in a consumer-oriented manner.

Sec. 3. Minnesota Statutes 1998, section 62J.06, is amended to read:

#### 62J.06 IMMUNITY FROM LIABILITY.

No member of the ~~regional coordinating boards established under section 62J.09, or the health technology advisory committee established under section 62J.15,~~ shall be held civilly or criminally liable for an act or omission by that person if the act or omission was in good faith and within the scope of the member's responsibilities under this chapter.

Sec. 4. Minnesota Statutes 1998, section 62J.07, subdivision 1, is amended to read:

Subdivision 1. **LEGISLATIVE OVERSIGHT.** The legislative commission on health care access reviews the activities of the commissioner of health, ~~the regional coordinating boards,~~ the health technology advisory committee, and all other state agencies involved in the implementation and administration of this chapter, including efforts to obtain federal approval through waivers and other means.

Sec. 5. Minnesota Statutes 1998, section 62J.07, subdivision 3, is amended to read:

Subd. 3. **REPORTS TO THE COMMISSION.** The commissioner of health, ~~the regional coordinating boards,~~ and the health technology advisory committee shall report

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on their activities annually and at other times at the request of the legislative commission on health care access. The commissioners of health, commerce, and human services shall provide periodic reports to the legislative commission on the progress of rulemaking that is authorized or required under this chapter and shall notify members of the commission when a draft of a proposed rule has been completed and scheduled for publication in the State Register. At the request of a member of the commission, a commissioner shall provide a description and a copy of a proposed rule.

Sec. 6. Minnesota Statutes 1998, section 62J.09, subdivision 8, is amended to read:

Subd. 8. **REPEALER.** This section is repealed effective July 1, ~~2000~~ 1999.

Sec. 7. Minnesota Statutes 1998, section 62J.2930, subdivision 3, is amended to read:

Subd. 3. **CONSUMER INFORMATION.** The information clearinghouse or another entity designated by the commissioner shall provide consumer information to health plan company enrollees to:

- (1) assist enrollees in understanding their rights;
- (2) explain and assist in the use of all available complaint systems, including internal complaint systems within health carriers, community integrated service networks, and the departments of health and commerce;
- (3) provide information on coverage options in each ~~regional coordinating board~~ region of the state;
- (4) provide information on the availability of purchasing pools and enrollee subsidies; and
- (5) help consumers use the health care system to obtain coverage.

The information clearinghouse or other entity designated by the commissioner for the purposes of this subdivision shall not:

- (1) provide legal services to consumers;
- (2) represent a consumer or enrollee; or
- (3) serve as an advocate for consumers in disputes with health plan companies.

Nothing in this subdivision shall interfere with the ombudsman program established under section 256B.031, subdivision 6, or other existing ombudsman programs.

**Sec. 8. [62J.535] UNIFORM BILLING REQUIREMENTS.**

Subdivision 1. **DEVELOPMENT OF UNIFORM BILLING TRANSACTIONS.** The commissioner of health, after consultation with the commissioner of commerce, shall adopt uniform billing standards that comply with United States Code, title 42, sections 1320d to 1320d-8, as amended from time to time. The uniform billing standards shall apply to all paper and electronic claim transactions and shall apply to all Minnesota payers, including government programs.

Subd. 2. **COMPLIANCE.** (a) Concurrent with the effective dates established under United States Code, title 42, sections 1320d to 1320d-8, as amended from time to

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time, for uniform electronic billing standards, all health care providers must conform to the uniform billing standards developed under subdivision 1.

(b) Notwithstanding paragraph (a), the requirements for the uniform remittance advice report shall be effective 12 months after the date of the required compliance of the standards for the electronic remittance advice transaction are effective under United States Code, title 42, sections 1320d to 1320d-8, as amended from time to time.

#### Sec. 9. [62J.691] PURPOSE.

The legislature finds that medical education and research are important to the health and economic well being of Minnesotans. The legislature further finds that, as a result of competition in the health care marketplace, these teaching and research institutions are facing increased difficulty funding medical education and research. The purpose of sections 62J.692 and 62J.693 is to help offset lost patient care revenue for those teaching institutions affected by increased competition in the health care marketplace and to help ensure the continued excellence of health care research in Minnesota.

#### Sec. 10. [62J.692] MEDICAL EDUCATION.

Subdivision 1. DEFINITIONS. For purposes of this section, the following definitions apply:

(a) "Accredited clinical training" means the clinical training provided by a medical education program that is accredited through an organization recognized by the department of education or the health care financing administration as the official accrediting body for that program.

(b) "Commissioner" means the commissioner of health.

(c) "Clinical medical education program" means the accredited clinical training of physicians (medical students and residents), doctor of pharmacy practitioners, doctors of chiropractic, dentists, advanced practice nurses (clinical nurse specialists, certified registered nurse anesthetists, nurse practitioners, and certified nurse midwives), and physician assistants.

(d) "Sponsoring institution" means a hospital, school, or consortium located in Minnesota that sponsors and maintains primary organizational and financial responsibility for a clinical medical education program in Minnesota and which is accountable to the accrediting body.

(e) "Teaching institution" means a hospital, medical center, clinic, or other organization that conducts a clinical medical education program in Minnesota.

(f) "Trainee" means a student or resident involved in a clinical medical education program.

(g) "Eligible trainee FTEs" means the number of trainees, as measured by full-time equivalent counts, that are at training sites located in Minnesota with a medical assistance provider number where training occurs in either an inpatient or ambulatory patient care setting and where the training is funded, in part, by patient care revenues.

Subd. 2. MEDICAL EDUCATION AND RESEARCH ADVISORY COMMITTEE. The commissioner shall appoint an advisory committee to provide advice and

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oversight on the distribution of funds appropriated for distribution under this section. In appointing the members, the commissioner shall:

- (1) consider the interest of all stakeholders;
- (2) appoint members that represent both urban and rural interests; and
- (3) appoint members that represent ambulatory care as well as inpatient perspectives.

The commissioner shall appoint to the advisory committee representatives of the following groups to ensure appropriate representation of all eligible provider groups and other stakeholders: public and private medical researchers; public and private academic medical centers, including representatives from academic centers offering accredited training programs for physicians, pharmacists, chiropractors, dentists, nurses, and physician assistants; managed care organizations; employers; consumers and other relevant stakeholders. The advisory committee is governed by section 15.059 for membership terms and removal of members and expires on June 30, 2001.

Subd. 3. APPLICATION PROCESS. (a) A clinical medical education program conducted in Minnesota by a teaching institution is eligible for funds under subdivision 4 if the program:

- (1) is funded, in part, by patient care revenues;
- (2) occurs in patient care settings that face increased financial pressure as a result of competition with nonteaching patient care entities; and
- (3) emphasizes primary care or specialties that are in undersupply in Minnesota.

(b) Applications must be submitted to the commissioner by a sponsoring institution on behalf of an eligible clinical medical education program and must be received by September 30 of each year for distribution in the following year. An application for funds must contain the following information:

- (1) the official name and address of the sponsoring institution and the official name and site address of the clinical medical education programs on whose behalf the sponsoring institution is applying;
- (2) the name, title, and business address of those persons responsible for administering the funds;
- (3) for each clinical medical education program for which funds are being sought; the type and specialty orientation of trainees in the program; the name, site address, and medical assistance provider number of each training site used in the program; the total number of trainees at each training site; and the total number of eligible trainee FTEs at each site;
- (4) audited clinical training costs per trainee for each clinical medical education program where available or estimates of clinical training costs based on audited financial data;
- (5) a description of current sources of funding for clinical medical education costs, including a description and dollar amount of all state and federal financial support, including Medicare direct and indirect payments;

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(6) other revenue received for the purposes of clinical training; and

(7) other supporting information the commissioner deems necessary to determine program eligibility based on the criteria in paragraph (a) and to ensure the equitable distribution of funds.

(c) An applicant that does not provide information requested by the commissioner shall not be eligible for funds for the current funding cycle.

Subd. 4. DISTRIBUTION OF FUNDS. (a) The commissioner shall annually distribute medical education funds to all qualifying applicants based on the following criteria:

(1) total medical education funds available for distribution;

(2) total number of eligible trainee FTEs in each clinical medical education program; and

(3) the statewide average cost per trainee, by type of trainee, in each clinical medical education program.

(b) Funds distributed shall not be used to displace current funding appropriations from federal or state sources.

(c) Funds shall be distributed to the sponsoring institutions indicating the amount to be distributed to each of the sponsor's clinical medical education programs based on the criteria in this subdivision and in accordance with the commissioner's approval letter. Each clinical medical education program must distribute funds to the training sites as specified in the commissioner's approval letter. Sponsoring institutions, which are accredited through an organization recognized by the department of education or the health care financing administration, may contract directly with training sites to provide clinical training. To ensure the quality of clinical training, those accredited sponsoring institutions must:

(1) develop contracts specifying the terms, expectations, and outcomes of the clinical training conducted at sites; and

(2) take necessary action if the contract requirements are not met. Action may include the withholding of payments under this section or the removal of students from the site.

(d) Any funds not distributed in accordance with the commissioner's approval letter must be returned to the medical education and research fund within 30 days of receiving notice from the commissioner. The commissioner shall distribute returned funds to the appropriate training sites in accordance with the commissioner's approval letter.

Subd. 5. REPORT. (a) Sponsoring institutions receiving funds under this section must sign and submit a medical education grant verification report (GVR) to verify that the correct grant amount was forwarded to each eligible training site. If the sponsoring institution fails to submit the GVR by the stated deadline, or to request and meet the deadline for an extension, the sponsoring institution is required to return the full amount of funds received to the commissioner within 30 days of receiving notice from the commissioner. The commissioner shall distribute returned funds to the appropriate training sites in accordance with the commissioner's approval letter.

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(b) The reports must provide verification of the distribution of the funds and must include:

(1) the total number of eligible trainee FTEs in each clinical medical education program;

(2) the name of each funded program and, for each program, the dollar amount distributed to each training site;

(3) documentation of any discrepancies between the initial grant distribution notice included in the commissioner's approval letter and the actual distribution;

(4) a statement by the sponsoring institution stating that the completed grant verification report is valid and accurate; and

(5) other information the commissioner, with advice from the advisory committee, deems appropriate to evaluate the effectiveness of the use of funds for medical education.

(c) By February 15 of each year, the commissioner, with advice from the advisory committee, shall provide an annual summary report to the legislature on the implementation of this section.

Subd. 6. OTHER AVAILABLE FUNDS. The commissioner is authorized to distribute, in accordance with subdivision 4, funds made available through:

(1) voluntary contributions by employers or other entities;

(2) allocations for the commissioner of human services to support medical education and research; and

(3) other sources as identified and deemed appropriate by the legislature for inclusion in the fund.

Subd. 7. TRANSFERS FROM THE COMMISSIONER OF HUMAN SERVICES. (a) The amount transferred according to section 256B.69, subdivision 5c, shall be distributed by the commissioner to clinical medical education programs that meet the qualifications of subdivision 3 based on a distribution formula that reflects a summation of two factors:

(1) an education factor, which is determined by the total number of eligible trainee FTEs and the total statewide average costs per trainee, by type of trainee, in each clinical medical education program; and

(2) a public program volume factor, which is determined by the total volume of public program revenue received by each training site as a percentage of all public program revenue received by all training sites in the fund pool created under this subdivision.

In this formula, the education factor shall be weighted at 50 percent and the public program volume factor shall be weighted at 50 percent.

(b) Public program revenue for the formula in paragraph (a) shall include revenue from medical assistance, prepaid medical assistance, general assistance medical care, and prepaid general assistance medical care.

(c) Training sites that receive no public program revenue shall be ineligible for funds available under this subdivision.

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**Subd. 8. FEDERAL FINANCIAL PARTICIPATION.** The commissioner of human services shall seek to maximize federal financial participation in payments for medical education and research costs. If the commissioner of human services determines that federal financial participation is available for the medical education and research, the commissioner of health shall transfer to the commissioner of human services the amount of state funds necessary to maximize the federal funds available. The amount transferred to the commissioner of human services, plus the amount of federal financial participation, shall be distributed to medical assistance providers in accordance with the distribution methodology described in subdivision 4.

**Subd. 9. REVIEW OF ELIGIBLE PROVIDERS.** The commissioner and the medical education and research costs advisory committee may review provider groups included in the definition of a clinical medical education program to assure that the distribution of the funds continue to be consistent with the purpose of this section. The results of any such reviews must be reported to the legislative commission on health care access.

#### Sec. 11. [62J.693] MEDICAL RESEARCH.

**Subdivision 1. DEFINITIONS.** For purposes of this section, health care research means approved clinical, outcomes, and health services investigations.

**Subd. 2. GRANT APPLICATION PROCESS.** (a) The commissioner of health shall make recommendations for a process for the submission, review, and approval of research grant applications. The process shall give priority for grants to applications that are intended to gather preliminary data for submission for a subsequent proposal for funding from a federal agency or foundation, which awards research money on a competitive, peer-reviewed basis. Grant recipients must be able to demonstrate the ability to comply with federal regulations on human subjects research in accordance with Code of Federal Regulations, title 45, section 46, and shall conduct the proposed research. Grants may be awarded to the University of Minnesota, the Mayo clinic, or any other public or private organization in the state involved in medical research. The commissioner shall report to the legislature by January 15, 2000, with recommendations.

(b) The commissioner may consult with the medical education and research advisory committee established in section 62J.692 in developing these recommendations or may appoint a research advisory committee to provide advice and oversight on the grant application process. If the commissioner appoints a research advisory committee, the committee shall be governed by section 15.059 for membership terms and removal of members.

Sec. 12. Minnesota Statutes 1998, section 62Q.03, subdivision 5a, is amended to read:

**Subd. 5a. PUBLIC PROGRAMS.** (a) A separate risk adjustment system must be developed for state-run public programs, including medical assistance, general assistance medical care, and MinnesotaCare. The system must be developed in accordance with the general risk adjustment methodologies described in this section, must include factors in addition to age and sex adjustment, and may include additional demographic factors, different targeted conditions, and/or different payment amounts for conditions. The risk adjustment system for public programs must attempt to reflect the special needs

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related to poverty, cultural, or language barriers and other needs of the public program population.

(b) The commissioners of health and human services shall jointly convene a public programs risk adjustment work group responsible for advising the commissioners in the design of the public programs risk adjustment system. The public programs risk adjustment work group is governed by section 15.059 for purposes of membership terms, expiration, and removal of members ~~and shall terminate on June 30, 1999~~. The work group shall meet at the discretion of the commissioners of health and human services. The commissioner of health shall work with the risk adjustment association to ensure coordination between the risk adjustment systems for the public and private sectors. The commissioner of human services shall seek any needed federal approvals necessary for the inclusion of the medical assistance program in the public programs risk adjustment system.

(c) The public programs risk adjustment work group must be representative of the persons served by publicly paid health programs and providers and health plans that meet their needs. To the greatest extent possible, the appointing authorities shall attempt to select representatives that have historically served a significant number of persons in publicly paid health programs or the uninsured. Membership of the work group shall be as follows:

(1) one provider member appointed by the Minnesota Medical Association;

(2) two provider members appointed by the Minnesota Hospital Association, at least one of whom must represent a major disproportionate share hospital;

(3) five members appointed by the Minnesota Council of HMOs, one of whom must represent an HMO with fewer than 50,000 enrollees located outside the metropolitan area and one of whom must represent an HMO with at least 50 percent of total membership enrolled through a public program;

(4) two representatives of counties appointed by the Association of Minnesota Counties;

(5) three representatives of organizations representing the interests of families, children, childless adults, and elderly persons served by the various publicly paid health programs appointed by the governor;

(6) two representatives of persons with mental health, developmental or physical disabilities, chemical dependency, or chronic illness appointed by the governor; and

(7) three public members appointed by the governor, at least one of whom must represent a community health board. The risk adjustment association may appoint a representative, if a representative is not otherwise appointed by an appointing authority.

(d) The commissioners of health and human services, with the advice of the public programs risk adjustment work group, shall develop a work plan and time frame and shall coordinate their efforts with the private sector risk adjustment association's activities and other state initiatives related to public program managed care reimbursement.

(e) Before including risk adjustment in a contract for the prepaid medical assistance program, the prepaid general assistance medical care program, or the MinnesotaCare program, the commissioner of human services shall provide to the contractor an analysis

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of the expected impact on the contractor of the implementation of risk adjustment. This analysis may be limited by the available data and resources, as determined by the commissioner, and shall not be binding on future contract periods. This paragraph shall not apply if the contractor has not supplied information to the commissioner related to the risk adjustment analysis.

(f) The commissioner of human services shall report to the public program risk adjustment work group on the methodology the department will use for risk adjustment prior to implementation of the risk adjustment payment methodology. Upon completion of the report to the work group, the commissioner shall phase in risk adjustment according to the following schedule:

(1) for the first contract year, no more than ten percent of reimbursements shall be risk adjusted; and

(2) for the second contract year, no more than 30 percent of reimbursements shall be risk adjusted.

Sec. 13. Minnesota Statutes 1998, section 62Q.075, is amended to read:

#### **62Q.075 LOCAL PUBLIC ACCOUNTABILITY AND COLLABORATION PLAN.**

Subdivision 1. **DEFINITION.** For purposes of this section, "managed care organization" means a health maintenance organization or community integrated service network.

Subd. 2. **REQUIREMENT.** Beginning October 31, 1997, all managed care organizations shall file biennially with the action plans required under section 62Q.07 a plan describing the actions the managed care organization has taken and those it intends to take to contribute to achieving public health goals for each service area in which an enrollee of the managed care organization resides. This plan must be jointly developed in collaboration with the local public health units, ~~appropriate regional coordinating boards,~~ and other community organizations providing health services within the same service area as the managed care organization. Local government units with responsibilities and authority defined under chapters 145A and 256E may designate individuals to participate in the collaborative planning with the managed care organization to provide expertise and represent community needs and goals as identified under chapters 145A and 256E.

Subd. 3. **CONTENTS.** The plan must address the following:

(a) specific measurement strategies and a description of any activities which contribute to public health goals and needs of high risk and special needs populations as defined and developed under chapters 145A and 256E;

(b) description of the process by which the managed care organization will coordinate its activities with the community health boards, ~~regional coordinating boards,~~ and other relevant community organizations servicing the same area;

(c) documentation indicating that local public health units and local government unit designees were involved in the development of the plan;

(d) documentation of compliance with the plan filed the previous year, including data on the previously identified progress measures.

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Subd. 4. **REVIEW.** Upon receipt of the plan, the appropriate commissioner shall provide a copy to the ~~regional coordinating boards~~, local community health boards, and other relevant community organizations within the managed care organization's service area. After reviewing the plan, these community groups may submit written comments on the plan to either the commissioner of health or commerce, as applicable, and may advise the commissioner of the managed care organization's effectiveness in assisting to achieve regional public health goals. The plan may be reviewed by the county boards, or city councils acting as a local board of health in accordance with chapter 145A, within the managed care organization's service area to determine whether the plan is consistent with the goals and objectives of the plans required under chapters 145A and 256E and whether the plan meets the needs of the community. The county board, or applicable city council, may also review and make recommendations on the availability and accessibility of services provided by the managed care organization. The county board, or applicable city council, may submit written comments to the appropriate commissioner, and may advise the commissioner of the managed care organization's effectiveness in assisting to meet the needs and goals as defined under the responsibilities of chapters 145A and 256E. The commissioner of health shall develop recommendations to utilize the written comments submitted as part of the licensure process to ensure local public accountability. These recommendations shall be reported to the legislative commission on health care access by January 15, 1996. Copies of these written comments must be provided to the managed care organization. The plan and any comments submitted must be filed with the information clearinghouse to be distributed to the public.

Sec. 14. Minnesota Statutes 1998, section 62R.06, subdivision 1, is amended to read:

Subdivision 1. **PROVIDER CONTRACTS.** A health provider cooperative and its licensed members may execute marketing and service contracts requiring the provider members to provide some or all of their health care services through the provider cooperative to the enrollees, members, subscribers, or insureds, of a health care network cooperative, community integrated service network, nonprofit health service plan, health maintenance organization, accident and health insurance company, or any other purchaser, including the state of Minnesota and its agencies, instruments, or units of local government. Each purchasing entity is authorized to execute contracts for the purchase of health care services from a health provider cooperative in accordance with this section. Any A contract between a provider cooperative and a purchaser ~~must~~ may provide for payment by the purchaser to the health provider cooperative on a substantially capitated or similar risk-sharing basis, by fee-for-service arrangements, or by other financial arrangements authorized under state law. Each contract between a provider cooperative and a purchaser shall be filed by the provider network cooperative with the commissioner of health and is subject to the provisions of section 62D.19.

Sec. 15. Minnesota Statutes 1998, section 144.065, is amended to read:

**144.065 VENEREAL DISEASE TREATMENT CENTERS PREVENTION AND TREATMENT OF SEXUALLY TRANSMITTED INFECTIONS.**

The state commissioner of health shall assist local health agencies and organizations throughout the state with the development and maintenance of services for the detection and treatment of venerereal diseases sexually transmitted infections. These services shall provide for research, screening and diagnosis, treatment, case finding, investigation, and

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the dissemination of appropriate educational information. The state commissioner of health shall ~~promulgate rules relative to~~ determine the composition of such services and shall establish a method of providing funds to local health agencies boards of health as defined in section 145A.02, subdivision 2, state agencies, state councils, and organizations nonprofit corporations, which offer such services. The state commissioner of health shall provide technical assistance to such agencies and organizations in accordance with the needs of the local area. Planning and implementation of services, and technical assistance may be conducted in collaboration with boards of health; state agencies, including the University of Minnesota and the department of children, families, and learning; state councils; nonprofit organizations; and representatives of affected populations.

**Sec. 16. [144.1201] DEFINITIONS.**

Subdivision 1. APPLICABILITY. For purposes of sections 144.1201 to 144.1204, the terms defined in this section have the meanings given to them.

Subd. 2. BY-PRODUCT NUCLEAR MATERIAL. "By-product nuclear material" means a radioactive material, other than special nuclear material, yielded in or made radioactive by exposure to radiation created incident to the process of producing or utilizing special nuclear material.

Subd. 3. RADIATION. "Radiation" means ionizing radiation and includes alpha rays; beta rays; gamma rays; x-rays; high energy neutrons, protons, or electrons; and other atomic particles.

Subd. 4. RADIOACTIVE MATERIAL. "Radioactive material" means a matter that emits radiation. Radioactive material includes special nuclear material, source nuclear material, and by-product nuclear material.

Subd. 5. SOURCE NUCLEAR MATERIAL. "Source nuclear material" means uranium or thorium, or a combination thereof, in any physical or chemical form; or ores that contain by weight 1/20 of one percent (0.05 percent) or more of uranium, thorium, or a combination thereof. Source nuclear material does not include special nuclear material.

Subd. 6. SPECIAL NUCLEAR MATERIAL. "Special nuclear material" means:

(1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the Nuclear Regulatory Commission determines to be special nuclear material according to United States Code, title 42, section 2071, except that source nuclear material is not included; and

(2) a material artificially enriched by any of the materials listed in clause (1), except that source nuclear material is not included.

**Sec. 17. [144.1202] UNITED STATES NUCLEAR REGULATORY COMMISSION AGREEMENT.**

Subdivision 1. AGREEMENT AUTHORIZED. In order to have a comprehensive program to protect the public from radiation hazards, the governor, on behalf of the state, is authorized to enter into agreements with the United States Nuclear Regulatory Commission under the Atomic Energy Act of 1954, section 274b, as amended. The agreement shall provide for the discontinuance of portions of the Nuclear Regulatory Commission's licensing and related regulatory authority over by-product, source, and

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special nuclear materials, and the assumption of regulatory authority over these materials by the state.

Subd. 2. **HEALTH DEPARTMENT DESIGNATED LEAD.** The department of health is designated as the lead agency to pursue an agreement on behalf of the governor and for any assumption of specified licensing and regulatory authority from the Nuclear Regulatory Commission under an agreement with the commission. The commissioner of health shall establish an advisory group to assist in preparing the state to meet the requirements for reaching an agreement. The commissioner may adopt rules to allow the state to assume regulatory authority under an agreement under this section, including the licensing and regulation of radioactive materials. Any regulatory authority assumed by the state includes the ability to set and collect fees.

Subd. 3. **TRANSITION.** A person who, on the effective date of an agreement under this section, possesses a Nuclear Regulatory Commission license that is subject to the agreement is deemed to possess a similar license issued by the department of health. A department of health license obtained under this subdivision expires on the expiration date specified in the federal license.

Subd. 4. **AGREEMENT; CONDITIONS OF IMPLEMENTATION.** (a) An agreement entered into before August 2, 2002, must remain in effect until terminated under the Atomic Energy Act of 1954, United States Code, title 42, section 2021, paragraph (j). The governor may not enter into an initial agreement with the Nuclear Regulatory Commission after August 1, 2002. If an agreement is not entered into by August 1, 2002, any rules adopted under this section are repealed effective August 1, 2002.

(b) An agreement authorized under subdivision 1 must be approved by law before it may be implemented.

#### Sec. 18. **[144.1203] TRAINING; RULEMAKING.**

The commissioner shall adopt rules to ensure that individuals handling or utilizing radioactive materials under the terms of a license issued by the commissioner under section 144.1202 have proper training and qualifications to do so. The rules adopted must be at least as stringent as federal regulations on proper training and qualifications adopted by the Nuclear Regulatory Commission. Rules adopted under this section may incorporate federal regulations by reference.

#### Sec. 19. **[144.1204] SURETY REQUIREMENTS.**

Subdivision 1. **FINANCIAL ASSURANCE REQUIRED.** The commissioner may require an applicant for a license under section 144.1202, or a person who was formerly licensed by the Nuclear Regulatory Commission and is now subject to sections 144.1201 to 144.1204, to post financial assurances to ensure the completion of all requirements established by the commissioner for the decontamination, closure, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with activities related to licensure. The financial assurances posted must be sufficient to restore the site to unrestricted future use and must be sufficient to provide for surveillance and care when radioactive materials remain at the site after the licensed activities cease. The commissioner may establish financial assurance criteria by rule. In establishing such criteria, the commissioner may consider:

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- (1) the chemical and physical form of the licensed radioactive material;
- (2) the quantity of radioactive material authorized;
- (3) the particular radioisotopes authorized and their subsequent radiotoxicity;
- (4) the method in which the radioactive material is held, used, stored, processed, transferred, or disposed of; and
- (5) the potential costs of decontamination, treatment, or disposal of a licensee's equipment and facilities.

Subd. 2. ACCEPTABLE FINANCIAL ASSURANCES. The commissioner may, by rule, establish types of financial assurances that meet the requirements of this section. Such financial assurances may include bank letters of credit, deposits of cash, or deposits of government securities.

Subd. 3. TRUST AGREEMENTS. Financial assurances must be established together with trust agreements. Both the financial assurances and the trust agreements must be in a form and substance that meet requirements established by the commissioner.

Subd. 4. EXEMPTIONS. The commissioner is authorized to exempt from the requirements of this section, by rule, any category of licensee upon a determination by the commissioner that an exemption does not result in a significant risk to the public health or safety or to the environment and does not pose a financial risk to the state.

Subd. 5. OTHER REMEDIES UNAFFECTED. Nothing in this section relieves a licensee of a civil liability incurred, nor may this section be construed to relieve the licensee of obligations to prevent or mitigate the consequences of improper handling or abandonment of radioactive materials.

Sec. 20. Minnesota Statutes 1998, section 144.121, is amended by adding a subdivision to read:

Subd. 8. EXEMPTION FROM EXAMINATION REQUIREMENTS; OPERATORS OF CERTAIN BONE DENSITOMETERS. (a) This subdivision applies to a bone densitometer that is used on humans to estimate bone mineral content and bone mineral density in a region of a finger on a person's nondominant hand, gives an x-ray dose equivalent of less than 0.001 microsieverts per scan, and has an x-ray leakage exposure rate of less than two milliroentgens per hour at a distance of one meter, provided that the bone densitometer is operating in accordance with manufacturer specifications.

(b) An individual who operates a bone densitometer that satisfies the definition in paragraph (a) and the facility in which an individual operates such a bone densitometer are exempt from the requirements of subdivisions 5 and 6.

Sec. 21, Minnesota Statutes 1998, section 144.148, is amended to read:

**144.148 RURAL HOSPITAL CAPITAL IMPROVEMENT GRANT AND LOAN PROGRAM.**

Subdivision 1. **DEFINITION.** (a) For purposes of this section, the following definitions apply.

(b) "Eligible rural hospital" means a any nonfederal, general acute care hospital that:

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(1) is either located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or located in a community with a population of less than 5,000, according to United States Census Bureau Statistics, outside the seven-county metropolitan area;

(2) has 50 or fewer licensed hospital beds with a net hospital operating margin not greater than two percent in the two fiscal years prior to application; and

(3) is 25 miles or more from another hospital not for profit.

(c) "Eligible project" means a modernization project to update, remodel, or replace aging hospital facilities and equipment necessary to maintain the operations of a hospital.

Subd. 2. **PROGRAM.** The commissioner of health shall award rural hospital capital improvement grants or loans to eligible rural hospitals. A grant or loan shall not exceed \$1,500,000 \$300,000 per hospital. Grants or loans shall be interest free. An eligible rural hospital may apply the funds retroactively to capital improvements made during the two fiscal years preceding the fiscal year in which the grant or loan was received, provided the hospital met the eligibility criteria during that time period. Prior to the receipt of any grant, the hospital must certify to the commissioner that at least one-quarter of the grant amount, which may include in-kind services, is available for the same purposes from nonstate resources.

Subd. 3. **APPLICATIONS.** Eligible hospitals seeking a grant or loan shall apply to the commissioner. Applications must include a description of the problem that the proposed project will address, a description of the project including construction and remodeling drawings or specifications, sources of funds for the project, uses of funds for the project, the results expected, and a plan to maintain or operate any facility or equipment included in the project. The applicant must describe achievable objectives, a timetable, and roles and capabilities of responsible individuals and organization. Applicants must submit to the commissioner evidence that competitive bidding was used to select contractors for the project.

Subd. 4. **CONSIDERATION OF APPLICATIONS.** The commissioner shall review each application to determine whether or not the hospital's application is complete and whether the hospital and the project are eligible for a grant or loan. In evaluating applications, the commissioner shall score each application on a 100 point scale, assigning: a maximum of 40 points for an applicant's clarity and thoroughness in describing the problem and the project; a maximum of 40 points for the extent to which the applicant has demonstrated that it has made adequate provisions to assure proper and efficient operation of the facility once the project is completed; and a maximum of 20 points for the extent to which the proposed project is consistent with the hospital's capital improvement plan or strategic plan. The commissioner may also take into account other relevant factors. During application review, the commissioner may request additional information about a proposed project, including information on project cost. Failure to provide the information requested disqualifies a loan an applicant.

Subd. 5. **PROGRAM OVERSIGHT.** ~~The commissioner of health shall review audited financial information of the hospital to assess eligibility.~~ The commissioner shall determine the amount of a grant or loan to be given to an eligible rural hospital based on the relative score of each eligible hospital's application and the funds available to the commissioner. The grant or loan shall be used to update, remodel, or replace aging facili-

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ties and equipment necessary to maintain the operations of the hospital. The commissioner may collect, from the hospitals receiving grants, any information necessary to evaluate the program.

**Subd. 6. LOAN PAYMENT.** Loans shall be repaid as provided in this subdivision over a period of 15 years. In those years when an eligible rural hospital experiences a positive net operating margin in excess of two percent, the eligible rural hospital shall pay to the state one-half of the excess above two percent, up to the yearly payment amount based upon a loan period of 15 years. If the amount paid back in any year is less than the yearly payment amount, or if no payment is required because the eligible rural hospital does not experience a positive net operating margin in excess of two percent, the amount unpaid for that year shall be forgiven by the state without any financial penalty. As a condition of receiving an award through this program, eligible hospitals must agree to any and all collection activities the commissioner finds necessary to collect loan payments in those years a payment is due.

**Subd. 7. ACCOUNTING TREATMENT.** ~~The commissioner of finance shall record as grants in the state accounting system funds obligated by this section. Loan payments received under this section shall be deposited in the health care access fund.~~

**Subd. 8. EXPIRATION.** This section expires June 30, ~~1999~~ 2001.

Sec. 22. Minnesota Statutes 1998, section 144.1483, is amended to read:

#### 144.1483 RURAL HEALTH INITIATIVES.

The commissioner of health, through the office of rural health, and consulting as necessary with the commissioner of human services, the commissioner of commerce, the higher education services office, and other state agencies, shall:

(1) develop a detailed plan regarding the feasibility of coordinating rural health care services by organizing individual medical providers and smaller hospitals and clinics into referral networks with larger rural hospitals and clinics that provide a broader array of services;

(2) develop and implement a program to assist rural communities in establishing community health centers, as required by section 144.1486;

(3) administer the program of financial assistance established under section 144.1484 for rural hospitals in isolated areas of the state that are in danger of closing without financial assistance, and that have exhausted local sources of support;

(4) develop recommendations regarding health education and training programs in rural areas, including but not limited to a physician assistants' training program, continuing education programs for rural health care providers, and rural outreach programs for nurse practitioners within existing training programs;

(5) develop a statewide, coordinated recruitment strategy for health care personnel and maintain a database on health care personnel as required under section 144.1485;

(6) develop and administer technical assistance programs to assist rural communities in: (i) planning and coordinating the delivery of local health care services; and (ii) hiring physicians, nurse practitioners, public health nurses, physician assistants, and other health personnel;

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(7) study and recommend changes in the regulation of health care personnel, such as nurse practitioners and physician assistants, related to scope of practice, the amount of on-site physician supervision, and dispensing of medication, to address rural health personnel shortages;

(8) support efforts to ensure continued funding for medical and nursing education programs that will increase the number of health professionals serving in rural areas;

(9) support efforts to secure higher reimbursement for rural health care providers from the Medicare and medical assistance programs;

(10) coordinate the development of a statewide plan for emergency medical services, in cooperation with the emergency medical services advisory council;

(11) establish a Medicare rural hospital flexibility program pursuant to section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, by developing a state rural health plan and designating, consistent with the rural health plan, rural nonprofit or public hospitals in the state as critical access hospitals. Critical access hospitals shall include facilities that are certified by the state as necessary providers of health care services to residents in the area. Necessary providers of health care services are designated as critical access hospitals on the basis of being more than 20 miles, defined as official mileage as reported by the Minnesota department of transportation, from the next nearest hospital or being the sole hospital in the county or being a hospital located in a designated medical underserved area or health professional shortage area. A critical access hospital located in a designated medical underserved area or a health professional shortage area shall continue to be recognized as a critical access hospital in the event the medical underserved area or health professional shortage area designation is subsequently withdrawn; and

(12) carry out other activities necessary to address rural health problems.

Sec. 23, Minnesota Statutes 1998, section 144.1492, subdivision 3, is amended to read:

**Subd. 3. ELIGIBLE APPLICANTS AND CRITERIA FOR AWARDING OF GRANTS TO RURAL COMMUNITIES.** (a) Funding which the department receives to award grants to rural communities to establish health care networks shall be awarded through a request for proposals process. Planning grant funds may be used for community facilitation and initial network development activities including incorporation as a nonprofit organization or cooperative, assessment of network models, and determination of the best fit for the community. Implementation grant funds can be used to enable incorporated nonprofit organizations and cooperatives to purchase technical services needed for further network development such as legal, actuarial, financial, marketing, and administrative services.

(b) In order to be eligible to apply for a planning or implementation grant under the federally funded health care network reform program, an organization must be located in a rural area of Minnesota excluding the seven-county Twin Cities metropolitan area and the census-defined urbanized areas of Duluth, Rochester, St. Cloud, and Moorhead. The proposed network organization must also meet or plan to meet the criteria for a community integrated service network.

(c) In determining which organizations will receive grants, the commissioner may consider the following factors:

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(1) the applicant's description of their plans for health care network development, their need for technical assistance, and other technical assistance resources available to the applicant. The applicant must clearly describe the service area to be served by the network, how the grant funds will be used, what will be accomplished, and the expected results. The applicant should describe achievable objectives, a timetable, and roles and capabilities of responsible individuals and organizations;

(2) the extent of community support for the applicant and the health care network. The applicant should demonstrate support from private and public health care providers in the service area, and local community and government leaders, and the regional coordinating board for the area. Evidence of such support may include a commitment of financial support, in-kind services, or cash, for development of the network;

(3) the size and demographic characteristics of the population in the service area for the proposed network and the distance of the service area from the nearest metropolitan area; and

(4) the technical assistance resources available to the applicant from nonstate sources and the financial ability of the applicant to purchase technical assistance services with nonstate funds.

Sec. 24. Minnesota Statutes 1998, section 144.413, subdivision 2, is amended to read:

Subd. 2. **PUBLIC PLACE.** "Public place" means any enclosed, indoor area used by the general public or serving as a place of work, including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities other than public schools, as defined in section 120A.05, ~~subdivision~~ subdivisions 9, 11, and 13, hospitals, nursing homes, auditoriums, arenas, meeting rooms, and common areas of rental apartment buildings, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by non-smokers.

Sec. 25. Minnesota Statutes 1998, section 144.414, subdivision 1, is amended to read:

Subdivision 1. **PUBLIC PLACES.** No person shall smoke in a public place or at a public meeting except in designated smoking areas. This prohibition does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place. Furthermore, this prohibition shall not apply to ~~factories, warehouses, and similar places of work not usually frequented by the general public, except that the state commissioner of health shall establish rules to restrict or prohibit smoking in factories, warehouses, and those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.~~

Sec. 26. Minnesota Statutes 1998, section 144.4165, is amended to read:

**144.4165 TOBACCO PRODUCTS PROHIBITED IN PUBLIC SCHOOLS.**

No person shall at any time smoke, chew, or otherwise ingest tobacco or a tobacco product in a public school, as defined in section 120A.05, ~~subdivision~~ subdivisions 9, 11,

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and 13. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls. Nothing in this section shall prohibit the lighting of tobacco by an adult as a part of a traditional Indian spiritual or cultural ceremony. For purposes of this section, an Indian is a person who is a member of an Indian tribe as defined in section 257.351, subdivision 9.

Sec. 27. Minnesota Statutes 1998, section 144.56, subdivision 2b, is amended to read:

Subd. 2b. **BOARDING CARE HOMES.** The commissioner shall not adopt or enforce any rule that limits:

(1) a certified boarding care home from providing nursing services in accordance with the home's Medicaid certification; or

(2) a noncertified boarding care home registered under chapter 144D from providing home care services in accordance with the home's registration.

Sec. 28. Minnesota Statutes 1998, section 144.99, subdivision 1, is amended to read:

Subdivision 1. **REMEDIES AVAILABLE.** The provisions of chapters 103I and 157 and sections 115.71 to 115.77; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.1201 to 144.1204; 144.121; 144.1222; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.495; 144.71 to 144.74; 144.9501 to 144.9509; 144.992; 326.37 to 326.45; 326.57 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Sec. 29. Minnesota Statutes 1998, section 144.99, is amended by adding a subdivision to read:

Subd. 12. **SECURING RADIOACTIVE MATERIALS.** (a) In the event of an emergency that poses a danger to the public health, the commissioner shall have the authority to impound radioactive materials and the associated shielding in the possession of a person who fails to abide by the provisions of the statutes, rules, and any other item listed in subdivision 1. If impounding the source of these materials is impractical, the commissioner shall have the authority to lock or otherwise secure a facility that contains the source of such materials, but only the portions of the facility as is necessary to protect the public health. An action taken under this paragraph is effective for up to 72 hours. The commissioner must seek an injunction or take other administrative action to secure radioactive materials beyond the initial 72-hour period.

(b) The commissioner may release impounded radioactive materials and the associated shielding to the owner of the radioactive materials and associated shielding, upon terms and conditions that are in accordance with the provisions of statutes, rules, and other items listed in subdivision 1. In the alternative, the commissioner may bring an action in a court of competent jurisdiction for an order directing the disposal of impounded radioactive materials and associated shielding or directing other disposition as necessary to protect the public health and safety and the environment. The costs of decontamination, transportation, burial, disposal, or other disposition shall be borne by the owner or licensee of the radioactive materials and shielding or by any other person who has used the radioactive materials and shielding for business purposes.

New language is indicated by underline, deletions by strikeout.

Sec. 30. Minnesota Statutes 1998, section 144A.4605, subdivision 2, is amended to read:

Subd. 2. **ASSISTED LIVING HOME CARE LICENSE ESTABLISHED.** A home care provider license category entitled assisted living home care provider is hereby established. A home care provider may obtain an assisted living license if the program meets the following requirements:

(a) nursing services, delegated nursing services, other services performed by unlicensed personnel, or central storage of medications under the assisted living license are provided solely for residents of one or more housing with services establishments registered under chapter 144D;

(b) unlicensed personnel perform home health aide and home care aide tasks identified in Minnesota Rules, parts 4668.0100, subparts 1 and 2, and 4668.0110, subpart 1. Qualifications to perform these tasks shall be established in accordance with subdivision 3;

(c) periodic supervision of unlicensed personnel is provided as required by rule;

(d) notwithstanding Minnesota Rules, part 4668.0160, subpart 6, item D, client records shall include:

(1) daily records or a weekly summary of the client's status and home care services provided;

(2) documentation each time medications are administered to a client; and

(3) documentation on the day of occurrence of any significant change in the client's status or any significant incident, such as a fall or refusal to take medications.

All entries must be signed by the staff providing the services and entered into the record no later than two weeks after the end of the service day, except as specified in clauses (2) and (3);

(e) medication and treatment orders, if any, are included in the client record and are renewed at least every 12 months, or more frequently when indicated by a clinical assessment;

(f) the central storage of medications in a housing with services establishment registered under chapter 144D is managed under a system that is established by a registered nurse and addresses the control of medications, handling of medications, medication containers, medication records, and disposition of medications; and

(g) in other respects meets the requirements established by rules adopted under sections 144A.45 to 144A.48.

Sec. 31. Minnesota Statutes 1998, section 145.924, is amended to read:

**145.924 AIDS PREVENTION GRANTS.**

(a) The commissioner may award grants to boards of health as defined in section 145A.02, subdivision 2, state agencies, state councils, or nonprofit corporations to provide evaluation and counseling services to populations at risk for acquiring human immunodeficiency virus infection, including, but not limited to, minorities, adolescents, intravenous drug users, and homosexual men.

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(b) The commissioner may award grants to agencies experienced in providing services to communities of color, for the design of innovative outreach and education programs for targeted groups within the community who may be at risk of acquiring the human immunodeficiency virus infection, including intravenous drug users and their partners, adolescents, gay and bisexual individuals and women. Grants shall be awarded on a request for proposal basis and shall include funds for administrative costs. Priority for grants shall be given to agencies or organizations that have experience in providing service to the particular community which the grantee proposes to serve; that have policy-makers representative of the targeted population; that have experience in dealing with issues relating to HIV/AIDS; and that have the capacity to deal effectively with persons of differing sexual orientations. For purposes of this paragraph, the "communities of color" are: the American-Indian community; the Hispanic community; the African-American community; and the Asian-Pacific community.

(c) All state grants awarded under this section for programs targeted to adolescents shall include the promotion of abstinence from sexual activity and drug use.

Sec. 32. Minnesota Statutes 1998, section 145.9255, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** The commissioner of health, in consultation with a representative from Minnesota planning, the commissioner of human services, and the commissioner of children, families, and learning, shall develop and implement the Minnesota education now and babies later (MN ENABL) program, targeted to adolescents ages 12 to 14, with the goal of reducing the incidence of adolescent pregnancy in the state and promoting abstinence until marriage. The program must provide a multifaceted, primary prevention, community health promotion approach to educating and supporting adolescents in the decision to postpone sexual involvement modeled after the ENABL program in California. The commissioner of health shall consult with the chief of the health education section of the California department of health services for general guidance in developing and implementing the program.

Sec. 33. Minnesota Statutes 1998, section 145.9255, subdivision 4, is amended to read:

Subd. 4. **PROGRAM COMPONENTS.** The program must include the following four major components:

(a) A community organization component in which the community-based local contractors shall include:

(1) use of a postponing sexual involvement education curriculum targeted to boys and girls ages 12 to 14 in schools and/or community settings;

(2) planning and implementing community organization strategies to convey and reinforce the MN ENABL message of postponing sexual involvement, including activities promoting awareness and involvement of parents and other primary caregivers/significant adults, schools, and community; and

(3) development of local media linkages.

(b) A statewide, comprehensive media and public relations campaign to promote changes in sexual attitudes and behaviors, and reinforce the message of postponing ado-

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lescent sexual involvement and promoting abstinence from sexual activity until marriage. Nothing in this paragraph shall be construed to prevent the commissioner from targeting populations that historically have had a high incidence of adolescent pregnancy with culturally appropriate messages on abstinence from sexual activity.

The commissioner of health, in consultation with the commissioner of children, families, and learning, shall contract with the attorney general's office to develop and implement the media and public relations campaign. In developing the campaign, the attorney general's office commissioner of health shall coordinate and consult with representatives from ethnic and local communities to maximize effectiveness of the social marketing approach to health promotion among the culturally diverse population of the state. The development and implementation of the campaign is subject to input and approval by the commissioner of health. The commissioner may continue to use any campaign materials or media messages developed or produced prior to July 1, 1999.

The local community-based contractors shall collaborate and coordinate efforts with other community organizations and interested persons to provide school and community-wide promotional activities that support and reinforce the message of the MN ENABL curriculum.

(c) An evaluation component which evaluates the process and the impact of the program.

The "process evaluation" must provide information to the state on the breadth and scope of the program. The evaluation must identify program areas that might need modification and identify local MN ENABL contractor strategies and procedures which are particularly effective. Contractors must keep complete records on the demographics of clients served, number of direct education sessions delivered and other appropriate statistics, and must document exactly how the program was implemented. The commissioner may select contractor sites for more in-depth case studies.

The "impact evaluation" must provide information to the state on the impact of the different components of the MN ENABL program and an assessment of the impact of the program on adolescents' related sexual knowledge, attitudes, and risk-taking behavior.

The commissioner shall compare the MN ENABL evaluation information and data with similar evaluation data from other states pursuing a similar adolescent pregnancy prevention program modeled after ENABL and use the information to improve MN ENABL and build on aspects of the program that have demonstrated a delay in adolescent sexual involvement.

(d) A training component requiring the commissioner of health, in consultation with the commissioner of children, families, and learning, to provide comprehensive uniform training to the local MN ENABL community-based local contractors and the direct education program staff.

The local community-based contractors may use adolescent leaders slightly older than the adolescents in the program to impart the message to postpone sexual involvement provided:

(1) the contractor follows a protocol for adult mentors/leaders and older adolescent leaders established by the commissioner of health;

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(2) the older adolescent leader is accompanied by an adult leader; and

(3) the contractor uses the curriculum as directed and required by the commissioner of the department of health to implement this part of the program. The commissioner of health shall provide technical assistance to community-based local contractors.

Sec. 34. Minnesota Statutes 1998, section 148.5194, subdivision 2, is amended to read:

Subd. 2. **BIENNIAL REGISTRATION FEE.** The fee for initial registration and biennial registration, temporary registration, or renewal is \$160 \$200.

Sec. 35. Minnesota Statutes 1998, section 148.5194, subdivision 3, is amended to read:

Subd. 3. **BIENNIAL REGISTRATION FEE FOR DUAL REGISTRATION AS A SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST.** The fee for initial registration and biennial registration, temporary registration, or renewal is \$160 \$200.

Sec. 36. Minnesota Statutes 1998, section 148.5194, is amended by adding a subdivision to read:

Subd. 3a. **SURCHARGE FEE.** Notwithstanding section 16A.1285, subdivision 2, for a period of four years following the effective date of this subdivision, an applicant for registration or registration renewal must pay a surcharge fee of \$25 in addition to any other fees due upon registration or registration renewal. This subdivision expires June 30, 2003.

Sec. 37. Minnesota Statutes 1998, section 148.5194, subdivision 4, is amended to read:

Subd. 4. **PENALTY FEE FOR LATE RENEWALS.** The penalty fee for late submission of a renewal application is \$15 \$45.

Sec. 38. Minnesota Statutes 1998, section 256B.69, subdivision 5c, is amended to read:

Subd. 5c. **MEDICAL EDUCATION AND RESEARCH TRUST FUND.** (a) Beginning in January 1999 and each year thereafter:

(1) the commissioner of human services shall transfer an amount equal to the reduction in the prepaid medical assistance and prepaid general assistance medical care payments resulting from clause (2), excluding nursing facility and elderly waiver payments, to the medical education and research trust fund established under section ~~62J.69~~ 62J.692;

(2) the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments shall be reduced 6.3 percent for Hennepin county, two percent for the remaining metropolitan counties, and 1.6 percent for nonmetropolitan Minnesota counties; and

(3) the amount calculated under clause (1) shall not be adjusted for subsequent changes to the capitation payments for periods already paid.

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(b) This subdivision shall be effective upon approval of a federal waiver which allows federal financial participation in the medical education and research trust fund.

Sec. 39. Minnesota Statutes 1998, section 326.40, subdivision 2, is amended to read:

Subd. 2. **MASTER PLUMBER'S LICENSE; BOND AND; INSURANCE REQUIREMENTS.** ~~The applicant for a master plumber license may give bond to the state in the total penal sum of \$2,000 conditioned upon the faithful and lawful performance of all work entered upon within the state. Any person contracting to do plumbing work must give bond to the state in the amount of \$25,000 for all work entered into within the state. The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of performance to comply with the requirements of the plumbing code. The term of the bond shall be concurrent with the term of the license. The A bond given to the state shall be filed with the secretary of state and shall be in lieu of all other license bonds to any political subdivision required for plumbing work. The bond shall be written by a corporate surety licensed to do business in the state.~~

In addition, each applicant for a master plumber license or renewal thereof, may provide evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the state commissioner of health a certificate evidencing the insurance providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license. The certificate shall be in lieu of all other certificates required by any political subdivision for licensing purposes.

Sec. 40. Minnesota Statutes 1998, section 326.40, subdivision 4, is amended to read:

Subd. 4. **ALTERNATIVE COMPLIANCE.** Compliance with the local bond requirements of a locale within which work is to be performed shall be deemed to satisfy the bond and insurance requirements of subdivision 2, provided the local ordinance requires at least a \$25,000 bond.

Sec. 41. Minnesota Statutes 1998, section 326.40, subdivision 5, is amended to read:

Subd. 5. **FEE.** The state commissioner of health may charge each applicant for a master plumber license or for a renewal of a master plumber license and an additional fee person giving bond an annual bond filing fee commensurate with the cost of administering the bond and insurance requirements of subdivision 2.

Sec. 42. **STUDY REGARDING THE EXPANSION OF PLUMBER LICENSURE AND PLUMBING INSPECTION REQUIREMENTS.**

(a) The commissioner of health, in consultation with representatives of the plumbing industry and other interested individuals, shall study and make recommendations to the legislature on the following issues:

(1) whether licensure requirements for plumbers should be expanded to require all persons and firms working as master plumbers or journeyman plumbers in any home rule city or statutory city to be licensed by the commissioner;

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(2) whether any modifications are necessary to the education requirements for licensure for master plumbers and journeyman plumbers;

(3) whether the commissioner may charge fees to fund the hiring of inspectors and plan reviewers to inspect and review all new plumbing installations, and the amounts of such fees; and

(4) whether the commissioner's authority to inspect new plumbing installations should be expanded to require inspections of all new plumbing installations for new construction and additions, regardless of location or the population of the city or town in which the installation is located.

(b) These recommendations, and draft legislation if appropriate, must be presented to the legislature by January 15, 2000.

#### **Sec. 43. CASE STUDIES TO DEVELOP STANDARDS FOR AUTOPSY PRACTICE IN SPECIAL CASES.**

Subdivision 1. CASE STUDIES. (a) If a professional association representing coroners and medical examiners in Minnesota accepts a grant from the commissioner of health for purposes of this section, it must comply with the terms of this section. A professional association representing coroners and medical examiners in Minnesota may conduct a series of case studies to examine cases in which performing autopsies are controversial or in which autopsies are opposed by a decedent's relative or friend based on the decedent's religious beliefs. The cases to be examined may be cases in which it is not immediately apparent that an autopsy is needed to determine the person's cause of death but that, upon further investigation, the coroner or medical examiner determines that an autopsy is necessary to determine the cause of death and that the cause of death must be determined. Using these case studies, the professional association may develop:

(1) guidelines for coroners and medical examiners regarding when to perform autopsies in controversial situations or in situations in which autopsies are opposed based on a decedent's religious beliefs; and

(2) special autopsy methods and procedures, if appropriate, for autopsies in controversial situations or situations in which autopsies are opposed based on a decedent's religious beliefs.

(b) The professional association may conduct 12 case studies or more for the purposes in paragraph (a). Upon completion of the case studies, the professional association may disseminate the guidelines and procedures developed to all coroners and medical examiners conducting autopsies in Minnesota.

Subd. 2. REPORT TO LEGISLATURE. The professional association may report to the legislature by January 15, 2000, on the results of the case studies, the guidelines developed for autopsy practice, the special autopsy methods and procedures developed, and efforts or plans to disseminate the guidelines and procedures developed to coroners and medical examiners conducting autopsies in Minnesota.

Subd. 3. DATA PRIVACY. All records held by the professional association for purposes of completing the case studies must be held in confidence. The guidelines for autopsies and special autopsy methods and procedures that are disseminated to coroners and medical examiners shall contain no individually identifiable information.

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

**Sec. 44. AMENDMENT TO RULES.**

The commissioner of health shall amend Minnesota Rules, chapter 4730 to conform with Minnesota Statutes, section 144.121, subdivision 8. The amendments required by this section may be done in the manner specified in Minnesota Statutes, section 14.388, under the authority of clause (3) of that section. Minnesota Statutes, section 14.386, paragraph (b), does not apply to amendments to rules made under this section.

**Sec. 45. REPEALER.**

(a) Minnesota Statutes 1998, sections 13.99, subdivision 19m; 62J.77; 62J.78; and 62J.79, are repealed.

(b) Minnesota Statutes 1998, sections 62J.69; 144.9507, subdivision 4; 144.9511; and 145.46, are repealed.

(c) Laws 1998, chapter 407, article 2, section 104, is repealed.

**Sec. 46. EFFECTIVE DATE.**

(a) Sections 33 to 35 are effective January 1, 2000.

(b) Sections 16, 20 to 22, and 37 are effective the day following final enactment.

**ARTICLE 3****LONG-TERM CARE**

Section 1, Minnesota Statutes 1998, section 144A.073, subdivision 5, is amended to read:

Subd. 5. **REPLACEMENT RESTRICTIONS.** (a) Proposals submitted or approved under this section involving replacement must provide for replacement of the facility on the existing site except as allowed in this subdivision.

(b) Facilities located in a metropolitan statistical area other than the Minneapolis-St. Paul seven-county metropolitan area may relocate to a site within the same census tract or a contiguous census tract.

(c) Facilities located in the Minneapolis-St. Paul seven-county metropolitan area may relocate to a site within the same or contiguous health planning area as adopted in March 1982 by the metropolitan council.

(d) Facilities located outside a metropolitan statistical area may relocate to a site within the same city or township, or within a contiguous township.

(e) A facility relocated to a different site under paragraph (b), (c), or (d) must not be relocated to a site more than six miles from the existing site.

(f) The relocation of part of an existing first facility to a second location, under paragraphs (d) and (e), may include the relocation to the second location of up to four beds from part of an existing third facility located in a township contiguous to the location of

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the first facility. The six-mile limit in paragraph (e) does not apply to this relocation from the third facility.

(g) For proposals approved on January 13, 1994, under this section involving the replacement of 102 licensed and certified beds, the relocation of the existing first facility to the second and third locations new location under paragraphs (d) and (e) may include the relocation of up to 50 percent of the 75 beds of the existing first facility to each of the locations. The six-mile limit in paragraph (e) does not apply to this relocation to the third location. ~~Notwithstanding subdivision 3, construction of this project may be commenced any time prior to January 1, 1996.~~

Sec. 2. Minnesota Statutes 1998, section 144A.10, is amended by adding a subdivision to read:

**Subd. 1a. TRAINING AND EDUCATION FOR NURSING FACILITY PROVIDERS.** The commissioner of health must establish and implement a prescribed process and program for providing training and education to providers licensed by the department of health, either by itself or in conjunction with the industry trade associations, before using any new regulatory guideline, regulation, interpretation, program letter or memorandum, or any other materials used in surveyor training to survey licensed providers. The process should include, but is not limited to, the following key components:

(1) facilitate the implementation of immediate revisions to any course curriculum for nursing assistants which reflect any new standard of care practice that has been adopted or referenced by the health department concerning the issue in question;

(2) conduct training of long-term care providers and health department survey inspectors either jointly or during the same time frame on the department's new expectations; and

(3) within available resources the commissioner shall cooperate in the development of clinical standards, work with vendors of supplies and services regarding hazards, and identify research of interest to the long-term care community.

Sec. 3. Minnesota Statutes 1998, section 144A.10, is amended by adding a subdivision to read:

**Subd. 12. DATA ON FOLLOW-UP SURVEYS.** (a) If requested, and not prohibited by federal law, the commissioner shall make available to the nursing home associations and the public photocopies of statements of deficiencies and related letters from the department pertaining to federal certification surveys. The commissioner may charge for the actual cost of reproduction of these documents.

(b) The commissioner shall also make available on a quarterly basis aggregate data for all statements of deficiencies issued after federal certification follow-up surveys related to surveys that were conducted in the quarter prior to the immediately preceding quarter. The data shall include the number of facilities with deficiencies, the total number of deficiencies, the number of facilities that did not have any deficiencies, the number of facilities for which a resurvey or follow-up survey was not performed, and the average number of days between the follow-up or resurvey and the exit date of the preceding survey.

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Sec. 4. Minnesota Statutes 1998, section 144A.10, is amended by adding a subdivision to read:

Subd. 13. NURSE AIDE TRAINING WAIVERS. Because any disruption or delay in the training and registration of nurse aides may reduce access to care in certified facilities, the commissioner shall grant all possible waivers for the continuation of an approved nurse aide training and competency evaluation program or nurse aide training program or competency evaluation program conducted by or on the site of any certified nursing facility or skilled nursing facility that would otherwise lose approval for the program or programs. The commissioner shall take into consideration the distance to other training programs, the frequency of other training programs, and the impact that the loss of the onsite training will have on the nursing facility's ability to recruit and train nurse aides.

Sec. 5. Minnesota Statutes 1998, section 144A.10, is amended by adding a subdivision to read:

Subd. 14. IMMEDIATE JEOPARDY. When conducting survey certification and enforcement activities related to regular, expanded, or extended surveys under Code of Federal Regulations, title 42, part 488, the commissioner may not issue a finding of immediate jeopardy unless the specific event or omission that constitutes the violation of the requirements of participation poses an imminent risk of life-threatening or serious injury to a resident. The commissioner may not issue any findings of immediate jeopardy after the conclusion of a regular, expanded, or extended survey unless the survey team identified the deficient practice or practices that constitute immediate jeopardy and the residents at risk prior to the close of the exit conference.

Sec. 6. Minnesota Statutes 1998, section 144A.10, is amended by adding a subdivision to read:

Subd. 15. INFORMAL DISPUTE RESOLUTION. The commissioner shall respond in writing to a request from a nursing facility certified under the federal Medicare and Medicaid programs for an informal dispute resolution within 30 days of the exit date of the facility's survey. The commissioner's response shall identify the commissioner's decision regarding the continuation of each deficiency citation challenged by the nursing facility, as well as a statement of any changes in findings, level of severity or scope, and proposed remedies or sanctions for each deficiency citation.

**Sec. 7. [144A.102] USE OF CIVIL MONEY PENALTIES; WAIVER FROM STATE AND FEDERAL RULES AND REGULATIONS.**

By January 2000, the commissioner of health shall work with providers to examine state and federal rules and regulations governing the provision of care in licensed nursing facilities and apply for federal waivers and identify necessary changes in state law to:

(1) allow the use of civil money penalties imposed upon nursing facilities to abate any deficiencies identified in a nursing facility's plan of correction; and

(2) stop the accrual of any fine imposed by the health department when a follow-up inspection survey is not conducted by the department within the regulatory deadline.

Sec. 8. Minnesota Statutes 1998, section 144D.01, subdivision 4, is amended to read:

**Subd. 4. HOUSING WITH SERVICES ESTABLISHMENT OR ESTABLISHMENT.** "Housing with services establishment" or "establishment" means an establish-

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ment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment.

Housing with services establishment does not include:

- (1) a nursing home licensed under chapter 144A;
- (2) a hospital, certified boarding care home, or supervised living facility licensed under sections 144.50 to 144.56;
- (3) a board and lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, 9525.0215 to 9525.0355, 9525.0500 to 9525.0660, or 9530.4100 to 9530.4450, or under chapter 245B;
- (4) a board and lodging establishment which serves as a shelter for battered women or other similar purpose;
- (5) a family adult foster care home licensed by the department of human services;
- (6) private homes in which the residents are related by kinship, law, or affinity with the providers of services;
- (7) residential settings for persons with mental retardation or related conditions in which the services are licensed under Minnesota Rules, parts 9525.2100 to 9525.2140, or applicable successor rules or laws;
- (8) a home-sharing arrangement such as when an elderly or disabled person or single-parent family makes lodging in a private residence available to another person in exchange for services or rent, or both;
- (9) a duly organized condominium, cooperative, common interest community, or owners' association of the foregoing where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units; or
- (10) services for persons with developmental disabilities that are provided under a license according to Minnesota Rules, parts 9525.2000 to 9525.2140 in effect until January 1, 1998, or under chapter 245B.

Sec. 9. Minnesota Statutes 1998, section 252.28, subdivision 1, is amended to read:

Subdivision 1. **DETERMINATIONS; REDETERMINATIONS.** In conjunction with the appropriate county boards, the commissioner of human services shall determine, and shall redetermine at least every four years, the need, location, size, and program of public and private residential services and day training and habilitation services for persons with mental retardation or related conditions. This subdivision does not apply to semi-independent living services and residential-based habilitation services provided to four or fewer persons at a single site funded as home and community-based services. A determination of need shall not be required for a change in ownership.

Sec. 10. **[252.282] ICF/MR LOCAL SYSTEM NEEDS PLANNING.**

Subdivision 1. **HOST COUNTY RESPONSIBILITY.** (a) For purposes of this section, "local system needs planning" means the determination of need for ICF/MR ser-

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VICES BY PROGRAM TYPE, LOCATION, DEMOGRAPHICS, AND SIZE OF LICENSED SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES OR RELATED CONDITIONS.

(b) This section does not apply to semi-independent living services and residential-based habilitation services funded as home and community-based services.

(c) In collaboration with the commissioner and ICF/MR providers, counties shall complete a local system needs planning process for each ICF/MR facility. Counties shall evaluate the preferences and needs of persons with developmental disabilities to determine resource demands through a systematic assessment and planning process by May 15, 2000, and by July 1 every two years thereafter beginning in 2001.

(d) A local system needs planning process shall be undertaken more frequently when the needs or preferences of consumers change significantly to require reformation of the resources available to persons with developmental disabilities.

(e) A local system needs plan shall be amended anytime recommendations for modifications to existing ICF/MR services are made to the host county, including recommendations for:

- (1) closure;
- (2) relocation of services;
- (3) downsizing;
- (4) rate adjustments exceeding 90 days duration to address access; or
- (5) modification of existing services for which a change in the framework of service delivery is advocated.

Subd. 2. CONSUMER NEEDS AND PREFERENCES. In conducting the local system needs planning process, the host county must use information from the individual service plans of persons for whom the county is financially responsible and of persons from other counties for whom the county has agreed to be the host county. The determination of services and supports offered within the county shall be based on the preferences and needs of consumers. The host county shall also consider the community social services plan, waiting lists, and other sources that identify unmet needs for services. A review of ICF/MR facility licensing and certification surveys, substantiated maltreatment reports, and established service standards shall be employed to assess the performance of providers and shall be considered in the county's recommendations. Consumer satisfaction surveys may also be considered in this process.

Subd. 3. RECOMMENDATIONS. (a) Upon completion of the local system needs planning assessment, the host county shall make recommendations by May 15, 2000, and by July 1 every two years thereafter beginning in 2001. If no change is recommended, a copy of the assessment along with corresponding documentation shall be provided to the commissioner by July 1 prior to the contract year.

(b) Except as provided in section 252.292, subdivision 4, recommendations regarding closures, relocations, or downsizings that include a rate increase and recommendations regarding rate adjustments exceeding 90 days shall be submitted to the statewide advisory committee for review and determination, along with the assessment, plan, and corresponding budget.

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(c) Recommendations for closures, relocations, and downsizings that do not include a rate increase and for modification of existing services for which a change in the framework of service delivery is necessary shall be provided to the commissioner by July 1 prior to the contract year or at least 90 days prior to the anticipated change, along with the assessment and corresponding documentation.

**Subd. 4. THE STATEWIDE ADVISORY COMMITTEE.** (a) The commissioner shall appoint a five-member statewide advisory committee. The advisory committee shall include representatives of providers and counties and the commissioner or the commissioner's designee.

(b) The criteria for ranking proposals, already developed in 1997 by a task force authorized by the legislature, shall be adopted and incorporated into the decision-making process. Specific guidelines, including time frame for submission of requests, shall be established and announced through the State Register, and all requests shall be considered in comparison to each other and the ranking criteria. The advisory committee shall review and recommend requests for facility rate adjustments to address closures, downsizing, relocation, or access needs within the county and shall forward recommendations and documentation to the commissioner. The committee shall ensure that:

(1) applications are in compliance with applicable state and federal law and with the state plan; and

(2) cost projections for the proposed service are within fiscal limitations.

(c) The advisory committee shall review proposals and submit recommendations to the commissioner within 60 days following the published deadline for submission under subdivision 5.

**Subd. 5. RESPONSIBILITIES OF THE COMMISSIONER.** (a) In collaboration with counties, providers, and the statewide advisory committee, the commissioner shall ensure that services recognize the preferences and needs of persons with developmental disabilities and related conditions through a recurring systemic review and assessment of ICF/MR facilities within the state.

(b) The commissioner shall publish a notice in the State Register twice each calendar year to announce the opportunity for counties or providers to submit requests for rate adjustments associated with plans for downsizing, relocation, and closure of ICF/MR facilities.

(c) The commissioner shall designate funding parameters to counties and to the statewide advisory committee for the overall implementation of system needs within the fiscal resources allocated by the legislature.

(d) The commissioner shall contract with ICF/MR providers. The initial contracts shall cover the period from October 1, 2000, to December 31, 2001. Subsequent contracts shall be for two-year periods beginning January 1, 2002.

Sec. 11. Minnesota Statutes 1998, section 252.291, is amended by adding a subdivision to read:

**Subd. 2a. EXCEPTION FOR LAKE OWASSO PROJECT.** (a) The commissioner shall authorize and grant a license under chapter 245A to a new intermediate care

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facility for persons with mental retardation effective January 1, 2000, under the following circumstances:

(1) the new facility replaces an existing 64-bed intermediate care facility for the mentally retarded located in Ramsey county;

(2) the new facility is located upon a parcel of land contiguous to the parcel upon which the existing 64-bed facility is located;

(3) the new facility is comprised of no more than eight twin home style buildings and an administration building;

(4) the total licensed bed capacity of the facility does not exceed 64 beds; and

(5) the existing 64-bed facility is demolished.

(b) The medical assistance payment rate for the new facility shall be the higher of the rate specified in paragraph (c) or as otherwise provided by law.

(c) The new facility shall be considered a newly established facility for rate setting purposes, and shall be eligible for the investment per bed limit specified in section 256B.501, subdivision 11, paragraph (c), and the interest expense limitation specified in section 256B.501, subdivision 11, paragraph (d). Notwithstanding section 256B.501, the newly established facility's initial payment rate shall be set according to Minnesota Rules, part 9553.0075, and shall not be subject to the provisions of section 256B.501, subdivision 5b.

(d) During the construction of the new facility, Ramsey county shall work with residents, families, and service providers to explore all service options open to current residents of the facility.

Sec. 12. Minnesota Statutes 1998, section 256B.0911, subdivision 6, is amended to read:

**Subd. 6. PAYMENT FOR PREADMISSION SCREENING.** (a) The total screening payment for each county must be paid monthly by certified nursing facilities in the county. The monthly amount to be paid by each nursing facility for each fiscal year must be determined by dividing the county's annual allocation for screenings by 12 to determine the monthly payment and allocating the monthly payment to each nursing facility based on the number of licensed beds in the nursing facility.

(b) The commissioner shall include the total annual payment for screening for each nursing facility according to section 256B.431, subdivision 2b, paragraph (g), or 256B.435.

(c) Payments for screening activities are available to the county or counties to cover staff salaries and expenses to provide the screening function. The lead agency shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to conduct the preadmission screening activity while meeting the state's long-term care outcomes and objectives as defined in section 256B.0917, subdivision 1. The local agency shall be accountable for meeting local objectives as approved by the commissioner in the CSSA biennial plan.

(e) (d) Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

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(d) (e) The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local screening teams.

Sec. 13. Minnesota Statutes 1998, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. **SERVICES COVERED UNDER ALTERNATIVE CARE.** (a) Alternative care funding may be used for payment of costs of:

- (1) adult foster care;
- (2) adult day care;
- (3) home health aide;
- (4) homemaker services;
- (5) personal care;
- (6) case management;
- (7) respite care;
- (8) assisted living;
- (9) residential care services;
- (10) care-related supplies and equipment;
- (11) meals delivered to the home;
- (12) transportation;
- (13) skilled nursing;
- (14) chore services;
- (15) companion services;
- (16) nutrition services;
- (17) training for direct informal caregivers; ~~and~~
- (18) telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home visits; and
- (19) other services including direct cash payments to clients, approved by the county agency, subject to the provisions of paragraph (m). Total annual payments for other services for all clients within a county may not exceed either ten percent of that county's annual alternative care program base allocation or \$5,000, whichever is greater. In no case shall this amount exceed the county's total annual alternative care program base allocation.

(b) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs.

(c) Unless specified in statute, the service standards for alternative care services shall be the same as the service standards defined in the elderly waiver. Except for the county agencies' approval of direct cash payments to clients, persons or agencies must be

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employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program.

(d) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care daily rate shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed 75 percent of the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other alternative care services to be authorized by the case manager.

(e) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(f) A county may use alternative care funds to purchase medical supplies and equipment without prior approval from the commissioner when: (1) there is no other funding source; (2) the supplies and equipment are specified in the individual's care plan as medically necessary to enable the individual to remain in the community according to the criteria in Minnesota Rules, part 9505.0210, item A; and (3) the supplies and equipment represent an effective and appropriate use of alternative care funds. A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is less than that of a Medicaid vendor. A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than \$250.

(g) For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments and are registered with the department of health as providing special services. Residential care services are defined as "supportive services" and "health-related services." "Supportive services" means the provision of up to 24-hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care center only; (2) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate. Health-related services are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested. Individuals receiving residential care services cannot receive both personal care services and residential care services.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units which are not subject to registration under chapter 144D. Assisted living services are defined as up to 24-hour supervision, and oversight, supportive services as defined in clause (1), individualized home care aide tasks as defined in clause (2), and

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individualized home management tasks as defined in clause (3) provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

(1) Supportive services include:

(i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;

(ii) assisting clients in setting up meetings and appointments; and

(iii) providing transportation, when provided by the residential center only.

Individuals receiving assisted living services will not receive both assisted living services and homemaking or personal care services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

(2) Home care aide tasks means:

(i) preparing modified diets, such as diabetic or low sodium diets;

(ii) reminding residents to take regularly scheduled medications or to perform exercises;

(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

(i) housekeeping;

(ii) laundry;

(iii) preparation of regular snacks and meals; and

(iv) shopping.

Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.011 and 157.15 to 157.22.

(i) For establishments registered under chapter 144D, assisted living services under this section means the services described and licensed under section 144A.4605.

(j) For the purposes of this section, reimbursement for assisted living services and residential care services shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident. The rate shall not ex-

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ceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, unless the services are provided by a home care provider licensed by the department of health and are provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision.

(k) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(l) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

(m) A county agency may make payment from their alternative care program allocation for other services provided to an alternative care program recipient if those services prevent, shorten, or delay institutionalization. These services may include direct cash payments to the recipient for the purpose of purchasing the recipient's services. The following provisions apply to payments under this paragraph:

(1) a cash payment to a client under this provision cannot exceed 80 percent of the monthly payment limit for that client as specified in subdivision 4, paragraph (a), clause (7);

(2) a county may not approve any cash payment for a client who has been assessed as having a dependency in orientation, unless the client has an authorized representative under section 256.476, subdivision 2, paragraph (g), or for a client who is concurrently receiving adult foster care, residential care, or assisted living services;

(3) any service approved under this section must be a service which meets the purpose and goals of the program as listed in subdivision 1;

(4) cash payments must also meet the criteria in section 256.476, subdivision 4, paragraph (b), and recipients of cash grants must meet the requirements in section 256.476, subdivision 10; and

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(5) the county shall report client outcomes, services, and costs under this paragraph in a manner prescribed by the commissioner.

Upon implementation of direct cash payments to clients under this section, any person determined eligible for the alternative care program who chooses a cash payment approved by the county agency shall receive the cash payment under this section and not under section 256.476 unless the person was receiving a consumer support grant under section 256.476 before implementation of direct cash payments under this section.

Sec. 14. Minnesota Statutes 1998, section 256B.0913, subdivision 10, is amended to read:

Subd. 10. **ALLOCATION FORMULA.** (a) The alternative care appropriation for fiscal years 1992 and beyond shall cover only 180-day eligible clients.

(b) Prior to July 1 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2. The allocation for fiscal year 1992 shall be calculated using a base that is adjusted to exclude the medical assistance share of alternative care expenditures. The adjusted base is calculated by multiplying each county's allocation for fiscal year 1991 by the percentage of county alternative care expenditures for 180-day eligible clients. The percentage is determined based on expenditures for services rendered in fiscal year 1989 or calendar year 1989, whichever is greater.

(c) If the county expenditures for 180-day eligible clients are 95 percent or more of its adjusted base allocation, the allocation for the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation is included in the state budget.

(d) If the county expenditures for 180-day eligible clients are less than 95 percent of its adjusted base allocation, the allocation for the next fiscal year is the adjusted base allocation less the amount of unspent funds below the 95 percent level.

(e) For fiscal year 1992 only, a county may receive an increased allocation if annualized service costs for the month of May 1991 for 180-day eligible clients are greater than the allocation otherwise determined. A county may apply for this increase by reporting projected expenditures for May to the commissioner by June 1, 1991. The amount of the allocation may exceed the amount calculated in paragraph (b). The projected expenditures for May must be based on actual 180-day eligible client caseload and the individual cost of clients' care plans. If a county does not report its expenditures for May, the amount in paragraph (c) or (d) shall be used.

(f) Calculations for paragraphs (c) and (d) are to be made as follows: for each county, the determination of expenditures shall be based on payments for services rendered from April 1 through March 31 in the base year, to the extent that claims have been submitted by June 1 of that year. Calculations for paragraphs (c) and (d) must also include the funds transferred to the consumer support grant program for clients who have transferred to that program from April 1 through March 31 in the base year.

(g) For the biennium ending June 30, 2001, the allocation of state funds to county agencies shall be calculated as described in paragraphs (c) and (d). If the annual legislative appropriation for the alternative care program is inadequate to fund the combined county allocations for fiscal year 2000 or 2001, the commissioner shall distribute to each

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county the entire annual appropriation as that county's percentage of the computed base as calculated in paragraph (f).

Sec. 15. Minnesota Statutes 1998, section 256B.0913, subdivision 12, is amended to read:

Subd. 12. **CLIENT PREMIUMS.** (a) A premium is required for all 180-day eligible clients to help pay for the cost of participating in the program. The amount of the premium for the alternative care client shall be determined as follows:

(1) when the alternative care client's income less recurring and predictable medical expenses is greater than the medical assistance income standard but less than 150 percent of the federal poverty guideline, and total assets are less than ~~\$6,000~~ \$10,000, the fee is zero;

(2) when the alternative care client's income less recurring and predictable medical expenses is greater than 150 percent of the federal poverty guideline, and total assets are less than ~~\$6,000~~ \$10,000, the fee is 25 percent of the cost of alternative care services or the difference between 150 percent of the federal poverty guideline and the client's income less recurring and predictable medical expenses, whichever is less; and

(3) when the alternative care client's total assets are greater than ~~\$6,000~~ \$10,000, the fee is 25 percent of the cost of alternative care services.

For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, under section 256B.059, if applicable. For married persons, total income is defined as the client's income less the monthly spousal allotment, under section 256B.058.

All alternative care services except case management shall be included in the estimated costs for the purpose of determining 25 percent of the costs.

The monthly premium shall be calculated based on the cost of the first full month of alternative care services and shall continue unaltered until the next reassessment is completed or at the end of 12 months, whichever comes first. Premiums are due and payable each month alternative care services are received unless the actual cost of the services is less than the premium.

(b) The fee shall be waived by the commissioner when:

(1) a person who is residing in a nursing facility is receiving case management only;

(2) a person is applying for medical assistance;

(3) a married couple is requesting an asset assessment under the spousal impoverishment provisions;

(4) a person is a medical assistance recipient, but has been approved for alternative care-funded assisted living services;

(5) a person is found eligible for alternative care, but is not yet receiving alternative care services; or

(6) a person's fee under paragraph (a) is less than \$25.

(c) The county agency must collect the premium from the client and forward the amounts collected to the commissioner in the manner and at the times prescribed by the

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commissioner. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the county with the client's social security number at the time of application. If a client fails or refuses to pay the premium due, the county shall supply the commissioner with the client's social security number and other information the commissioner requires to collect the premium from the client. The commissioner shall collect unpaid premiums using the Revenue Recapture Act in chapter 270A and other methods available to the commissioner. The commissioner may require counties to inform clients of the collection procedures that may be used by the state if a premium is not paid.

(d) The commissioner shall begin to adopt emergency or permanent rules governing client premiums within 30 days after July 1, 1991, including criteria for determining when services to a client must be terminated due to failure to pay a premium.

Sec. 16. Minnesota Statutes 1998, section 256B.0913, subdivision 16, is amended to read:

Subd. 16. **CONVERSION OF ENROLLMENT.** Upon approval of the elderly waiver amendments described in section 256B.0915, subdivision 1d, persons currently receiving services shall have their eligibility for the elderly waiver program determined under section 256B.0915. Persons currently receiving alternative care services whose income is under the special income standard according to Code of Federal Regulations, title 42, section 435.236, who are eligible for the elderly waiver program shall be transferred to that program and shall receive priority access to elderly waiver slots for six months after implementation of this subdivision, except that persons whose income is above the maintenance needs amount described in section 256B.0915, subdivision 1d, paragraph (a), shall have the option of remaining in the alternative care program. Persons currently enrolled in the alternative care program who are not eligible for the elderly waiver program shall continue to be eligible for the alternative care program as long as continuous eligibility is maintained. Continued eligibility for the alternative care program shall be reviewed every six months. ~~Persons who apply for the alternative care program after approval of the elderly waiver amendments in section 256B.0915, subdivision 1d, are not eligible for alternative care if they would qualify for the elderly waiver, with or without a spenddown. Persons who apply for the alternative care program after approval of the elderly waiver amendments in section 256B.0915, subdivision 1d, whose income is under the special income standard according to Code of Federal Regulations, title 42, section 435.236, are not eligible for alternative care if they would qualify for the elderly waiver, except that persons whose income is above the maintenance needs amount described in section 256B.0915, subdivision 1d, paragraph (a), shall have the option of remaining in the alternative care program.~~

Sec. 17. Minnesota Statutes 1998, 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

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cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4. For the rate period beginning October 1, 1992, and for rate years beginning after June 30, 1993, the amount of the surcharge under section 256.9657, subdivision 1, shall be included in the plant operations and maintenance operating cost category. The surcharge shall be an allowable cost for the purpose of establishing the payment rate.

**(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 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.** Effective July 1, 1998, to June 30, 2000, the commissioner shall make available the salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing facility reimbursed under this section or section 256B.434. The salary adjustment per diem for each nursing facility must be determined as follows:

(1) For each nursing facility 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 3.0 percent and then dividing the resulting amount by the nursing facility's actual resident days.

(2) For each nursing facility 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).

(3) A nursing facility may apply for the salary adjustment per diem calculated under clauses (1) and (2). The application must be made to the commissioner and contain a plan by which the nursing facility will distribute the salary adjustment to employees of the nursing facility. In order to apply for a salary adjustment, a nursing facility reimbursed under section 256B.434, must report the information required by clause (1) or (2) in the application, in the manner specified by the commissioner. For nursing facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative, after July 1, 1998, may constitute the plan for the salary distribution. The commissioner shall review the plan to ensure that the salary adjustment per diem is used solely to increase the compensation of nursing home facility employees. To be eligible, a facility must submit its plan for the salary distribution by December 31, 1998. If a facility's plan for salary distribution is effective for its employees after July 1, 1998, the salary adjustment cost per diem shall be effective the same date as its plan.

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(4) Additional costs incurred by nursing facilities as a result of this salary adjustment are not allowable costs for purposes of the September 30, 1998, cost report.

(d) **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:

- (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.

(e) (d) **NEW BASE YEAR.** The commissioner shall establish a new base year for the reporting years ending September 30, 1991, and September 30, 1992. In establishing a new base year, the commissioner must take into account:

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs.

Sec. 18. Minnesota Statutes 1998, section 256B.431, subdivision 17, is amended to read:

Subd. 17. **SPECIAL PROVISIONS FOR MORATORIUM EXCEPTIONS.** (a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 3, for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility that (1) has completed a construction project approved under section 144A.071, subdivision 4a, clause (m); (2) has completed a construction project approved under section 144A.071, subdivision 4a, and effective after June 30, 1995; or (3) has completed a renovation, replacement, or upgrading project approved under the moratorium exception process in section 144A.073 shall be reimbursed for costs directly identified to that project as provided in subdivision 16 and this subdivision.

(b) Notwithstanding Minnesota Rules, part 9549.0060, subparts 5, item A, subitems (1) and (3), and 7, item D, allowable interest expense on debt shall include:

(1) interest expense on debt related to the cost of purchasing or replacing depreciable equipment, excluding vehicles, not to exceed six percent of the total historical cost of the project; and

(2) interest expense on debt related to financing or refinancing costs, including costs related to points, loan origination fees, financing charges, legal fees, and title searches; and issuance costs including bond discounts, bond counsel, underwriter's counsel, corporate counsel, printing, and financial forecasts. Allowable debt related to items in this clause shall not exceed seven percent of the total historical cost of the project. To the extent these costs are financed, the straight-line amortization of the costs in this clause is not an allowable cost; and

(3) interest on debt incurred for the establishment of a debt reserve fund, net of the interest earned on the debt reserve fund.

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(c) Debt incurred for costs under paragraph (b) is not subject to Minnesota Rules, part 9549.0060, subpart 5, item A, subitem (5) or (6).

(d) The incremental increase in a nursing facility's rental rate, determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, resulting from the acquisition of allowable capital assets, and allowable debt and interest expense under this subdivision shall be added to its property-related payment rate and shall be effective on the first day of the month following the month in which the moratorium project was completed.

(e) Notwithstanding subdivision 3f, paragraph (a), for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the replacement-costs--new per bed limit to be used in Minnesota Rules, part 9549.0060, subpart 4, item B, for a nursing facility that has completed a renovation, replacement, or upgrading project that has been approved under the moratorium exception process in section 144A.073, or that has completed an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost exceeds the lesser of \$150,000 or ten percent of the most recent appraised value, must be \$47,500 per licensed bed in multiple-bed rooms and \$71,250 per licensed bed in a single-bed room. These amounts must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 1993.

(f) A nursing facility that completes a project identified in this subdivision and, as of April 17, 1992, has not been mailed a rate notice with a special appraisal for a completed project, or completes a project after April 17, 1992, but before September 1, 1992, may elect either to request a special reappraisal with the corresponding adjustment to the property-related payment rate under the laws in effect on June 30, 1992, or to submit their capital asset and debt information after that date and obtain the property-related payment rate adjustment under this section, but not both.

(g) For purposes of this paragraph, a total replacement means the complete replacement of the nursing facility's physical plant through the construction of a new physical plant or the transfer of the nursing facility's license from one physical plant location to another. For total replacement projects completed on or after July 1, 1992, the commissioner shall compute the incremental change in the nursing facility's rental per diem, for rate years beginning on or after July 1, 1995, by replacing its appraised value, including the historical capital asset costs, and the capital debt and interest costs with the new nursing facility's allowable capital asset costs and the related allowable capital debt and interest costs. If the new nursing facility has decreased its licensed capacity, the aggregate investment per bed limit in subdivision 3a, paragraph (d), shall apply. If the new nursing facility has retained a portion of the original physical plant for nursing facility usage, then a portion of the appraised value prior to the replacement must be retained and included in the calculation of the incremental change in the nursing facility's rental per diem. For purposes of this part, the original nursing facility means the nursing facility prior to the total replacement project. The portion of the appraised value to be retained shall be calculated according to clauses (1) to (3):

(1) The numerator of the allocation ratio shall be the square footage of the area in the original physical plant which is being retained for nursing facility usage.

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(2) The denominator of the allocation ratio shall be the total square footage of the original nursing facility physical plant.

(3) Each component of the nursing facility's allowable appraised value prior to the total replacement project shall be multiplied by the allocation ratio developed by dividing clause (1) by clause (2).

In the case of either type of total replacement as authorized under section 144A.071 or 144A.073, the provisions of this subdivision shall also apply. For purposes of the moratorium exception authorized under section 144A.071, subdivision 4a, paragraph (s), if the total replacement involves the renovation and use of an existing health care facility physical plant, the new allowable capital asset costs and related debt and interest costs shall include first the allowable capital asset costs and related debt and interest costs of the renovation, to which shall be added the allowable capital asset costs of the existing physical plant prior to the renovation, and if reported by the facility, the related allowable capital debt and interest costs.

(h) Notwithstanding Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), for a total replacement, as defined in paragraph (g), authorized under section 144A.071 or 144A.073 after July 1, 1999, the replacement-costs-new per bed limit shall be \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident beds, and \$111,420 per licensed bed in single rooms. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. These amounts must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 2000.

(i) For a total replacement, as defined in paragraph (g), authorized under section 144A.073 for a 96-bed nursing home in Carlton county, the replacement costs new per bed limit shall be \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident's beds, and \$111,420 per licensed bed in a single room. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. The resulting maximum allowable replacement costs new multiplied by 1.25 shall constitute the project's dollar threshold for purposes of application of the limit set forth in section 144A.071, subdivision 2. The commissioner of health may waive the requirements of section 144A.073, subdivision 3b, paragraph (b), clause (2), on the condition that the other requirements of that paragraph are met.

Sec. 19. Minnesota Statutes 1998, section 256B.431, subdivision 26, is amended to read:

Subd. 26. **CHANGES TO NURSING FACILITY REIMBURSEMENT BEGINNING JULY 1, 1997.** The nursing facility reimbursement changes in paragraphs (a) to (f) shall apply in the sequence specified in Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, beginning July 1, 1997.

(a) For rate years beginning on or after July 1, 1997, the commissioner shall limit a nursing facility's allowable operating per diem for each case mix category for each rate year. The commissioner shall group nursing facilities into two groups, freestanding and nonfreestanding, within each geographic group, using their operating cost per diem for the case mix A classification. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the hospital attached, short length of stay, or the rule 80 limits. All other nursing facilities shall be considered freestanding

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nursing facilities. The commissioner shall then array all nursing facilities in each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem:

(1) is at or below the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in paragraph (d), clause (2), increased by two percentage points, or the current reporting year's corresponding allowable operating cost per diem; or

(2) is above the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in paragraph (d), clause (2), increased by one percentage point, or the current reporting year's corresponding allowable operating cost per diem.

For purposes of paragraph (a), if a nursing facility reports on its cost report a reduction in cost due to a refund or credit for a rate year beginning on or after July 1, 1998, the commissioner shall increase that facility's spend-up limit for the rate year following the current rate year by the amount of the cost reduction divided by its resident days for the reporting year preceding the rate year in which the adjustment is to be made.

(b) For rate years beginning on or after July 1, 1997, the commissioner shall limit the allowable operating cost per diem for high cost nursing facilities. After application of the limits in paragraph (a) to each nursing facility's operating cost per diem, the commissioner shall group nursing facilities into two groups, freestanding or nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem are subject to hospital attached, short length of stay, or rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities within each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by three percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by two percent. However, in no case shall a nursing facility's operating cost per diem be reduced below its grouping's limit established at 0.5 standard deviations above the median.

(c) For rate years beginning on or after July 1, 1997, the commissioner shall determine a nursing facility's efficiency incentive by first computing the allowable difference, which is the lesser of \$4.50 or the amount by which the facility's other operating cost limit

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exceeds its nonadjusted other operating cost per diem for that rate year. The commissioner shall compute the efficiency incentive by:

- (1) subtracting the allowable difference from \$4.50 and dividing the result by \$4.50;
- (2) multiplying 0.20 by the ratio resulting from clause (1), and then;
- (3) adding 0.50 to the result from clause (2); and
- (4) multiplying the result from clause (3) times the allowable difference.

The nursing facility's efficiency incentive payment shall be the lesser of \$2.25 or the product obtained in clause (4).

(d) For rate years beginning on or after July 1, 1997, the forecasted price index for a nursing facility's allowable operating cost per diem shall be determined under clauses (1) and (2) using the change in the Consumer Price Index--All Items (United States city average) (CPI-U) as forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the fourth quarter of the calendar year preceding the rate year, subject to subdivision 2l, paragraph (c).

(1) The CPI-U forecasted index for allowable operating cost per diem shall be based on the 21-month period from the midpoint of the nursing facility's reporting year to the midpoint of the rate year following the reporting year.

(2) For rate years beginning on or after July 1, 1997, the forecasted index for operating cost limits referred to in subdivision 21, paragraph (b), shall be based on the CPI-U for the 12-month period between the midpoints of the two reporting years preceding the rate year.

(e) After applying these provisions for the respective rate years, the commissioner shall index these allowable operating cost per diem by the inflation factor provided for in paragraph (d), clause (1), and add the nursing facility's efficiency incentive as computed in paragraph (c).

(f) For rate years beginning on or after July 1, 1997, the total operating cost payment rates for a nursing facility shall be the greater of the total operating cost payment rates determined under this section or the total operating cost payment rates in effect on June 30, 1997, subject to rate adjustments due to field audit or rate appeal resolution. This provision shall not apply to subsequent field audit adjustments of the nursing facility's operating cost rates for rate years beginning on or after July 1, 1997.

(g) For the rate years beginning on July 1, 1997, July 1, 1998, and July 1, 1999, a nursing facility licensed for 40 beds effective May 1, 1992, with a subsequent increase of 20 Medicare/Medicaid certified beds, effective January 26, 1993, in accordance with an increase in licensure is exempt from paragraphs (a) and (b).

(h) For a nursing facility whose construction project was authorized according to section 144A.073, subdivision 5, paragraph (g), the operating cost payment rates for the ~~third~~ new location shall be determined based on Minnesota Rules, part 9549.0057. The relocation allowed under section 144A.073, subdivision 5, paragraph (g), and the rate determination allowed under this paragraph must meet the cost neutrality requirements of section 144A.073, subdivision 3c. Paragraphs (a) and (b) shall not apply until the second rate year after the settle-up cost report is filed. Notwithstanding subdivision 2b, para-

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graph (g), real estate taxes and special assessments payable by the third new location, a 501(c)(3) nonprofit corporation, shall be included in the payment rates determined under this subdivision for all subsequent rate years.

(i) For the rate year beginning July 1, 1997, the commissioner shall compute the payment rate for a nursing facility licensed for 94 beds on September 30, 1996, that applied in October 1993 for approval of a total replacement under the moratorium exception process in section 144A.073, and completed the approved replacement in June 1995, with other operating cost spend-up limit under paragraph (a), increased by \$3.98, and after computing the facility's payment rate according to this section, the commissioner shall make a one-year positive rate adjustment of \$3.19 for operating costs related to the newly constructed total replacement, without application of paragraphs (a) and (b). The facility's per diem, before the \$3.19 adjustment, shall be used as the prior reporting year's allowable operating cost per diem for payment rate calculation for the rate year beginning July 1, 1998. A facility described in this paragraph is exempt from paragraph (b) for the rate years beginning July 1, 1997, and July 1, 1998.

(j) For the purpose of applying the limit stated in paragraph (a), a nursing facility in Kandiyohi county licensed for 86 beds that was granted hospital-attached status on December 1, 1994, shall have the prior year's allowable care-related per diem increased by \$3.207 and the prior year's other operating cost per diem increased by \$4.777 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

(k) For the purpose of applying the limit stated in paragraph (a), a 117 bed nursing facility located in Pine county shall have the prior year's allowable other operating cost per diem increased by \$1.50 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

(l) For the purpose of applying the limit under paragraph (a), a nursing facility in Hibbing licensed for 192 beds shall have the prior year's allowable other operating cost per diem increased by \$2.67 before adding the inflation in paragraph (d), clause (2), for the rate year beginning July 1, 1997.

Sec. 20. Minnesota Statutes 1998, section 256B.431, is amended by adding a subdivision to read:

**Subd. 28. NURSING FACILITY RATE INCREASES BEGINNING JULY 1, 1999, AND JULY 1, 2000.** (a) For the rate years beginning July 1, 1999, and July 1, 2000, the commissioner shall make available to each nursing facility reimbursed under this section or section 256B.434 an adjustment to the total operating payment rate. For each facility, total operating costs shall be separated into costs that are compensation related and all other costs. Compensation related costs include salaries, payroll taxes, and fringe benefits for all employees except management fees, the administrator, and central office staff.

(b) For the rate year beginning July 1, 1999, the commissioner shall make available a rate increase for compensation related costs of 4.843 percent and a rate increase for all other operating costs of 3.446 percent.

(c) For the rate year beginning July 1, 2000, the commissioner shall make available a rate increase for compensation related costs of 3.632 percent and a rate increase for all other operating costs of 2.585 percent.

(d) The payment rate adjustment for each nursing facility must be determined under clause (1) or (2):

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(1) for each nursing facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the commissioner shall determine the payment rate adjustment using the categories specified in paragraph (a) multiplied by the rate increases specified in paragraph (b) or (c), and then dividing the resulting amount by the nursing facility's actual resident days. In determining the amount of a payment rate adjustment for a nursing facility reimbursed under section 256B.434, the commissioner shall determine the proportions of the facility's rates that are compensation related costs and all other operating costs based on the facility's most recent cost report; and

(2) for each nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment shall be computed using the facility's total operating costs, separated into the categories specified in paragraph (a) in proportion to the weighted average of all facilities determined under clause (1), multiplied by the rate increases specified in paragraph (b) or (c), and then dividing the resulting amount by the nursing facility's actual resident days.

(e) A nursing facility may apply for the compensation-related payment rate adjustment calculated under this subdivision. The application must be made to the commissioner and contain a plan by which the nursing facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For nursing facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan. The commissioner shall review the plan to ensure that the payment rate adjustment per diem is used as provided in paragraphs (a) to (c). To be eligible, a facility must submit its plan for the compensation distribution by December 31 each year. A facility may amend its plan for the second rate year by submitting a revised plan by December 31, 2000. If a facility's plan for compensation distribution is effective for its employees after July 1 of the year that the funds are available, the payment rate adjustment per diem shall be effective the same date as its plan.

(f) A copy of the approved distribution plan must be made available to all employees. This must be done by giving each employee a copy or by posting it in an area of the nursing facility to which all employees have access. If an employee does not receive the compensation adjustment described in their facility's approved plan and is unable to resolve the problem with the facility's management or through the employee's union representative, the employee may contact the commissioner at an address or phone number provided by the commissioner and included in the approved plan.

(g) If the reimbursement system under section 256B.435 is not implemented until July 1, 2001, the salary adjustment per diem authorized in subdivision 2i, paragraph (c), shall continue until June 30, 2001.

(h) For the rate year beginning July 1, 1999, the following nursing facilities shall be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if subdivision 26, paragraph (a), was not applied:

(1) a nursing facility in Carver county licensed for 33 nursing home beds and four boarding care beds;

(2) a nursing facility in Faribault county licensed for 159 nursing home beds on September 30, 1998; and

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(3) a nursing facility in Houston county licensed for 68 nursing home beds on September 30, 1998.

(i) For the rate year beginning July 1, 1999, the following nursing facilities shall be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if subdivision 26, paragraphs (a) and (b), were not applied:

(1) a nursing facility in Chisago county licensed for 135 nursing home beds on September 30, 1998; and

(2) a nursing facility in Murray county licensed for 62 nursing home beds on September 30, 1998.

(j) For the rate year beginning July 1, 1999, a nursing facility in Hennepin county licensed for 134 beds on September 30, 1998, shall:

(1) have the prior year's allowable care-related per diem increased by \$3.93 and the prior year's other operating cost per diem increased by \$1.69 before adding the inflation in subdivision 26, paragraph (d), clause (2); and

(2) be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if subdivision 26, paragraphs (a) and (b), were not applied.

Sec. 21. Minnesota Statutes 1998, section 256B.434, subdivision 3, is amended to read:

Subd. 3. **DURATION AND TERMINATION OF CONTRACTS.** (a) Subject to available resources, the commissioner may begin to execute contracts with nursing facilities November 1, 1995.

(b) All contracts entered into under this section are for a term of one year. Either party may terminate a contract at any time without cause by providing 30 90 calendar days advance written notice to the other party. The decision to terminate a contract is not appealable. ~~If neither party provides written notice of termination the contract shall be renegotiated for additional one-year terms, for up to a total of four consecutive one-year terms~~ Notwithstanding section 16C.05, subdivision 2, paragraph (a), clause (5), the contract shall be renegotiated for additional one-year terms, unless either party provides written notice of termination. The provisions of the contract shall be renegotiated annually by the parties prior to the expiration date of the contract. The parties may voluntarily renegotiate the terms of the contract at any time by mutual agreement.

(c) If a nursing facility fails to comply with the terms of a contract, the commissioner shall provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance. If the facility fails to come into compliance or to remain in compliance, the commissioner may terminate the contract. If a contract is terminated, the contract payment remains in effect for the remainder of the rate year in which the contract was terminated, but in all other respects the provisions of this section do not apply to that facility effective the date the contract is terminated. The contract shall contain a provision governing the transition back to the cost-based reimbursement system established under section 256B.431, subdivision 25, and Minnesota Rules, parts 9549.0010 to 9549.0080. A contract entered into under this section may be amended by mutual agreement of the parties.

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Sec. 22. Minnesota Statutes 1998, section 256B.434, subdivision 4, is amended to read:

Subd. 4. **ALTERNATE RATES FOR NURSING FACILITIES.** (a) For nursing facilities which have their payment rates determined under this section rather than section 256B.431, subdivision 25, the commissioner shall establish a rate under this subdivision. The nursing facility must enter into a written contract with the commissioner.

(b) A nursing facility's case mix payment rate for the first rate year of a facility's contract under this section is the payment rate the facility would have received under section 256B.431, subdivision 25.

(c) A nursing facility's case mix payment rates for the second and subsequent years of a facility's contract under this section are the previous rate year's contract payment rates plus an inflation adjustment. The index for the inflation adjustment must be based on the change in the Consumer Price Index--All Items (United States City average) (CPI-U) forecasted by Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. For the rate years beginning on July 1, 1999, and July 1, 2000, this paragraph shall apply only to the property related payment rate. In determining the amount of the property related payment rate adjustment under this paragraph, the commissioner shall determine the proportion of the facility's rates that are property related based on the facility's most recent cost report.

(d) The commissioner shall develop additional incentive-based payments of up to five percent above the standard contract rate for achieving outcomes specified in each contract. The specified facility-specific outcomes must be measurable and approved by the commissioner. The commissioner may establish, for each contract, various levels of achievement within an outcome. After the outcomes have been specified the commissioner shall assign various levels of payment associated with achieving the outcome. Any incentive-based payment cancels if there is a termination of the contract. In establishing the specified outcomes and related criteria the commissioner shall consider the following state policy objectives:

(1) improved cost effectiveness and quality of life as measured by improved clinical outcomes;

(2) successful diversion or discharge to community alternatives;

(3) decreased acute care costs;

(4) improved consumer satisfaction;

(5) the achievement of quality; or

(6) any additional outcomes proposed by a nursing facility that the commissioner finds desirable.

Sec. 23. Minnesota Statutes 1998, section 256B.434, is amended by adding a subdivision to read:

Subd. 4a. **FACILITY RATE INCREASES.** For the rate year beginning July 1, 1999, the nursing facilities described in clauses (1) to (5) shall receive the rate increases

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indicated. The increases provided under this subdivision shall be included in the facility's total payment rates for the purpose of determining future rates under this section or any other section:

(1) a nursing facility in Becker county licensed for 102 nursing home beds on September 30, 1998, shall receive an increase of \$1.30 in its case mix class A payment rate; an increase of \$1.33 in its case mix class B payment rate; an increase of \$1.36 in its case mix class C payment rate; an increase of \$1.39 in its case mix class D payment rate; an increase of \$1.42 in its case mix class E payment rate; an increase of \$1.42 in its case mix class F payment rate; an increase of \$1.45 in its case mix class G payment rate; an increase of \$1.49 in its case mix class H payment rate; an increase of \$1.51 in its case mix class I payment rate; an increase of \$1.54 in its case mix class J payment rate; and an increase of \$1.59 in its case mix class K payment rate;

(2) a nursing facility in Chisago county licensed for 101 nursing home beds on September 30, 1998, shall receive an increase of \$3.67 in each case mix payment rate;

(3) a nursing facility in Canby, licensed for 75 beds shall have its property-related per diem rate increased by \$1.21. This increase shall be recognized in the facility's contract payment rate under this section;

(4) a nursing facility in Golden Valley with all its beds licensed to provide residential rehabilitative services to young adults under Minnesota Rules, parts 9570.2000 to 9570.3400, shall have the payment rate computed according to this section increased by \$14.83; and

(5) a county-owned 130-bed nursing facility in Park Rapids shall have its per diem contract payment rate increased by \$1.02 for costs related to compliance with comparable worth requirements.

Sec. 24. Minnesota Statutes 1998, section 256B.434, subdivision 13, is amended to read:

Subd. 13. **PAYMENT SYSTEM REFORM ADVISORY COMMITTEE.** (a) The commissioner, in consultation with an advisory committee, shall study options for reforming the regulatory and reimbursement system for nursing facilities to reduce the level of regulation, reporting, and procedural requirements, and to provide greater flexibility and incentives to stimulate competition and innovation. The advisory committee shall include, at a minimum, representatives from the long-term care provider community, the department of health, and consumers of long-term care services. ~~The advisory committee sunsets on June 30, 1997.~~ Among other things, the commissioner shall consider the feasibility and desirability of changing from a certification requirement to an accreditation requirement for participation in the medical assistance program, options to encourage early discharge of short-term residents through the provision of intensive therapy, and further modifications needed in rate equalization. The commissioner shall also include detailed recommendations for a permanent managed care payment system to replace the contractual alternative payment demonstration project authorized under this section. The commissioner shall submit a report with findings and recommendations to the legislature by January 15, 1997.

(b) ~~If a permanent managed care payment system has not been enacted into law by July 1, 1997, the commissioner shall develop and implement a transition plan to enable~~

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nursing facilities under contract with the commissioner under this section to revert to the cost-based payment system at the expiration of the alternative payment demonstration project. The commissioner shall include in the alternative payment demonstration project contracts entered into under this section a provision to permit an amendment to the contract to be made after July 1, 1997, governing the transition back to the cost-based payment system. The transition plan and contract amendments are not subject to rule-making requirements.

Sec. 25. Minnesota Statutes 1998, section 256B.435, is amended to read:

**256B.435 NURSING FACILITY REIMBURSEMENT SYSTEM EFFECTIVE JULY 1, 2000 2001.**

Subdivision 1. **IN GENERAL.** Effective July 1, 2000 2001, the commissioner shall implement a performance-based contracting system to replace the current method of setting operating cost payment rates under sections 256B.431 and 256B.434 and Minnesota Rules, parts 9549.0010 to 9549.0080. Operating cost payment rates for newly established facilities under Minnesota Rules, part 9549.0057, shall be established using section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0070. A nursing facility in operation on May 1, 1998, with payment rates not established under section 256B.431 or 256B.434 on that date, is ineligible for this performance-based contracting system. In determining prospective payment rates of nursing facility services, the commissioner shall distinguish between operating costs and property-related costs. The commissioner of finance shall include an annual inflationary adjustment in operating costs for nursing facilities using the inflation factor specified in subdivision 3 and funding for incentive-based payments as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11. Property related payment rates, including real estate taxes and special assessments, shall be determined under section 256B.431 or 256B.434 or under a new property-related reimbursement system, if one is implemented by the commissioner under subdivision 3. The commissioner shall present additional recommendations for performance-based contracting for nursing facilities to the legislature by February 15, 2000, in the following specific areas:

(1) development of an interim default payment mechanism for nursing facilities that do not respond to the state's request for proposal but wish to continue participation in the medical assistance program, and nursing facilities the state does not select in the request for proposal process, and nursing facilities whose contract has been canceled;

(2) development of criteria for facilities to earn performance-based incentive payments based on relevant outcomes negotiated by nursing facilities and the commissioner and that recognize both continuous quality efforts and quality improvement;

(3) development of criteria and a process under which nursing facilities can request rate adjustments for low base rates, geographic disparities, or other reasons;

(4) development of a dispute resolution mechanism for nursing facilities that are denied a contract, denied incentive payments, or denied a rate adjustment;

(5) development of a property payment system to address the capital needs of nursing facilities that will be funded with additional appropriations;

(6) establishment of a transitional plan to move from dual assessment instruments to the federally mandated resident assessment system, whereby the financial impact for each facility would be budget neutral;

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(7) identification of net cost implications for facilities and to the department of preparing for and implementing performance-based contracting or any proposed alternative system;

(8) identification of facility financial and statistical reporting requirements; and

(9) identification of exemptions from current regulations and statutes applicable under performance-based contracting.

Subd. 1a. REQUESTS FOR PROPOSALS. (a) For nursing facilities with rates established under section 256B.434 on January 1, 2001, the commissioner shall renegotiate contracts without requiring a response to a request for proposal, notwithstanding the solicitation process described in chapter 16C.

(b) Prior to July 1, 2001, the commissioner shall publish in the State Register a request for proposals to provide nursing facility services according to this section. The commissioner will consider proposals from all nursing facilities that have payment rates established under section 256B.431. The commissioner must respond to all proposals in a timely manner.

(c) In issuing a request for proposals, the commissioner may develop reasonable requirements which, in the judgment of the commissioner, are necessary to protect residents or ensure that the performance-based contracting system furthers the interests of the state of Minnesota. The request for proposals may include, but need not be limited to:

(1) a requirement that a nursing facility make reasonable efforts to maximize Medicare payments on behalf of eligible residents;

(2) requirements designed to prevent inappropriate or illegal discrimination against residents enrolled in the medical assistance program as compared to private paying residents;

(3) requirements designed to ensure that admissions to a nursing facility are appropriate and that reasonable efforts are made to place residents in home and community-based settings when appropriate;

(4) a requirement to agree to participate in the development of data collection systems and outcome-based standards. Among other requirements specified by the commissioner, each facility entering into a contract may be required to pay an annual fee not to exceed \$1,000. The commissioner must use revenue generated from the fees to contract with a qualified consultant or contractor to develop data collection systems and outcome-based contracting standards;

(5) a requirement that Medicare-certified contractors agree to maintain Medicare cost reports and to submit them to the commissioner upon request, or at times specified by the commissioner; and that contractors that are not Medicare-certified agree to maintain a uniform cost report in a format established by the commissioner and to submit the report to the commissioner upon request, or at times specified by the commissioner;

(6) a requirement that demonstrates willingness and ability to develop and maintain data collection and retrieval systems to measure outcomes; and

(7) a requirement to provide all information and assurances required by the terms and conditions of the federal waiver or federal approval.

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(d) In addition to the information and assurances contained in the submitted proposals, the commissioner may consider the following criteria in developing the terms of the contract:

(1) the facility's history of compliance with federal and state laws and rules. A facility deemed to be in substantial compliance with federal and state laws and rules is eligible to respond to a request for proposals. A facility's compliance history shall not be the sole determining factor in situations where the facility has been sold and the new owners have submitted a proposal;

(2) whether the facility has a record of excessive licensure fines or sanctions or fraudulent cost reports;

(3) the facility's financial history and solvency; and

(4) other factors identified by the commissioner deemed relevant to developing the terms of the contract, including a determination that a contract with a particular facility is not in the best interests of the residents of the facility or the state of Minnesota.

(e) Notwithstanding the requirements of the solicitation process described in chapter 16C, the commissioner may contract with nursing facilities established according to section 144A.073 without issuing a request for proposals.

(f) Notwithstanding subdivision 1, after July 1, 2001, the commissioner may contract with additional nursing facilities, according to requests for proposals.

Subd. 2. **CONTRACT PROVISIONS.** (a) The performance-based contract with each nursing facility must include provisions that:

(1) apply the resident case mix assessment provisions of Minnesota Rules, parts 9549.0051, 9549.0058, and 9549.0059, or another assessment system, with the goal of moving to a single assessment system;

(2) monitor resident outcomes through various methods, such as quality indicators based on the minimum data set and other utilization and performance measures;

(3) require the establishment and use of a continuous quality improvement process that integrates information from quality indicators and regular resident and family satisfaction interviews;

(4) require annual reporting of facility statistical information, including resident days by case mix category, productive nursing hours, wages and benefits, and raw food costs for use by the commissioner in the development of facility profiles that include trends in payment and service utilization;

(5) require from each nursing facility an annual certified audited financial statement consisting of a balance sheet, income and expense statements, and an opinion from either a licensed or certified public accountant, if a certified audit was prepared, or unaudited financial statements if no certified audit was prepared; and

(6) specify the method for resolving disputes; and

(7) establish additional requirements and penalties for nursing facilities not meeting the standards set forth in the performance-based contract.

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(b) The commissioner may develop additional incentive-based payments for achieving specified outcomes specified in each contract. The specified facility-specific outcomes must be measurable and approved by the commissioner.

(c) The commissioner may also contract with nursing facilities in other ways through requests for proposals, including contracts on a risk or nonrisk basis, with nursing facilities or consortia of nursing facilities, to provide comprehensive long-term care coverage on a premium or capitated basis.

(d) The commissioner may negotiate different contract terms for different nursing facilities.

**Subd. 2a. DURATION AND TERMINATION OF CONTRACTS.** (a) All contracts entered into under this section are for a term of one year. Either party may terminate this contract at any time without cause by providing 90 calendar days' advance written notice to the other party. Notwithstanding section 16C.05, subdivisions 2, paragraph (a), and 5, if neither party provides written notice of termination, the contract shall be renegotiated for additional one-year terms or the terms of the existing contract will be extended for one year. The provisions of the contract shall be renegotiated annually by the parties prior to the expiration date of the contract. The parties may voluntarily renegotiate the terms of the contract at any time by mutual agreement.

(b) If a nursing facility fails to comply with the terms of a contract, the commissioner shall provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance. If the facility fails to come into compliance or to remain in compliance, the commissioner may terminate the contract. If a contract is terminated, provisions of section 256B.48, subdivision 1a, shall apply.

**Subd. 3. PAYMENT RATE PROVISIONS.** (a) For rate years beginning on or after July 1, 2000 2001, within the limits of appropriations specifically for this purpose, the commissioner shall determine operating cost payment rates for each licensed and certified nursing facility by indexing its operating cost payment rates in effect on June 30, 2000 2001, for inflation. The inflation factor to be used must be based on the change in the Consumer Price Index—All Items, United States city average (CPI-U) as forecasted by Data Resources, Inc. in the fourth quarter preceding the rate year. For rate years beginning on or after July 1, 2001, the inflation factor must be based on the change in the Employment Cost Index for Private Industry Workers—Total Compensation as forecasted by the commissioner of finance's national economic consultant, in the fourth quarter preceding the rate year. The CPI-U forecasted index for operating cost payment rates shall be based on the 12-month period from the midpoint of the nursing facility's prior rate year to the midpoint of the rate year for which the operating payment rate is being determined. The operating cost payment rate to be inflated shall be the total payment rate in effect on June 30, 2001, minus the portion determined to be the property-related payment rate, minus the per diem amount of the preadmission screening cost included in the nursing facility's last payment rate established under section 256B.431.

(b) Beginning July 1, 2000, each nursing facility subject to a performance-based contract under this section shall choose one of two methods of payment for property-related costs:

(1) the method established in section 256B.434; or

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~~(2) the method established in section 256B.431.~~

Once the nursing facility has made the election in this paragraph, that election shall remain in effect for at least four years or until an alternative property payment system is developed. A per diem amount for preadmission screening will be added onto the contract payment rates according to the method of distribution of county allocation described in section 256B.0911, subdivision 6, paragraph (a).

(c) For rate years beginning on or after July 1, ~~2000~~ 2001, the commissioner may implement a new method of payment for property-related costs that addresses the capital needs of facilities. Notwithstanding paragraph (b), The new property payment system or systems, if implemented, shall replace the current method methods of setting property payment rates under sections 256B.431 and 256B.434.

**Subd. 4. CONTRACT PAYMENT RATES; APPEALS.** If an appeal is pending concerning the cost-based payment rates that are the basis for the calculation of the payment rate under this section, the commissioner and the nursing facility may agree on an interim contract rate to be used until the appeal is resolved. When the appeal is resolved, the contract rate must be adjusted retroactively according to the appeal decision.

**Subd. 5. CONSUMER PROTECTION.** In addition to complying with all applicable laws regarding consumer protection, as a condition of entering into a contract under this section, a nursing facility must agree to:

- (1) establish resident grievance procedures;
- (2) establish expedited grievance procedures to resolve complaints made by short-stay residents; and
- (3) make available to residents and families a copy of the performance-based contract and outcomes to be achieved.

**Subd. 6. CONTRACTS ARE VOLUNTARY.** Participation of nursing facilities in the medical assistance program is voluntary. The terms and procedures governing the performance-based contract are determined under this section and through negotiations between the commissioner and nursing facilities.

**Subd. 7. FEDERAL REQUIREMENTS.** The commissioner shall implement the performance-based contracting system subject to any required federal waivers or approval and in a manner that is consistent with federal requirements. If a provision of this section is inconsistent with a federal requirement, the federal requirement supersedes the inconsistent provision. The commissioner shall seek federal approval and request waivers as necessary to implement this section.

Sec. 26. Minnesota Statutes 1998, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED PRACTICES.** A nursing facility 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 facility may (1) charge private paying residents a higher rate for a private room, and (2)

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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 available to all residents in all areas of the nursing facility 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 facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility. 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 facility 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 resident or the resident's legal representative has a cause of action for civil damages against a nursing facility 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 facility 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 (1) Charging, soliciting, accepting, or receiving from an applicant for admission to the facility, or the guardian or conservator from anyone acting in behalf of the applicant, as a condition of admission, to pay expediting the admission, or as a requirement for the individual's continued stay, any fee or deposit in excess of \$100, gift, money, donation, or other consideration not otherwise required as payment under the state plan;

(2) requiring an individual, or anyone acting in behalf of the individual, to loan any money to the nursing facility; or;

(3) requiring an individual, or anyone acting in behalf of the individual, to promise to leave all or part of the applicant's individual's estate to the facility; or

(4) requiring a third-party guarantee of payment to the facility as a condition of admission, expedited admission, or continued stay in the facility.

Nothing in this paragraph would prohibit discharge for nonpayment of services in accordance with state and federal regulations.

(c) Requiring any resident of the nursing facility to utilize a vendor of health care services chosen by the nursing facility.

(d) Providing differential treatment on the basis of status with regard to public assistance.

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(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 facility, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing facility 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 facility of financial information of any applicant pursuant to a preadmission screening program established by law shall not raise an inference that the nursing facility 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 of the vendor's fee to the nursing facility except as payment for renting or leasing space or equipment or purchasing support services from the nursing facility as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing facilities 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 facility with more than 325 beds including at least 150 licensed nursing facility 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 facility 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 facility 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 facility to permit the applicant to withdraw from the facility 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 facility or boarding care home which is in violation

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of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing facility to correct the violation. The nursing facility 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 facility 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 facility 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.

In the event that the commissioner determines that a nursing facility is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing facility to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing facility.

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. 27. Minnesota Statutes 1998, section 256B.48, subdivision 1a, is amended to read:

Subd. 1a. **TERMINATION.** If a nursing facility terminates its participation in the medical assistance program, whether voluntarily or involuntarily, the commissioner may authorize the nursing facility to receive continued medical assistance reimbursement ~~only on a temporary basis~~ until medical assistance residents can be relocated to nursing facilities participating in the medical assistance program.

Sec. 28. Minnesota Statutes 1998, section 256B.48, subdivision 1b, is amended to read:

Subd. 1b. **EXCEPTION.** Notwithstanding any agreement between a nursing facility and the department of human services or the provisions of this section or section 256B.411, other than subdivision 1a, the commissioner may authorize continued medical assistance payments to a nursing facility which ceased intake of medical assistance recipients prior to July 1, 1983, and which charges private paying residents rates that exceed those permitted by subdivision 1, paragraph (a), for (i) residents who resided in the nursing facility before July 1, 1983, or (ii) residents for whom the commissioner or any predecessors of the commissioner granted a permanent individual waiver prior to October 1, 1983. Nursing facilities seeking continued medical assistance payments under this subdivision shall make the reports required under subdivision 2, except that on or after December 31, 1985, the financial statements required need not be audited by or contain the opinion of a certified public accountant or licensed public accountant, but need only be reviewed by a certified public accountant or licensed public accountant. In the event that the state is determined by the federal government to be no longer eligible for the federal share of medical assistance payments made to a nursing facility under this subdivision, the commissioner may cease medical assistance payments, under this subdivision, to that nursing facility. ~~Between October 1, 1992, and July 1, 1993, a facility governed by this subdivision may elect to resume full participation in the medical assistance program by agreeing to comply with all of the requirements of the medical assistance program, including the rate equalization law in subdivision 1, paragraph (a), and all other require-~~

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ments established in law or rule, and to resume intake of new medical assistance recipients.

Sec. 29. Minnesota Statutes 1998, 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 facility that is certified as a skilled nursing facility or, after September 30, 1990, a nursing facility licensed under chapter 144A that is certified as a nursing facility.

(b) **MEDICARE PARTICIPATION REQUIRED.** All nursing facilities shall 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.

(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 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) **AFTER SEPTEMBER 30, 1990.** After September 30, 1990, 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) (d) **CONFLICT WITH MEDICARE DISTINCT PART REQUIREMENTS.** At the request of a facility, the commissioner of human services may reduce the 50 percent Medicare participation requirement in paragraphs paragraph (c) and (d) to no less than 20 percent if the commissioner of health determines that, due to the facility's physical plant configuration, the facility cannot satisfy Medicare distinct part requirements at the 50 percent certification level. To receive a reduction in the participation requirement, a facility must demonstrate that the reduction will not adversely affect access of Medicare-eligible residents to Medicare-certified beds.

(f) (e) **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.

(g) (f) **NOTICE OF RIGHTS.** The commissioner shall inform recipients of their rights under this subdivision and section 144.651, subdivision 29.

Sec. 30. Minnesota Statutes 1998, section 256B.50, subdivision 1e, is amended to read:

Subd. 1e. **ATTORNEY'S FEES AND COSTS.** (a) Notwithstanding section 15.472, paragraph (a), for an issue appealed under subdivision 1, the prevailing party in a

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contested case proceeding or, if appealed, in subsequent judicial review, must be awarded reasonable attorney's fees and costs incurred in litigating the appeal, if the prevailing party shows that the position of the opposing party was not substantially justified. The procedures for awarding fees and costs set forth in section 15.474 must be followed in determining the prevailing party's fees and costs except as otherwise provided in this subdivision. For purposes of this subdivision, "costs" means subpoena fees and mileage, transcript costs, court reporter fees, witness fees, postage and delivery costs, photocopying and printing costs, amounts charged the commissioner by the office of administrative hearings, and direct administrative costs of the department; and "substantially justified" means that a position had a reasonable basis in law and fact, based on the totality of the circumstances prior to and during the contested case proceeding and subsequent review.

(b) When an award is made to the department under this subdivision, attorney fees must be calculated at the cost to the department. When an award is made to a provider under this subdivision, attorney fees must be calculated at the rate charged to the provider except that attorney fees awarded must be the lesser of the attorney's normal hourly fee or \$100 per hour.

(c) In contested case proceedings involving more than one issue, the administrative law judge shall determine what portion of each party's attorney fees and costs is related to the issue or issues on which it prevailed and for which it is entitled to an award. In making that determination, the administrative law judge shall consider the amount of time spent on each issue, the precedential value of the issue, the complexity of the issue, and other factors deemed appropriate by the administrative law judge.

(d) When the department prevails on an issue involving more than one provider, the administrative law judge shall allocate the total amount of any award for attorney fees and costs among the providers. In determining the allocation, the administrative law judge shall consider each provider's monetary interest in the issue and other factors deemed appropriate by the administrative law judge.

(e) Attorney fees and costs awarded to the department for proceedings under this subdivision must not be reported or treated as allowable costs on the provider's cost report.

(f) Fees and costs awarded to a provider for proceedings under this subdivision must be reimbursed to them by reporting the amount of fees and costs awarded as allowable costs on the provider's cost report for the reporting year in which they were awarded. Fees and costs reported pursuant to this subdivision must be included in the general and administrative cost category but are not subject to categorical or overall cost limitations established in rule or statute within 120 days of the final decision on the award of attorney fees and costs.

(g) If the provider fails to pay the awarded attorney fees and costs within 120 days of the final decision on the award of attorney fees and costs, the department may collect the amount due through any method available to it for the collection of medical assistance overpayments to providers. Interest charges must be assessed on balances outstanding after 120 days of the final decision on the award of attorney fees and costs. The annual interest rate charged must be the rate charged by the commissioner of revenue for late payment of taxes that is in effect on the 121st day after the final decision on the award of attorney fees and costs.

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(h) Amounts collected by the commissioner pursuant to this subdivision must be deemed to be recoveries pursuant to section 256.01, subdivision 2, clause (15).

(i) This subdivision applies to all contested case proceedings set on for hearing by the commissioner on or after April 29, 1988, regardless of the date the appeal was filed.

Sec. 31. Minnesota Statutes 1998, section 256B.5011, subdivision 1, is amended to read:

Subdivision 1. **IN GENERAL.** Effective October 1, 2000, the commissioner shall implement a performance-based contracting system to replace the current method of setting total cost payment rates under section 256B.501 and Minnesota Rules, parts 9553.0010 to 9553.0080. In determining prospective payment rates of intermediate care facilities for persons with mental retardation or related conditions, the commissioner shall index each facility's total operating payment rate by an inflation factor as described in subdivision 3 section 256B.5012. The commissioner of finance shall include annual inflation adjustments in operating costs for intermediate care facilities for persons with mental retardation and related conditions as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Sec. 32. Minnesota Statutes 1998, section 256B.5011, subdivision 2, is amended to read:

Subd. 2. **CONTRACT PROVISIONS.** (a) The performance-based service contract with each intermediate care facility must include provisions for:

(1) modifying payments when significant changes occur in the needs of the consumers;

(2) monitoring service quality using performance indicators that measure consumer outcomes;

(3) the establishment and use of continuous quality improvement processes using the results attained through service quality monitoring;

(4) the annual reporting of facility statistical information on all supervisory personnel, direct care personnel, specialized support personnel, hours, wages and benefits, staff-to-consumer ratios, and staffing patterns

(3) appropriate and necessary statistical information required by the commissioner;

(5) (4) annual aggregate facility financial information or an annual certified audited financial statement, including a balance sheet and income and expense statements for each facility, if a certified audit was prepared; and

(6) (5) additional requirements and penalties for intermediate care facilities not meeting the standards set forth in the performance-based service contract.

(b) The commissioner shall recommend to the legislature by January 15, 2000, whether the contract should include service quality monitoring that may utilize performance indicators that measure consumer and program outcomes. Performance measurement shall not increase or duplicate regulatory requirements.

Sec. 33. [256B.5012] **ICF/MR PAYMENT SYSTEM IMPLEMENTATION.**

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Subdivision 1. TOTAL PAYMENT RATE. The total payment rate effective October 1, 2000, for existing ICF/MR facilities is the total of the operating payment rate and the property payment rate plus inflation factors as defined in this section. The initial rate year shall run from October 1, 2000, through December 31, 2001. Subsequent rate years shall run from January 1 through December 31 beginning in the year 2002.

Subd. 2. OPERATING PAYMENT RATE. (a) The operating payment rate equals the facility's total payment rate in effect on September 30, 2000, minus the property rate. The operating payment rate includes the special operating rate and the efficiency incentive in effect as of September 30, 2000. Within the limits of appropriations specifically for this purpose, the operating payment shall be increased for each rate year by the annual percentage change in the Employment Cost Index for Private Industry Workers - Total Compensation, as forecasted by the commissioner of finance's economic consultant, in the second quarter of the calendar year preceding the start of each rate year. In the case of the initial rate year beginning October 1, 2000, and continuing through December 31, 2001, the percentage change shall be based on the percentage change in the Employment Cost Index for Private Industry Workers - Total Compensation for the 15-month period beginning October 1, 2000, as forecast by Data Resources, Inc., in the first quarter of 2000.

(b) Effective October 1, 2000, the operating payment rate shall be adjusted to reflect an occupancy rate equal to 100 percent of the facility's capacity days as of September 30, 2000.

Subd. 3. PROPERTY PAYMENT RATE. (a) The property payment rate effective October 1, 2000, is based on the facility's modified property payment rate in effect on September 30, 2000. The modified property payment rate is the actual property payment rate exclusive of the effect of gains or losses on disposal of capital assets or adjustments for excess depreciation claims. Effective October 1, 2000, a facility minimum property rate of \$8.13 shall be applied to all existing ICF/MR facilities. Facilities with a modified property payment rate effective September 30, 2000, which is below the minimum property rate shall receive an increase effective October 1, 2000, equal to the difference between the minimum property payment rate and the modified property payment rate in effect as of September 30, 2000. Facilities with a modified property payment rate at or above the minimum property payment rate effective September 30, 2000, shall receive the modified property payment rate effective October 1, 2000.

(b) Within the limits of appropriations specifically for this purpose, facility property payment rates shall be increased annually for inflation, effective January 1, 2002. The increase shall be based on each facility's property payment rate in effect on September 30, 2000. Modified property payment rates effective September 30, 2000, shall be arrayed from highest to lowest before applying the minimum property payment rate in paragraph (a). For modified property payment rates at the 90th percentile or above, the annual inflation increase shall be zero. For modified property payment rates below the 90th percentile but equal to or above the 75th percentile, the annual inflation increase shall be one percent. For modified property payment rates below the 75th percentile, the annual inflation increase shall be two percent.

#### **Sec. 34. [256B.5013] PAYMENT RATE ADJUSTMENTS.**

Subdivision 1. VARIABLE RATE ADJUSTMENTS. When there is a documented increase in the resource needs of a current ICF/MR recipient or recipients, or a

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person is admitted to a facility who requires additional resources, the county of financial responsibility may approve an enhanced rate for one or more persons in the facility. Resource needs directly attributable to an individual that may be considered under the variable rate adjustment include increased direct staff hours and other specialized services, equipment, and human resources. The guidelines in paragraphs (a) to (d) apply for the payment rate adjustments under this section.

(a) All persons must be screened according to section 256B.092, subdivisions 7 and 8, prior to implementation of the new payment system and annually thereafter. Screening data shall be analyzed to develop broad profiles of the functional characteristics of recipients. Three components shall be used to distinguish recipients based on the following broad profiles:

- (1) functional ability to care for and maintain one's own basic needs;
- (2) the intensity of any aggressive or destructive behavior; and
- (3) any history of obstructive behavior in combination with a diagnosis of psychosis or neurosis.

The profile groups shall be used to link resource needs to funding. The resource profile shall determine the level of funding that may be authorized by the county. The county of financial responsibility may approve a rate adjustment for an individual. The commissioner shall recommend to the legislature by January 15, 2000, a methodology using the profile groups to determine variable rates. The variable rate must be applied to expenses related to increased direct staff hours and other specialized services, equipment, and human resources. This variable rate component plus the facility's current operating payment rate equals the individual's total operating payment rate.

(b) A recipient must be screened by the county of financial responsibility using the developmental disabilities screening document completed immediately prior to approval of a variable rate by the county. A comparison of the updated screening and the previous screening must demonstrate an increase in resource needs.

(c) Rate adjustments projected to exceed the authorized funding level associated with the person's profile must be submitted to the commissioner.

(d) The new rate approved through this process shall not be averaged across all persons living at a facility but shall be an individual rate. The county of financial responsibility must indicate the projected length of time that the additional funding may be needed by the individual. The need to continue an individual variable rate must be reviewed at the end of the anticipated duration of need but at least annually through the completion of the developmental disabilities screening document.

Subd. 2. OTHER PAYMENT RATE ADJUSTMENTS. Facility total payment rates may be adjusted by the host county, with authorization from a statewide advisory committee, if, through the local system needs planning process, it is determined that a need exists to amend the package of purchased services with a resulting increase or decrease in costs. Except as provided in section 252.292, subdivision 4, if a provider demonstrates that the loss of revenues caused by the downsizing or closure of a facility cannot be absorbed by the facility based on current operations, the host county or the provider may submit a request to the statewide advisory committee for a facility base rate adjustment.

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Subd. 3. RELOCATION. (a) Property rates for all facilities relocated after December 31, 1997, and up to and including October 1, 2000, shall have the full annual costs of relocation included in their October 1, 2000, property rate. The property rate for the relocated home is subject to the costs that were allowable under Minnesota Rules, chapter 9553, and the investment per bed limitation for newly constructed or newly established class B facilities.

(b) In ensuing years, all relocated homes shall be subject to the investment per bed limit for newly constructed or newly established class B facilities under section 256B.501, subdivision 11. The limits shall be adjusted on January 1 of each year by the percentage increase in the construction index published by the Bureau of Economic Analysis of the United States Department of Commerce in the Survey of Current Business Statistics in October of the previous two years. Facilities that are relocated within the investment per bed limit may be approved by the statewide advisory committee. Costs for relocation of a facility that exceed the investment per bed limit must be absorbed by the facility.

(c) The payment rate shall take effect when the new facility is licensed and certified by the commissioner of health. Rates for facilities that are relocated after December 31, 1997, through October 1, 2000, shall be adjusted to reflect the full inclusion of the relocation costs, subject to the investment per bed limit in paragraph (b). The investment per bed limit calculated rate for the year in which the facility was relocated shall be the investment per bed limit used.

Subd. 4. TEMPORARY RATE ADJUSTMENTS TO ADDRESS OCCUPANCY AND ACCESS. If a facility is operating at less than 100 percent occupancy on September 30, 2000, or if a recipient is discharged from a facility, the commissioner shall adjust the total payment rate for up to 90 days for the remaining recipients. This mechanism shall not be used to pay for hospital or therapeutic leave days beyond the maximums allowed. Facility payment adjustments exceeding 90 days to address a demonstrated need for access must be submitted to the statewide advisory committee with a local system needs assessment, plan, and budget for review and recommendation.

#### Sec. 35. [256B.5014] FINANCIAL REPORTING.

All facilities shall maintain financial records and shall provide annual income and expense reports to the commissioner of human services on a form prescribed by the commissioner no later than April 30 of each year in order to receive medical assistance payments. The reports for the reporting year ending December 31 must include:

(1) salaries and related expenses, including program salaries, administrative salaries, other salaries, payroll taxes, and fringe benefits;

(2) general operating expenses, including supplies, training, repairs, purchased services and consultants, utilities, food, licenses and fees, real estate taxes, insurance, and working capital interest;

(3) property related costs, including depreciation, capital debt interest, rent, and leases; and

(4) total annual resident days.

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**Sec. 36. [256B.5015] PASS-THROUGH OF TRAINING AND HABILITATION SERVICES COSTS.**

Training and habilitation services costs shall be paid as a pass-through payment at the lowest rate paid for the comparable services at that site under sections 252.40 to 252.46. The pass-through payments for training and habilitation services shall be paid separately by the commissioner and shall not be included in the computation of the total payment rate.

Sec. 37. Minnesota Statutes 1998, section 256B.69, subdivision 6a, is amended to read:

Subd. 6a. **NURSING HOME SERVICES.** (a) Notwithstanding Minnesota Rules, part 9500.1457, subpart 1, item B, up to 90 days of nursing facility services as defined in section 256B.0625, subdivision 2, which are provided in a nursing facility certified by the Minnesota department of health for services provided and eligible for payment under Medicaid, shall be covered under the prepaid medical assistance program for individuals who are not residing in a nursing facility at the time of enrollment in the prepaid medical assistance program. ~~Liability for coverage of nursing facility services by a participating health plan is limited to 365 days for any person enrolled under the prepaid medical assistance program.~~

(b) For individuals enrolled in the Minnesota senior health options project authorized under subdivision 23, nursing facility services shall be covered according to the terms and conditions of the federal ~~waiver~~ agreement governing that demonstration project.

Sec. 38. Minnesota Statutes 1998, section 256B.69, subdivision 6b, is amended to read:

Subd. 6b. **ELDERLY HOME AND COMMUNITY-BASED WAIVER SERVICES.** ~~Notwithstanding Minnesota Rules, part 9500.1457, subpart 1, item C, elderly waiver services shall be covered under the prepaid medical assistance program for all individuals who are eligible according to section 256B.0915.~~ (a) For individuals enrolled in the Minnesota senior health options project authorized under subdivision 23, elderly waiver services shall be covered according to the terms and conditions of the federal waiver agreement governing that demonstration project.

(b) For individuals under age 65 with physical disabilities but without a primary diagnosis of mental illness or developmental disabilities, except for related conditions, enrolled in the Minnesota senior health options project authorized under subdivision 23, home and community-based waiver services shall be covered according to the terms and conditions of the federal agreement governing that demonstration project.

Sec. 39. Minnesota Statutes 1998, section 256I.04, subdivision 3, is amended to read:

Subd. 3. **MORATORIUM ON THE DEVELOPMENT OF GROUP RESIDENTIAL HOUSING BEDS.** (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided

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the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; (4) up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b); ~~or~~ (5) notwithstanding the provisions of subdivision 2a, for up to 190 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal or state housing subsidy, the group residential housing rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a; or (6) for group residential housing beds in settings meeting the requirements of subdivision 2a, clauses (1) and (3), which are used exclusively for recipients receiving home and community-based waiver services under sections 256B.0915, 256B.092, subdivision 5, 256B.093, and 256B.49, and who resided in a nursing facility for the six months immediately prior to the month of entry into the group residential housing setting. The group residential housing rate for these beds must be set so that the monthly group residential housing payment for an individual occupying the bed when combined with the nonfederal share of services delivered under the waiver for that person does not exceed the nonfederal share of the monthly medical assistance payment made for the person to the nursing facility in which the person resided prior to entry into the group residential housing establishment. The rate may not exceed the MSA equivalent rate plus \$426.37 for any case.

(b) A county agency may enter into a group residential housing agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a group residential housing agreement if the additional beds are only a replacement of

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beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from group residential housing payment, or as a result of the downsizing of a group residential housing setting. The transfer of available beds from one county to another can only occur by the agreement of both counties.

Sec. 40. Minnesota Statutes 1998, section 256I.05, subdivision 1, is amended to read:

Subdivision 1. **MAXIMUM RATES.** Monthly room and board rates negotiated by a county agency for a recipient living in group residential housing must not exceed the MSA equivalent rate specified under section 256I.03, subdivision 5, with the exception that a county agency may negotiate a supplementary room and board rate that exceeds the MSA equivalent rate by up to \$426.37 for recipients of waiver services under title XIX of the Social Security Act. This exception is subject to the following conditions:

(1) that the Secretary of Health and Human Services has not approved a state request to include room and board costs which exceed the MSA equivalent rate in an individual's set of waiver services under title XIX of the Social Security Act; or

(2) that the Secretary of Health and Human Services has approved the inclusion of room and board costs which exceed the MSA equivalent rate, but in an amount that is insufficient to cover costs which are included in a group residential housing agreement in effect on June 30, 1994; and

(3) the amount of the rate that is above the MSA equivalent rate has been approved by the commissioner the setting is licensed by the commissioner of human services under Minnesota Rules, parts 9555.5050 to 9555.6265;

(2) the setting is not the primary residence of the license holder and in which the license holder is not the primary caregiver; and

(3) the average supplementary room and board rate in a county for a calendar year may not exceed the average supplementary room and board rate for that county in effect on January 1, 2000. For calendar years beginning on or after January 1, 2002, within the limits of appropriations specifically for this purpose, the commissioner shall increase each county's supplemental room and board rate average on an annual basis by a factor consisting of the percentage change in the Consumer Price Index-All items, United States city average (CPI-U) for that calendar year compared to the preceding calendar year as forecasted by Data Resources, Inc., in the third quarter of the preceding calendar year. If a county has not negotiated supplementary room and board rates for any facilities located in the county as of January 1, 2000, or has an average supplemental room and board rate under \$100 per person as of January 1, 2000, it may submit a supplementary room and board rate request with budget information for a facility to the commissioner for approval.

The county agency may at any time negotiate a higher or lower room and board rate than the average supplementary room and board rate that would otherwise be paid under this subdivision.

Sec. 41. Minnesota Statutes 1998, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. **SUPPLEMENTARY SERVICE RATES.** (a) Subject to the provisions of section 256I.04, subdivision 3, in addition to the room and board rate specified in sub-

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division 1, the county agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the department of health, or licensed by the department of human services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section 256B.0627, subdivision 4, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0627, subdivision 4, then the GRH rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate plus the supplementary room and board rate exceed \$426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

Sec. 42. Minnesota Statutes 1998, section 256I.05, is amended by adding a subdivision to read:

Subd. 1e. **SUPPLEMENTARY RATE FOR CERTAIN FACILITIES.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 1999, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, equal to 25 percent of the amount specified in subdivision 1a, for a group residential housing provider that:

(1) is located in Hennepin county and has had a group residential housing contract with the county since June 1996;

(2) operates in three separate locations a 56-bed facility, a 40-bed facility, and a 30-bed facility; and

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(3) serves a chemically dependent clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

Sec. 43. Laws 1995, chapter 207, article 3, section 21, is amended to read:

**Sec. 21. FACILITY CERTIFICATION.**

Notwithstanding Minnesota Statutes, section 252.291, subdivisions 1 and 2, the commissioner of health shall inspect to certify a large community-based facility currently licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, for more than 16 beds and located in Northfield. The facility may be certified for up to 44 beds. The commissioner of health must inspect to certify the facility as soon as possible after the effective date of this section. The commissioner of human services shall work with the facility and affected counties to relocate any current residents of the facility who do not meet the admission criteria for an ICF/MR. Until January 1, 1999, in order to fund the ICF/MR services and relocations of current residents authorized, the commissioner of human services may transfer on a quarterly basis to the medical assistance account from each affected county's community social service allocation, an amount equal to the state share of medical assistance reimbursement for the residential and day habilitation services funded by medical assistance and provided to clients for whom the county is financially responsible. After January 1, 1999, the commissioner of human services shall fund the services under the state medical assistance program and may transfer on a quarterly basis to the medical assistance account from each affected county's community social service allocation, an amount equal to one-half of the state share of medical assistance reimbursement for the residential and day habilitation services funded by medical assistance and provided to clients for whom the county is financially responsible. For nonresidents of Minnesota seeking admission to the facility, Rice county shall be notified in order to assure that appropriate funding is guaranteed from their state or country of residence.

**Sec. 44. DEADLINE EXTENSION.**

Notwithstanding Minnesota Statutes, section 144A.073, subdivision 3, the commissioner of health shall extend approval to May 31, 2000, for a total replacement of a 96-bed nursing home located in Carlton county previously approved under Minnesota Statutes, section 144A.073.

**Sec. 45. STATE LICENSURE CONFLICTS WITH FEDERAL REGULATIONS.**

(a) Notwithstanding the provisions of Minnesota Rules, part 4658.0520, an incontinent resident must be checked according to a specific time interval written in the resident's care plan. The resident's attending physician must authorize in writing any interval longer than two hours.

(b) This section expires July 1, 2001.

**Sec. 46. GROUP RESIDENTIAL HOUSING STUDY.**

The commissioner of human services shall submit to the legislature by February 15, 2000, a study of the cost of providing housing for individuals eligible for group residential housing payments and an analysis of the relationship of the costs to market rate housing costs in a representative number of regions in the state. In preparing the study, the

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commissioner shall consult with representatives of affected industries, counties, and consumers.

**Sec. 47. ICF/MR SERVICE RECONFIGURATION PROJECT.**

(a) The commissioner of human services may authorize a project to reconfigure two existing intermediate care facilities for persons with mental retardation or related conditions (ICFs/MR) located on the same campus in Carver county and totaling 60 licensed beds in one 46-bed facility and one 14-bed facility. The reconfiguration project will involve the relocation of up to six beds to a six-bed ICF/MR. The remaining two ICFs/MR shall consist of one 34-bed ICF/MR and one ten-bed ICF/MR.

(b) The project shall include the development of alternative home and community-based services for individuals relocated from the existing facilities. In conjunction with this project, two beds in the 34-bed facility shall be reserved for temporary care services for individuals receiving alternative home and community-based services. The ICF/MR may seek county approval to modify its need determinations in order to serve fewer clients, or to provide additional beds for temporary care services.

(c) The project must be approved by the commissioner under Minnesota Statutes, section 252.28, and must include criteria for determining how individuals are selected for alternative services and the use of a request for proposal process in selecting vendors for the alternative services. The commissioner is authorized to develop the two additional beds required, and set aside waived service slots as needed for individuals choosing alternative home and community-based services.

(d) Upon approval of the project, the following additional conditions shall apply to rate setting:

(1) the two existing facilities' aggregate investment-per-bed limits in effect before the downsizing shall be the investment-per-bed limit after the downsizing;

(2) the ten-bed and the 34-bed facilities shall be eligible for a one-time rate adjustment to be negotiated with the commissioner taking into consideration estimated excess revenues available from the six-bed facility;

(3) the relocated six-bed facility shall receive the payment rates established for the former 46-bed facility until each facility files a cost report for a period of five months or longer ending on December 31 following their opening and those reports are desk audited by the commissioner. The two remaining facilities shall file their regularly scheduled annual cost reports;

(4) all facilities are exempt from the spend-up and high cost limits in Minnesota Statutes, section 256B.501, subdivision 5b, for the rate year following the first cost report submitted under clause (3); and

(5) the maintenance limit for the 34-bed facility shall be established using the methodology in Minnesota Statutes, section 256B.501, subdivision 5d. The maintenance limit for the ten-bed facility shall be adjusted by the same ratio used to adjust the 34-bed facility's maintenance limit.

**Sec. 48. ICF/MR REIMBURSEMENT EFFECTIVE OCTOBER 1, 1999.**

(a) For the rate year beginning October 1, 1999, the commissioner of human services shall exempt an intermediate care facility for persons with mental retardation from

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reductions to the payment rates under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (6), if the facility:

(1) has had a settle-up payment rate established in the reporting year preceding the rate year for the one-time rate adjustment;

(2) is a newly established facility;

(3) is an A to B conversion that has been converted under Minnesota Statutes, section 252.292, since rate year 1990;

(4) has a payment rate subject to a community conversion project under Minnesota Statutes, section 252.292;

(5) has a payment rate established under Minnesota Statutes, section 245A.12 or 245A.13; or

(6) is a facility created by the relocation of more than 25 percent of the capacity of a related facility during the reporting year.

(b) Notwithstanding any contrary provision in Minnesota Statutes, section 256B.501, for the rate year beginning October 1, 1999, the commissioner of human services shall, for purposes of the spend-up limit, array facilities within each grouping established under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (4), by each facility's cost per resident day. A facility's cost per resident day shall be determined by dividing its allowable historical general operating cost for the reporting year by the facility's resident days for the reporting year. Facilities with a cost per resident day at or above the median shall be limited to the lesser of:

(1) the current reporting year's cost per resident day; or

(2) the prior report year's cost per resident day plus the inflation factor established under Minnesota Statutes, section 256B.501, subdivision 3c, clause (2), increased by three percentage points. In no case shall the amount of this reduction exceed: (i) three percent for a facility with a licensed capacity greater than 16 beds; (ii) two percent for a facility with a licensed capacity of nine to 16 beds; and (iii) one percent for a facility with a licensed capacity of eight or fewer beds.

(c) The commissioner shall not apply the limits established under Minnesota Statutes, section 256B.501, subdivision 5b, paragraph (d), clause (8), for the rate year beginning October 1, 1999.

(d) Notwithstanding paragraphs (b) and (c), the commissioner must utilize facility payment rates based on the laws in effect for October 1, 1998, payment rates and use the resulting allowable operating cost per diems as the basis for the spend-up limits for the rate year beginning October 1, 1999.

#### **Sec. 49. DEADLINE EXTENSION.**

Notwithstanding Minnesota Statutes, section 144A.073, subdivision 3, the commissioner of health shall extend approval to May 31, 2000, for a total replacement of a 96-bed nursing home located in Carlton county previously approved under Minnesota Statutes, section 144A.073.

#### **Sec. 50. GROUP RESIDENTIAL HOUSING STUDY.**

The commissioner of human services shall submit to the legislature by February 15, 2000, a study of the cost of providing housing for individuals eligible for group residen-

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tial housing payments and an analysis of the relationship of the costs to market rate housing costs in a representative number of regions in the state. In preparing the study, the commissioner shall consult with representatives of affected industries, counties, and consumers.

Sec. 51. **REPEALER.**

(a) Minnesota Statutes 1998, sections 144.0723; and 256B.5011, subdivision 3, are repealed.

(b) Minnesota Statutes 1998, section 256B.434, subdivision 17, is repealed effective July 1, 1999.

(c) Minnesota Statutes 1998, section 256B.501, subdivision 3g, is repealed effective October 1, 2000.

(d) Laws 1997, chapter 203, article 4, section 55, is repealed.

(e) Section 45 is repealed effective July 1, 2001.

Sec. 52. **EFFECTIVE DATE.**

Sections 3 to 7 and 45 are effective the day following final enactment.

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**ARTICLE 4**

**HEALTH CARE PROGRAMS**

Section 1. Minnesota Statutes 1998, section 62A.045, is amended to read:

**62A.045 PAYMENTS ON BEHALF OF ENROLLEES IN GOVERNMENT HEALTH PROGRAMS.**

(a) No health plan issued or renewed to provide coverage to a Minnesota resident shall contain any provision denying or reducing benefits because services are rendered to a person who is eligible for or receiving medical benefits pursuant to title XIX of the Social Security Act (Medicaid) in this or any other state; chapter 256; 256B; or 256D or services pursuant to section 252.27; 256L.01 to 256L.10; 260.251, subdivision 1a; or 393.07, subdivision 1 or 2. No health carrier providing benefits under plans covered by this section shall use eligibility for medical programs named in this section as an underwriting guideline or reason for nonacceptance of the risk.

(b) If payment for covered expenses has been made under state medical programs for health care items or services provided to an individual, and a third party has a legal liability to make payments, the rights of payment and appeal of an adverse coverage decision for the individual, or in the case of a child their responsible relative or caretaker, will be subrogated to the state ~~and/or its authorized agent agency~~. The state agency may assert its rights under this section within three years of the date the service was rendered. For purposes of this section, "state agency" includes prepaid health plans under contract with the commissioner according to sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstra-

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tion projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; and county-based purchasing entities under section 256B.692.

(c) Notwithstanding any law to the contrary, when a person covered by a health 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 health carrier for those services. If the commissioner of human services notifies the health carrier that the commissioner has made payments to the provider, payment for benefits or notices of denials issued by the health carrier must be issued directly to the commissioner. Submission by the department to the health carrier 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 health carrier 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 health carrier to the provider or the commissioner as required by this section.

(d) When a state agency has acquired the rights of an individual eligible for medical programs named in this section and has health benefits coverage through a health carrier, the health carrier shall not impose requirements that are different from requirements applicable to an agent or assignee of any other individual covered.

(e) For the purpose of this section, health plan includes coverage offered by community integrated service networks, any plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461, and coverage offered under the exclusions listed in section 62A.011, subdivision 3, clauses (2), (6), (9), (10), and (12).

Sec. 2. Minnesota Statutes 1998, section 122A.09, subdivision 4, is amended to read:

Subd. 4. **LICENSE AND RULES.** (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to successfully complete a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring successful completion of an examination of general pedagogical knowledge and examinations of licensure-specific teaching

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skills. The rules shall be effective on the dates determined by the board, but not later than July 1, 1999.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

Sec. 3. Minnesota Statutes 1998, section 125A.08, is amended to read:

#### 125A.08 SCHOOL DISTRICT OBLIGATIONS.

(a) As defined in this section, to the extent required by federal law as of July 1, 1999 2000, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. The individual education plan team shall consider and may authorize services covered by medical assistance according to section 256B.0625, subdivision 26. ~~The student's needs and the special education instruction and services to be provided must be agreed upon through the development of an individual education plan. The plan must address the student's need to develop skills to live and work as independently as possible within the community. By grade 9 or age 14, the plan must address the student's needs for transition from secondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded;~~

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(2) children with a disability under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(3) children with a disability and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment including assistive technology assessment, and educational placement of children with a disability;

(4) eligibility and needs of children with a disability are determined by an initial assessment or reassessment, which may be completed using existing data under United States Code, title 20, section 33, et seq.;

(5) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(6) in accordance with recognized professional standards, testing and evaluation materials, and procedures used for the purposes of classification and placement of children with a disability are selected and administered so as not to be racially or culturally discriminatory; and

(7) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

(b) For paraprofessionals employed to work in programs for students with disabilities, the school board in each district shall ensure that:

(1) before or immediately upon employment, each paraprofessional develops sufficient knowledge and skills in emergency procedures, building orientation, roles and responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin meeting the needs of the students with whom the paraprofessional works;

(2) annual training opportunities are available to enable the paraprofessional to continue to further develop the knowledge and skills that are specific to the students with whom the paraprofessional works, including understanding disabilities, following lesson plans, and implementing follow-up instructional procedures and activities; and

(3) a districtwide process obligates each paraprofessional to work under the ongoing direction of a licensed teacher and, where appropriate and possible, the supervision of a school nurse.

Sec. 4. Minnesota Statutes 1998, section 125A.744, subdivision 3, is amended to read:

Subd. 3. **IMPLEMENTATION.** Consistent with section 256B.0625, subdivision 26, school districts may enroll as medical assistance providers or subcontractors and bill the department of human services under the medical assistance fee for service claims processing system for special education services which are covered services under chapter 256B, which are provided in the school setting for a medical assistance recipient, and for whom the district has secured informed consent consistent with section 13.05, subdi-

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vision 4, paragraph (d), and section 256B.77, subdivision 2, paragraph (p), to bill for each type of covered service. School districts shall be reimbursed by the commissioner of human services for the federal share of individual education plan health-related services that qualify for reimbursement by medical assistance, minus up to five percent retained by the commissioner of human services for administrative costs, not to exceed \$350,000 per fiscal year. The commissioner may withhold up to five percent of each payment to a school district. Following the end of each fiscal year, the commissioner shall settle up with each school district in order to ensure that collections from each district for departmental administrative costs are made on a pro rata basis according to federal earnings for these services in each district. A school district is not eligible to enroll as a home care provider or a personal care provider organization for purposes of billing home care services under section 256B.0627 until the commissioner of human services issues a bulletin instructing county public health nurses on how to assess for the needs of eligible recipients during school hours. To use private duty nursing services or personal care services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. ~~Medical assistance services for those enrolled in a prepaid health plan shall remain the responsibility of the contracted health plan subject to their network, credentialing, prior authorization, and determination of medical necessity criteria. The commissioner of human services shall adjust payments to health plans to reflect increased costs incurred by health plans due to increased payments made to school districts or new payment or delivery arrangements developed by health plans in cooperation with school districts.~~

Sec. 5. Minnesota Statutes 1998, section 125A.76, subdivision 2, is amended to read:

Subd. 2. **SPECIAL EDUCATION BASE REVENUE.** (a) The special education base revenue equals the sum of the following amounts computed using base year data:

(1) 68 percent of the salary of each essential person employed in the district's program for children with a disability during the fiscal year, not including the share of salaries for personnel providing health-related services counted in clause (8), whether the person is employed by one or more districts or a Minnesota correctional facility operating on a fee-for-service basis;

(2) for the Minnesota state academy for the deaf or the Minnesota state academy for the blind, 68 percent of the salary of each instructional aide assigned to a child attending the academy, if that aide is required by the child's individual education plan;

(3) for special instruction and services provided to any pupil by contracting with public, private, or voluntary agencies other than school districts, in place of special instruction and services provided by the district, 52 percent of the difference between the amount of the contract and the basic revenue of the district for that pupil for the fraction of the school day the pupil receives services under the contract;

(4) for special instruction and services provided to any pupil by contracting for services with public, private, or voluntary agencies other than school districts, that are supplementary to a full educational program provided by the school district, 52 percent of the amount of the contract for that pupil;

(5) for supplies and equipment purchased or rented for use in the instruction of children with a disability, not including the portion of the expenses for supplies and equip-

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ment used to provide health-related services counted in clause (8), an amount equal to 47 percent of the sum actually expended by the district, or a Minnesota correctional facility operating on a fee-for-service basis, but not to exceed an average of \$47 in any one school year for each child with a disability receiving instruction;

(6) for fiscal years 1997 and later, special education base revenue shall include amounts under clauses (1) to (5) for special education summer programs provided during the base year for that fiscal year; ~~and~~

(7) for fiscal years 1999 and later, the cost of providing transportation services for children with disabilities under section 123B.92, subdivision 1, paragraph (b), clause (4); and

(8) for fiscal years 2001 and later, the cost of salaries, supplies and equipment, and other related costs actually expended by the district for the nonfederal share of medical assistance services according to section 256B.0625, subdivision 26.

(b) If requested by a school district operating a special education program during the base year for less than the full fiscal year, or a school district in which is located a Minnesota correctional facility operating on a fee-for-service basis for less than the full fiscal year, the commissioner may adjust the base revenue to reflect the expenditures that would have occurred during the base year had the program been operated for the full fiscal year.

(c) Notwithstanding paragraphs (a) and (b), the portion of a school district's base revenue attributable to a Minnesota correctional facility operating on a fee-for-service basis during the facility's first year of operating on a fee-for-service basis shall be computed using current year data.

#### **Sec. 6. [127A.11] MONITOR MEDICAL ASSISTANCE SERVICES FOR DISABLED STUDENTS.**

The commissioner of children, families, and learning, in cooperation with the commissioner of human services, shall monitor the costs of health-related, special education services provided by public schools.

#### **Sec. 7. [214.045] COORDINATION WITH BOARD OF TEACHING.**

The commissioner of health and the health-related licensing boards must coordinate with the board of teaching when modifying licensure requirements for regulated persons in order to have consistent regulatory requirements for personnel who perform services in schools.

#### **Sec. 8. [245.99] ADULT MENTAL ILLNESS CRISIS HOUSING ASSISTANCE PROGRAM.**

Subdivision 1. CREATION. The adult mental illness crisis housing assistance program is established in the department of human services.

Subd. 2. RENTAL ASSISTANCE. The program shall pay up to 90 days of housing assistance for persons with a serious and persistent mental illness who require inpatient or residential care for stabilization. The commissioner of human services may extend the length of assistance on a case-by-case basis.

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Subd. 3. ELIGIBILITY. Housing assistance under this section is available only to persons of low or moderate income as determined by the commissioner.

Subd. 4. ADMINISTRATION. The commissioner may contract with organizations or government units experienced in housing assistance to operate the program under this section.

Sec. 9, Minnesota Statutes 1998, section 245A.04, subdivision 3a, is amended to read:

**Subd. 3a. NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF STUDY RESULTS; DETERMINATION OF RISK OF HARM.** (a) The commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing or by electronic transmission, 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. For studies on individuals pertaining to a license to provide family day care or group family day care, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.

The commissioner shall notify the individual studied if the information in the study indicates the individual is disqualified from direct contact with persons served by the program. The commissioner shall disclose the information causing disqualification and instructions on how to request a reconsideration of the disqualification 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 disqualifies the subject from direct contact with persons served by the program. However, only the individual studied must be informed of the information contained in the subject's background study unless the only basis for the disqualification is failure to cooperate, the Data Practices Act provides for release of the information, or the individual studied authorizes the release of the information.

(b) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact. The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm: the recency of the disqualifying characteristic; the recency of discharge from probation for the crimes; the number of disqualifying characteristics; the intrusiveness or violence of the disqualifying characteristic; the vulnerability of the victim involved in the disqualifying characteristic; and the similarity of the victim to the persons served by the program where the individual studied will have direct contact. The commissioner may determine that the evaluation of the information immediately available gives the commissioner reason to believe one of the following:

(1) The individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact. If the commissioner determines that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the individual and the license hold-

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er must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact. The notice to the individual studied must include an explanation of the basis of this determination.

(2) The individual poses a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied poses a risk of harm that requires continuous supervision, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact services or assure that the individual studied is within sight or hearing of another staff person when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(3) The individual does not pose an imminent risk of harm or a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied does not pose a risk of harm that requires continuous supervision, only the individual must be sent a notice of disqualification. The license holder must be sent a notice that more time is needed to complete the individual's background study. If the individual studied submits a timely request for reconsideration, and if the disqualification is set aside for that license holder, the license holder will receive the same notification received by license holders in cases where the individual studied has no disqualifying characteristic. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(c) County licensing agencies performing duties under this subdivision may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under paragraph (b), and documenting the action taken by the county licensing agency. Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner. Notwithstanding this alternative system, county licensing agencies shall complete the requirements of paragraph (a).

Sec. 10. Minnesota Statutes 1998, 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

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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. An applicant whose application was denied must not be granted a license for two years following a denial, unless the applicant's subsequent application contains new information which constitutes a substantial change in the conditions that caused the previous denial.

Sec. 11. Minnesota Statutes 1998, section 245B.05, subdivision 7, is amended to read:

Subd. 7. **REPORTING INCIDENTS AND EMERGENCIES.** The license holder must report the following incidents to the consumer's legal representative, caregiver, and case manager within 24 hours of the occurrence, or within 24 hours of receipt of the information:

- (1) the death of a consumer;
- (2) any medical emergencies, unexpected serious illnesses, or accidents that require physician treatment or hospitalization;
- (3) a consumer's unauthorized absence; or
- (4) any fires and incidents involving a law enforcement agency.

Death or serious injury of the consumer must also be reported to the ~~commissioner~~ department of human services licensing division and the ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

Sec. 12. Minnesota Statutes 1998, section 245B.07, subdivision 5, is amended to read:

Subd. 5. **STAFF ORIENTATION.** (a) Within 60 days of hiring staff who provide direct service, the license holder must provide 30 hours of staff orientation. Direct care staff must complete 15 of the 30 hours orientation before providing any unsupervised direct service to a consumer. If the staff person has received orientation training from a license holder licensed under this chapter, or provides semi-independent living services only, the 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may be reduced to 15 hours if the staff person has previously received orientation training from a license holder licensed under this chapter.

(b) The 30 hours of orientation must combine supervised on-the-job training with coverage of the following material:

- (1) review of the consumer's service plans and risk management plan to achieve an understanding of the consumer as a unique individual;
- (2) review and instruction on the license holder's policies and procedures, including their location and access;
- (3) emergency procedures;
- (4) explanation of specific job functions, including implementing objectives from the consumer's individual service plan;

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(5) explanation of responsibilities related to section 245A.65; sections 626.556 and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults; and section 245.825, governing use of aversive and deprivation procedures;

(6) medication administration as it applies to the individual consumer, from a training curriculum developed by a health services professional described in section 245B.05, subdivision 5, and when the consumer meets the criteria of having overriding health care needs, then medication administration taught by a health services professional. Staff may administer medications only after they demonstrate the ability, as defined in the license holder's medication administration policy and procedures. Once a consumer with overriding health care needs is admitted, staff will be provided with remedial training as deemed necessary by the license holder and the health professional to meet the needs of that consumer.

For purposes of this section, overriding health care needs means a health care condition that affects the service options available to the consumer because the condition requires:

(i) specialized or intensive medical or nursing supervision; and

(ii) nonmedical service providers to adapt their services to accommodate the health and safety needs of the consumer;

(7) consumer rights; and

(8) other topics necessary as determined by the consumer's individual service plan or other areas identified by the license holder.

(c) The license holder must document each employee's orientation received.

Sec. 13. Minnesota Statutes 1998, section 245B.07, subdivision 8, is amended to read:

Subd. 8. **POLICIES AND PROCEDURES.** The license holder must develop and implement the policies and procedures in paragraphs (1) to (3).

(1) policies and procedures that promote consumer health and safety by ensuring:

(i) consumer safety in emergency situations as identified in section 245B.05, subdivision 7;

(ii) consumer health through sanitary practices;

(iii) safe transportation, when the license holder is responsible for transportation of consumers, with provisions for handling emergency situations;

(iv) a system of recordkeeping for both individuals and the organization, for review of incidents and emergencies, and corrective action if needed;

(v) a plan for responding to and reporting all emergencies, including deaths, medical emergencies, illnesses, accidents, missing consumers, fires, severe weather and natural disasters, bomb threats, and other threats;

(vi) safe medication administration as identified in section 245B.05, subdivision 5, incorporating an observed skill assessment to ensure that staff demonstrate the ability to administer medications consistent with the license holder's policy and procedures;

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(vii) psychotropic medication monitoring when the consumer is prescribed a psychotropic medication, including the use of the psychotropic medication use checklist. If the responsibility for implementing the psychotropic medication use checklist has not been assigned in the individual service plan and the consumer lives in a licensed site, the residential license holder shall be designated; and

(viii) criteria for admission or service initiation developed by the license holder;

(2) policies and procedures that protect consumer rights and privacy by ensuring:

(i) consumer data privacy, in compliance with the Minnesota Data Practices Act, chapter 13; and

(ii) that complaint procedures provide consumers with a simple process to bring grievances and consumers receive a response to the grievance within a reasonable time period. The license holder must provide a copy of the program's grievance procedure and time lines for addressing grievances. The program's grievance procedure must permit consumers served by the program and the authorized representatives to bring a grievance to the highest level of authority in the program; and

(3) policies and procedures that promote continuity and quality of consumer supports by ensuring:

(i) continuity of care and service coordination, including provisions for service termination, temporary service suspension, and efforts made by the license holder to coordinate services with other vendors who also provide support to the consumer. The policy must include the following requirements:

(A) the license holder must notify the consumer or consumer's legal representative and the consumer's case manager in writing of the intended termination or temporary service suspension and the consumer's right to seek a temporary order staying the termination or suspension of service according to the procedures in section 256.045, subdivision 4a or subdivision 6, paragraph (c);

(B) notice of the proposed termination of services, including those situations that began with a temporary service suspension, must be given at least 60 days before the proposed termination is to become effective, unless services are temporarily suspended according to the license holder's written temporary service suspension procedures, in which case notice must be given as soon as possible;

(C) the license holder must provide information requested by the consumer or consumer's legal representative or case manager when services are temporarily suspended or upon notice of termination;

(D) use of temporary service suspension procedures are restricted to situations in which the consumer's behavior causes immediate and serious danger to the health and safety of the individual or others;

(E) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service termination or temporary service suspension; and

(F) during the period of temporary service suspension, the license holder will work with the appropriate county agency to develop reasonable alternatives to protect the individual and others; and

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(ii) quality services measured through a program evaluation process including regular evaluations of consumer satisfaction and sharing the results of the evaluations with the consumers and legal representatives.

Sec. 14. Minnesota Statutes 1998, section 245B.07, subdivision 10, is amended to read:

Subd. 10. **CONSUMER FUNDS.** (a) The license holder must ensure that consumers retain the use and availability of personal funds or property unless restrictions are justified in the consumer's individual service plan.

(b) The license holder must ensure separation of resident consumer funds from funds of the license holder, the residential program, or program staff.

(c) Whenever the license holder assists a consumer with the safekeeping of funds or other property, the license holder must have written authorization to do so by the consumer or the consumer's legal representative, and the case manager. In addition, the license holder must:

(1) document receipt and disbursement of the consumer's funds or the property, ~~and include the signature of the consumer, conservator, or payee;~~

(2) provide a statement at least quarterly itemizing annually survey, document, and implement the preferences of the consumer, consumer's legal representative, and the case manager for frequency of receiving a statement that itemizes receipts and disbursements of resident consumer funds or other property; and

(3) return to the consumer upon the consumer's request, funds and property in the license holder's possession subject to restrictions in the consumer's individual service plan, as soon as possible, but no later than three working days after the date of the request.

(d) License holders and program staff must not:

(1) borrow money from a consumer;

(2) purchase personal items from a consumer;

(3) sell merchandise or personal services to a consumer;

(4) require a resident consumer to purchase items for which the license holder is eligible for reimbursement; or

(5) use resident consumer funds in a manner that would violate section 256B.04, or any rules promulgated under that section.

Sec. 15. Minnesota Statutes 1998, section 252.32, subdivision 3a, is amended to read:

Subd. 3a. **REPORTS AND ALLOCATIONS.** (a) The commissioner shall specify requirements for quarterly fiscal and annual program reports according to section 256.01, subdivision 2, paragraph (17). Program reports shall include data which will enable the commissioner to evaluate program effectiveness and to audit compliance. The commissioner shall reimburse county costs on a quarterly basis.

(b) Beginning January 1, 1998, The commissioner shall allocate state funds made available under this section to county social service agencies on a calendar year basis.

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The commissioner shall allocate to each county first in amounts equal to each county's guaranteed floor as described in clause (1), and second, any remaining funds, after the allocation of funds to the newly participating counties as provided for in clause (3), shall be allocated in proportion to each county's total number of families receiving a grant on July 1 of the most recent calendar year will be allocated to county agencies to support children in their family homes.

(1) Each county's guaranteed floor shall be calculated as follows:

(i) 95 percent of the county's allocation received in the preceding calendar year. ~~For the calendar year 1998 allocation, the preceding calendar year shall be considered to be double the six-month allocation as provided in clause (2);~~

(ii) when the amount of funds available for allocation is less than the amount available in the preceding year, each county's previous year allocation shall be reduced in proportion to the reduction in statewide funding, for the purpose of establishing the guaranteed floor.

(2) ~~For the period July 1, 1997, to December 31, 1997, the commissioner shall allocate to each county an amount equal to the actual, state approved grants issued to the families for the month of January 1997, multiplied by six. This six-month allocation shall be combined with the calendar year 1998 allocation and be administered as an 18-month allocation.~~

(3) ~~At the commissioner's discretion, funds may be allocated to any nonparticipating county that requests an allocation under this section. Allocations to newly participating counties are dependent upon the availability of funds, as determined by the actual expenditure amount of the participating counties for the most recently completed calendar year.~~

(4) The commissioner shall regularly review the use of family support fund allocations by county. The commissioner may reallocate unexpended or unencumbered money at any time to those counties that have a demonstrated need for additional funding.

(c) County allocations under this section will be adjusted for transfers that occur according to section 256.476 or when the county of financial responsibility changes according to chapter 256G for eligible recipients.

Sec. 16. Minnesota Statutes 1998, section 256.015, subdivision 1, is amended to read:

Subdivision 1. **STATE AGENCY HAS LIEN.** When the state agency provides, pays for, or becomes liable for medical care or furnishes subsistence or other payments to a person, the agency shall have a lien for the cost of the care and payments on any and all causes of action or recovery rights under any policy, plan, or contract providing benefits for health care or injury which accrue to the person to whom the care or payments were furnished, or to the person's legal representatives, as a result of the occurrence that necessitated the medical care, subsistence, or other payments. For purposes of this section, "state agency" includes authorized agents of the state agency prepaid health plans under contract with the commissioner according to sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; and county-based purchasing entities under section 256B.692.

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Sec. 17. Minnesota Statutes 1998, section 256.015, subdivision 3, is amended to read:

Subd. 3. **PROSECUTOR.** ~~The attorney general, or the appropriate county attorney acting at the direction of the attorney general,~~ shall represent the state agency commissioner to enforce the lien created under this section or, if no action has been brought, may initiate and prosecute an independent action on behalf of the state agency commissioner against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

Any prepaid health plan providing services under sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; or the county-based purchasing entity providing services under section 256B.692 may retain legal representation to enforce their lien created under this section or, if no action has been brought, may initiate and prosecute an independent action on their behalf against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

Sec. 18. **[256.028] TAX REBATES.**

Any federal or state tax rebate received by a recipient of a public assistance program shall not be counted as income or as an asset for purposes of any of the public assistance programs under this chapter or any other chapter, including, but not limited to, chapter 256B, 256D, 256E, 256I, 256J, or 256L to the extent permitted under federal law.

Sec. 19. Minnesota Statutes 1998, section 256.955, subdivision 3, is amended to read:

Subd. 3. **PRESCRIPTION DRUG COVERAGE.** Coverage under the program is limited to prescription drugs covered under the medical assistance program as described in section 256B.0625, subdivision 13, subject to a maximum deductible of \$300 annually, except drugs cleared by the FDA shall be available to qualified senior citizens enrolled in the program without restriction when prescribed for medically accepted indication as defined in the federal rebate program under section 1927 of title XIX of the federal Social Security Act. Coverage under the program shall be limited to those prescription drugs that:

(1) are covered under the medical assistance program as described in section 256B.0625, subdivision 13; and

(2) are provided by manufacturers that have fully executed senior drug rebate agreements with the commissioner and comply with such agreements.

Sec. 20. Minnesota Statutes 1998, section 256.955, subdivision 4, is amended to read:

Subd. 4. **APPLICATION PROCEDURES AND COORDINATION WITH MEDICAL ASSISTANCE.** Applications and information on the program must be made available at county social service agencies, health care provider offices, and agencies and organizations serving senior citizens. Senior citizens shall submit applications and any information specified by the commissioner as being necessary to verify eligibility directly to the county social service agencies:

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(1) beginning January 1, 1999, the county social service agency shall determine medical assistance spenddown eligibility of individuals who qualify for the senior citizen drug program of individuals; and

(2) program payments will be used to reduce the spenddown obligations of individuals who are determined to be eligible for medical assistance with a spenddown as defined in section 256B.056, subdivision 5.

Seniors who are eligible for medical assistance with a spenddown shall be financially responsible for the deductible amount up to the satisfaction of the spenddown. No deductible applies once the spenddown has been met. Payments to providers for prescription drugs for persons eligible under this subdivision shall be reduced by the deductible.

County social service agencies shall determine an applicant's eligibility for the program within 30 days from the date the application is received. Eligibility begins the month after approval.

Sec. 21. Minnesota Statutes 1998, section 256.955, subdivision 7, is amended to read:

Subd. 7. **COST SHARING.** ~~(a) Enrollees shall pay an annual premium of \$120.~~

~~(b) Program enrollees must satisfy a \$300 \$420 annual deductible, based upon expenditures for prescription drugs, to be paid as follows:~~

~~(1) \$25 monthly deductible for persons with a monthly spenddown; or~~

~~(2) \$150 biannual deductible for persons with a six-month spenddown in \$35 monthly increments.~~

Sec. 22. Minnesota Statutes 1998, section 256.955, subdivision 8, is amended to read:

Subd. 8. **REPORT.** The commissioner shall annually report to the legislature on the senior citizen drug program. The report must include demographic information on enrollees, per-prescription expenditures, total program expenditures, hospital and nursing home costs avoided by enrollees, any savings to medical assistance and Medicare resulting from the provision of prescription drug coverage under Medicare by health maintenance organizations, other public and private options for drug assistance to the senior population, any hardships caused by the annual premium and deductible, and any recommendations for changes in the senior drug program.

Sec. 23. Minnesota Statutes 1998, section 256.955, subdivision 9, is amended to read:

Subd. 9. **PROGRAM LIMITATION.** The commissioner shall administer the senior drug program so that the costs total no more than funds appropriated plus the drug rebate proceeds. Senior drug program rebate revenues are appropriated to the commissioner and shall be expended to augment funding of the senior drug program. New enrollment shall cease if the commissioner determines that, given current enrollment, costs of the program will exceed appropriated funds and rebate proceeds. This section shall be repealed upon federal approval of the waiver to allow the commissioner to provide prescription drug coverage for qualified Medicare beneficiaries whose income is less than 150 percent of the federal poverty guidelines.

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Sec. 24. Minnesota Statutes 1998, section 256.9685, subdivision 1a, is amended to read:

Subd. 1a. **ADMINISTRATIVE RECONSIDERATION.** Notwithstanding sections 256B.04, subdivision 15, and 256D.03, subdivision 7, the commissioner shall establish an administrative reconsideration process for appeals of inpatient hospital services determined to be medically unnecessary. A physician or hospital may request a reconsideration of the decision that inpatient hospital services are not medically necessary by submitting a written request for review to the commissioner within 30 days after receiving notice of the decision. The reconsideration process shall take place prior to the procedures of subdivision 1b and shall be conducted by physicians that are independent of the case under reconsideration. A majority decision by the physicians is necessary to make a determination that the services were not medically necessary.

Sec. 25. Minnesota Statutes 1998, section 256.969, subdivision 1, is amended to read:

Subdivision 1. **HOSPITAL COST INDEX.** (a) The hospital cost index shall be the change in the Consumer Price Index--All Items (United States city average) (CPI-U) forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the third quarter of the calendar year prior to the rate year. The hospital cost index may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, nor under general assistance medical care, except that the inflation adjustments under paragraph (a) for medical assistance, excluding general assistance medical care, shall apply through calendar year ~~1999~~ 2001. The index for calendar year 2000 shall be reduced 2.5 percentage points to recover overprojections of the index from 1994 to 1996. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

Sec. 26. Minnesota Statutes 1998, section 256B.04, subdivision 16, is amended to read:

Subd. 16. **PERSONAL CARE SERVICES.** (a) Notwithstanding any contrary language in this paragraph, the commissioner of human services and the commissioner of health shall jointly promulgate rules to be applied to the licensure of personal care services provided under the medical assistance program. The rules shall consider standards for personal care services that are based on the World Institute on Disability's recommendations regarding personal care services. These rules shall at a minimum consider the standards and requirements adopted by the commissioner of health under section 144A.45, which the commissioner of human services determines are applicable to the provision of personal care services, in addition to other standards or modifications which the commissioner of human services determines are appropriate.

The commissioner of human services shall establish an advisory group including personal care consumers and providers to provide advice regarding which standards or modifications should be adopted. The advisory group membership must include not less

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than 15 members, of which at least 60 percent must be consumers of personal care services and representatives of recipients with various disabilities and diagnoses and ages. At least 51 percent of the members of the advisory group must be recipients of personal care.

The commissioner of human services may contract with the commissioner of health to enforce the jointly promulgated licensure rules for personal care service providers.

Prior to final promulgation of the joint rule the commissioner of human services shall report preliminary findings along with any comments of the advisory group and a plan for monitoring and enforcement by the department of health to the legislature by February 15, 1992.

Limits on the extent of personal care services that may be provided to an individual must be based on the cost-effectiveness of the services in relation to the costs of inpatient hospital care, nursing home care, and other available types of care. The rules must provide, at a minimum:

(1) that agencies be selected to contract with or employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ or contract with a qualified applicant that a qualified recipient proposes to the agency as the recipient's choice of assistant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care assistant and supervision by the registered nurse a qualified professional supervising the personal care assistant unless the recipient selects the fiscal agent option under section 256B.0627, subdivision 10;

(4) that agencies establish a grievance mechanism; and

(5) that agencies have a quality assurance program.

(b) The commissioner may waive the requirement for the provision of personal care services through an agency in a particular county, when there are less than two agencies providing services in that county and shall waive the requirement for personal care assistants required to join an agency for the first time during 1993 when personal care services are provided under a relative hardship waiver under section 256B.0627, subdivision 4, paragraph (b), clause (7), and at least two agencies providing personal care services have refused to employ or contract with the independent personal care assistant.

Sec. 27. Minnesota Statutes 1998, section 256B.04, is amended by adding a subdivision to read:

Subd. 19. PERFORMANCE DATA REPORTING UNIT. The commissioner of human services shall establish a performance data reporting unit that serves counties and the state. The department shall support this unit and provide technical assistance and access to the data warehouse. The performance data reporting unit, which will operate within the department's central office and consist of both county and department staff, shall provide performance data reports to individual counties, share expertise from counties and the department perspective, and participate in joint planning to link with county databases and other county data sources in order to provide information on services provided to public clients from state, federal, and county funding sources. The performance data

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reporting unit shall provide counties both individual and group summary level standard or unique reports on health care eligibility and services provided to clients for whom they have financial responsibility.

Sec. 28. Minnesota Statutes 1998, section 256B.042, subdivision 1, is amended to read:

Subdivision 1. **LIEN FOR COST OF CARE.** When the state agency provides, pays for, or becomes liable for medical care, it shall have a lien for the cost of the care upon any and all causes of action or recovery rights under any policy, plan, or contract providing benefits for health care or injury, which accrue to the person to whom the care was furnished, or to the person's legal representatives, as a result of the illness or injuries which necessitated the medical care. For purposes of this section, "state agency" includes prepaid health plans under contract with the commissioner according to sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing facilities under the alternative payment demonstration project under section 256B.434; and county-based purchasing entities under section 256B.692.

Sec. 29. Minnesota Statutes 1998, section 256B.042, subdivision 2, is amended to read:

Subd. 2. **LIEN ENFORCEMENT.** (a) The state agency may perfect and enforce its lien by following the procedures set forth in sections 514.69, 514.70 and 514.71, and its verified lien statement shall be filed with the appropriate court administrator in the county of financial responsibility. The verified lien statement shall contain the following: the name and address of the person to whom medical care was furnished, the date of injury, the name and address of the vendor or vendors furnishing medical care, the dates of the service, the amount claimed to be due for the care, and, to the best of the state agency's knowledge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries. This section shall not affect the priority of any attorney's lien.

(b) The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is first received by it under subdivision 4, paragraph (c), even if the notice is untimely, or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received or (2) the date the recipient's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later. For purposes of this section, "state agency" includes authorized agents of the state agency.

(c) If the notice required in subdivision 4 is not provided by any of the parties to the claim at any stage of the claim, the state agency will have one year from the date the state agency learns of the lack of notice to commence an action. If amounts on the claim or cause of action are paid and the amount required to be paid to the state agency under subdivision 5, is not paid to the state agency, the state agency may commence an action to recover on the lien against any or all of the parties or entities which have either paid or received the payments.

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Sec. 30. Minnesota Statutes 1998, section 256B.042, subdivision 3, is amended to read:

Subd. 3. The attorney general, or the appropriate county attorney acting at the direction of the attorney general, shall represent the state agency commissioner to enforce the lien created under this section or, if no action has been brought, may initiate and prosecute an independent action on behalf of the state agency commissioner against a person, firm, or corporation that may be liable to the person to whom the care was furnished.

Any prepaid health plan providing services under sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; or the county-based purchasing entity providing services under section 256B.692 may retain legal representation to enforce their lien created under this section or, if no action has been brought, may initiate and prosecute an independent action on their behalf against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

Sec. 31. Minnesota Statutes 1998, section 256B.055, subdivision 3a, is amended to read:

Subd. 3a. **MFIP-S FAMILIES; FAMILIES ELIGIBLE UNDER PRIOR AFDC RULES.** (a) Beginning January 1, 1998, or on the date that MFIP-S is implemented in counties, medical assistance may be paid for a person receiving public assistance under the MFIP-S program.

(b) Beginning January 1, 1998, medical assistance may be paid for a person who would have been eligible for public assistance under the income and resource standards and deprivation requirements, or who would have been eligible but for excess income or assets, under the state's AFDC plan in effect as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law Number 104-193.

Sec. 32. Minnesota Statutes 1998, section 256B.056, subdivision 4, is amended to read:

Subd. 4. **INCOME.** To be eligible for medical assistance, a person eligible under section 256B.055, subdivision 7, not receiving supplemental security income program payments, and families and children may have an income up to 133-1/3 percent of the AFDC income standard in effect under the July 16, 1996, AFDC state plan. For rate years beginning on or after July 1, 1999, the commissioner shall consider increasing Effective July 1, 2000, the base AFDC standard in effect on July 16, 1996, by an amount equal to the percent change in the Consumer Price Index for all urban consumers for the previous October compared to one year earlier shall be increased by three percent. Effective January 1, 2000, and each successive January, recipients of supplemental security income may have an income up to the supplemental security income standard in effect on that date. 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. Veterans aid and attendance benefits and Veterans Administration unusual medical expense payments are considered income to the recipient.

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Sec. 33. Minnesota Statutes 1998, section 256B.057, subdivision 3, is amended to read:

Subd. 3. **QUALIFIED MEDICARE BENEFICIARIES.** A person who is entitled to Part A Medicare benefits, whose income is equal to or less than ~~85~~ 100 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; and to 100 percent on January 1, 1991.~~ 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. Increases in benefits under Title II of the Social Security Act shall not be counted as income for purposes of this subdivision until the first day of the second full month following publication of the change in the federal poverty guidelines.

Sec. 34. Minnesota Statutes 1998, section 256B.057, is amended by adding a subdivision to read:

Subd. 9. **EMPLOYED PERSONS WITH DISABILITIES.** (a) Medical assistance may be paid for a person who is employed and who:

(1) meets the definition of disabled under the supplemental security income program;

(2) meets the asset limits in paragraph (b); and

(3) pays a premium, if required, under paragraph (c).

Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(b) For purposes of determining eligibility under this subdivision, a person's assets must not exceed \$20,000, excluding:

(1) all assets excluded under section 256B.056;

(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans; and

(3) medical expense accounts set up through the person's employer.

(c) A person whose earned and unearned income is greater than 200 percent of federal poverty guidelines for the applicable family size must pay a premium to be eligible for medical assistance. The premium shall be equal to ten percent of the person's gross earned and unearned income above 200 percent of federal poverty guidelines for the applicable family size up to the cost of coverage.

(d) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

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(e) Any required premium shall be determined at application and redetermined annually at recertification or when a change in income of family size occurs.

(f) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(g) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. Good cause exists if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to D, are met. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

Sec. 35. Minnesota Statutes 1998, section 256B.0575, is amended to read:

**256B.0575 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 or, for a veteran who does not have a spouse or child, or a surviving spouse of a veteran having no child, the amount of an improved pension received from the veteran's administration not exceeding \$90 per month;

(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 allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only to the extent that the deduction is not included in the personal needs allowance under section 256B.35, subdivision 1, as child support garnished under a court order;

(6) 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;

(7) reparations payments made by the Federal Republic of Germany and reparations payments made by the Netherlands for victims of Nazi persecution between 1940 and 1945; and

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(8) all other exclusions from income for institutionalized persons as mandated by federal law; and

(9) 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 (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(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. 36. Minnesota Statutes 1998, section 256B.061, is amended to read:

**256B.061 ELIGIBILITY; RETROACTIVE EFFECT; RESTRICTIONS.**

(a) If any individual has been determined to be eligible for medical assistance, it will be made available for care and services included under the plan and furnished in or after the third month before the month in which the individual made application for such assistance, if such individual was, or upon application would have been, eligible for medical assistance at the time the care and services were furnished. The commissioner may limit, restrict, or suspend the eligibility of an individual for up to one year upon that individual's conviction of a criminal offense related to application for or receipt of medical assistance benefits.

(b) On the basis of information provided on the completed application, an applicant who meets the following criteria shall be determined eligible beginning in the month of application:

(1) whose gross income is less than 90 percent of the applicable income standard;

(2) whose total liquid assets are less than 90 percent of the asset limit;

(3) does not reside in a long-term care facility; and

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(4) meets all other eligibility requirements.

The applicant must provide all required verifications within 30 days' notice of the eligibility determination or eligibility shall be terminated.

Sec. 37. Minnesota Statutes 1998, section 256B.0625, is amended by adding a subdivision to read:

Subd. 3b. **TELEMEDICINE CONSULTATIONS.** (a) Medical assistance covers telemedicine consultations. Telemedicine consultations must be made via two-way, interactive video or store-and-forward technology. Store-and-forward technology includes telemedicine consultations that do not occur in real time via synchronous transmissions, and that do not require a face-to-face encounter with the patient for all or any part of any such telemedicine consultation. The patient record must include a written opinion from the consulting physician providing the telemedicine consultation. A communication between two physicians that consists solely of a telephone conversation is not a telemedicine consultation. Coverage is limited to three telemedicine consultations per recipient per calendar week. Telemedicine consultations shall be paid at the full allowable rate.

(b) This subdivision expires July 1, 2001.

Sec. 38. Minnesota Statutes 1998, section 256B.0625, subdivision 6a, is amended to read:

Subd. 6a. **HOME HEALTH SERVICES.** Home health services are those services specified in Minnesota Rules, part 9505.0290. Medical assistance covers home health services at a recipient's home residence. Medical assistance does not cover home health services for residents of a hospital, nursing facility, or intermediate care facility, or a health care facility licensed by the commissioner of health, unless the program is funded under a home and community-based services waiver or unless the commissioner of human services has prior authorized skilled nurse visits for less than 90 days for a resident at an intermediate care facility for persons with mental retardation, to prevent an admission to a hospital or nursing facility or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the home health services or forgoes the facility per diem for the leave days that home health services are used. Home health services must be provided by a Medicare certified home health agency. All nursing and home health aide services must be provided according to section 256B.0627.

Sec. 39. Minnesota Statutes 1998, section 256B.0625, subdivision 8, is amended to read:

Subd. 8. **PHYSICAL THERAPY.** Medical assistance covers physical therapy and related services, including specialized maintenance therapy. Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate.

Sec. 40. Minnesota Statutes 1998, section 256B.0625, subdivision 8a, is amended to read:

Subd. 8a. **OCCUPATIONAL THERAPY.** Medical assistance covers occupational therapy and related services, including specialized maintenance therapy. Services pro-

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vided by an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant that are provided under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate.

Sec. 41. Minnesota Statutes 1998, section 256B.0625, is amended by adding a subdivision to read:

**Subd. 8b. SPEECH LANGUAGE PATHOLOGY SERVICES.** Medical assistance covers speech language pathology and related services, including specialized maintenance therapy.

Sec. 42. Minnesota Statutes 1998, section 256B.0625, is amended by adding a subdivision to read:

**Subd. 8c. CARE MANAGEMENT; REHABILITATION SERVICES.** (a) Effective July 1, 1999, one-time thresholds shall replace annual thresholds for provision of rehabilitation services described in subdivisions 8, 8a, and 8b. The one-time thresholds will be the same in amount and description as the thresholds prescribed by the department of human services health care programs provider manual for calendar year 1997, except they will not be renewed annually, and they will include sensory skills and cognitive training skills.

(b) A care management approach for authorization of services beyond the threshold shall be instituted in conjunction with the one-time thresholds. The care management approach shall require the provider and the department rehabilitation reviewer to work together directly through written communication, or telephone communication when appropriate, to establish a medically necessary care management plan. Authorization for rehabilitation services shall include approval for up to 12 months of services at a time without additional documentation from the provider during the extended period, when the rehabilitation services are medically necessary due to an ongoing health condition.

(c) The commissioner shall implement an expedited five-day turnaround time to review authorization requests for recipients who need emergency rehabilitation services and who have exhausted their one-time threshold limit for those services.

Sec. 43. Minnesota Statutes 1998, section 256B.0625, subdivision 13, is amended to read:

**Subd. 13. DRUGS.** (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, 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

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trademark drugs. 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 three-year terms and shall serve without compensation. Members may be reappointed once.

(b) The commissioner shall 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. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include:

(i) drugs or products for which there is no federal funding;

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, 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;

(iii) anorectics, except that medically necessary anorectics shall be covered for a recipient previously diagnosed as having pickwickian syndrome and currently diagnosed as having diabetes and being morbidly obese;

(iv) drugs for which medical value has not been established; and

(v) ~~drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act and who have not signed an agreement with the state for drugs purchased pursuant to the senior citizen drug program established under section 256.955.~~

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The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(c) 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; 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. The pharmacy dispensing fee shall be \$3.65. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus nine percent. 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. The commissioner shall set maximum allowable costs for multisource drugs that are not on the federal upper limit list as described in United States Code, title 42, chapter 7, section 1396r-8(e), the Social Security Act, and Code of Federal Regulations, title 42, part 447, section 447.332. 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 legend drug 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. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. 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 - brand necessary" on the prescription as required by section 151.21, subdivision 2.

(d) For purposes of this subdivision, "multisource drugs" means covered outpatient drugs, excluding innovator multisource drugs for which there are two or more drug products, which:

(1) are related as therapeutically equivalent under the Food and Drug Administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations";

(2) are pharmaceutically equivalent and bioequivalent as determined by the Food and Drug Administration; and

(3) are sold or marketed in Minnesota.

"Innovator multisource drug" means a multisource drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

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Sec. 44. Minnesota Statutes 1998, section 256B.0625, subdivision 19c, is amended to read:

Subd. 19c. **PERSONAL CARE.** Medical assistance covers personal care services provided by an individual who is qualified to provide the services according to subdivision 19a and section 256B.0627, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse the recipient under the fiscal agent option according to section 256B.0627, subdivision 10, or a qualified professional. "Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 26; or a registered nurse as defined in sections 148.171 to 148.285. As part of the assessment, the county public health nurse will consult with the recipient or responsible party and identify the most appropriate person to provide supervision of the personal care assistant. The qualified professional shall perform the duties described in Minnesota Rules, part 9505.0335, subpart 4.

Sec. 45. Minnesota Statutes 1998, section 256B.0625, subdivision 26, is amended to read:

Subd. 26. **SPECIAL EDUCATION SERVICES.** (a) Medical assistance covers medical services identified in a recipient's individualized education plan and covered under the medical assistance state plan. Covered services include occupational therapy, physical therapy, speech-language therapy, clinical psychological services, nursing services, school psychological services, school social work services, personal care assistants serving as management aides, assistive technology devices, transportation services, and other services covered under the medical assistance state plan. Mental health services eligible for medical assistance reimbursement must be provided or coordinated through a children's mental health collaborative where a collaborative exists if the child is included in the collaborative operational target population. The provision or coordination of services does not require that the individual education plan be developed by the collaborative.

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. The nonfederal share of costs for services provided under this subdivision is the responsibility of the local school district as provided in section 125A.74. Services listed in a child's individual education plan are eligible for medical assistance reimbursement only if those services meet criteria for federal financial participation under the Medicaid program.

(b) Approval of health-related services for inclusion in the individual education plan does not require prior authorization for purposes of reimbursement under this chapter. The commissioner may require physician review and approval of the plan not more than once annually or upon any modification of the individual education plan that reflects a change in health-related services.

(c) Services of a speech-language pathologist provided under this section are covered notwithstanding Minnesota Rules, part 9505.0390, subpart 1, item L, if the person:

- (1) holds a masters degree in speech-language pathology;

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(2) is licensed by the Minnesota board of teaching as an educational speech-language pathologist; and

(3) either has a certificate of clinical competence from the American Speech and Hearing Association, has completed the equivalent educational requirements and work experience necessary for the certificate or has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(d) 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.

(e) The commissioner shall develop and implement package rates, bundled rates, or per diem rates for special education services under which separately covered services are grouped together and billed as a unit in order to reduce administrative complexity.

(f) The commissioner shall develop a cost-based payment structure for payment of these services.

(g) Effective July 1, 2000, medical assistance services provided under an individual education plan or an individual family service plan by local school districts shall not count against medical assistance authorization thresholds for that child.

Sec. 46. Minnesota Statutes 1998, section 256B.0625, subdivision 28, is amended to read:

Subd. 28. **CERTIFIED NURSE PRACTITIONER SERVICES.** Medical assistance covers services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if:

(1) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate;

(2) the services ~~are~~ service is otherwise covered under this chapter as a physician service; and if

(3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171.

Sec. 47. Minnesota Statutes 1998, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. **OTHER CLINIC SERVICES.** (a) Medical assistance covers rural health clinic services, federally qualified health center services, nonprofit community health clinic services, public health clinic services, and the services of a clinic meeting the criteria established in rule by the commissioner. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and

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detail required by the commissioner. A federally qualified health center that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, a federally qualified health center shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. Federally qualified health centers that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

(c) In order to continue cost-based payment under the medical assistance program according to paragraphs (a) and (b), a federally qualified health center or rural health clinic must apply for designation as an essential community provider within six months of final adoption of rules by the department of health according to section 62Q.19, subdivision 7. For those federally qualified health centers and rural health clinics that have applied for essential community provider status within the six-month time prescribed, medical assistance payments will continue to be made according to paragraphs (a) and (b) for the first three years after application. For federally qualified health centers and rural health clinics that either do not apply within the time specified above or who have had essential community provider status for three years, medical assistance payments for health services provided by these entities shall be according to the same rates and conditions applicable to the same service provided by health care providers that are not federally qualified health centers or rural health clinics. This paragraph takes effect only if the Minnesota health care reform waiver is approved by the federal government, and remains in effect for as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires, and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes.

(d) Effective July 1, 1999, the provisions of paragraph (c) requiring a federally qualified health center or a rural health clinic to make application for an essential community provider designation in order to have cost-based payments made according to paragraphs (a) and (b) no longer apply.

(e) Effective January 1, 2000, payments made according to paragraphs (a) and (b) shall be limited to the cost phase-out schedule of the Balanced Budget Act of 1997.

Sec. 48. Minnesota Statutes 1998, section 256B.0625, subdivision 32, is amended to read:

Subd. 32. **NUTRITIONAL PRODUCTS.** (a) Medical assistance covers nutritional products needed for nutritional supplementation because solid food or nutrients thereof cannot be properly absorbed by the body or needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow's 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. Nutritional products needed for the treatment of a combined allergy to human milk, cow's milk, and soy formula require prior authorization. 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.

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(b) The commissioner shall designate a nutritional supplementation products advisory committee to advise the commissioner on nutritional supplementation products for which payment is made. The committee shall consist of nine members, one of whom shall be a physician, one of whom shall be a pharmacist, two of whom shall be registered dietitians, one of whom shall be a public health nurse, one of whom shall be a representative of a home health care agency, one of whom shall be a provider of long-term care services, and two of whom shall be consumers of nutritional supplementation products. Committee members shall serve two-year terms and shall serve without compensation.

(c) The advisory committee shall review and recommend nutritional supplementation products which require prior authorization. The commissioner shall develop procedures for the operation of the advisory committee so that the advisory committee operates in a manner parallel to the drug formulary committee.

Sec. 49. Minnesota Statutes 1998, section 256B.0625, subdivision 35, is amended to read:

Subd. 35. **FAMILY COMMUNITY SUPPORT SERVICES.** Medical assistance covers family community support services as defined in section 245.4871, subdivision 17. In addition to the provisions of section 245.4871, and to the extent authorized by rules promulgated by the state agency, medical assistance covers the following services as family community support services:

(1) services identified in an individual treatment plan when provided by a trained mental health behavioral aide under the direction of a mental health practitioner or mental health professional;

(2) mental health crisis intervention and crisis stabilization services provided outside of hospital inpatient settings; and

(3) the therapeutic components of preschool and therapeutic camp programs.

Sec. 50. Minnesota Statutes 1998, section 256B.0627, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** (a) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a registered private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care assistant services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. An initial assessment for personal care services is conducted on individuals who are requesting personal care services or for those consumers who have never had a public health nurse assessment. The initial A face-to-face assessment must include: a face-to-face health status assessment and determination of baseline need, evaluation of service outcomes, collection of initial case data, identification of appropriate services and service plan development or modification, coordination of initial services, referrals and follow-up to appropriate payers and community resources, completion of required reports, obtaining service authorization, and consumer education. A reassessment visit face-to-face assessment for personal care services is conducted on those recipients who have never had a county public health nurse assessment. A face-to-face assessment must occur at least annually or when there is a significant change in consumer the recipient's condition and or when there is a change

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in the need for personal care assistant services. The reassessment visit A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistant service. A service update or review for temporary increase includes a review of initial baseline data, evaluation of service outcomes, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments for medical assistance home care services for mental retardation or related conditions and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(b) "Care plan" means a written description of personal care assistant services developed by the agency nurse qualified professional with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

(c) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a service plan that is reviewed by the physician at least once every ~~60~~ 62 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625.

(d) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(e) "Personal care assistant" means a person who: (1) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation; (2) is able to effectively communicate with the recipient and personal care provider organization; (3) effective July 1, 1996, has completed one of the training requirements as specified in Minnesota Rules, part 9505.0335, subpart 3, items A to D; (4) has the ability to, and provides covered personal care services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising ~~registered nurse~~ qualified professional; (5) is not a consumer of personal care services; and (6) is subject to criminal background checks and procedures specified in section 245A.04. An individual who has been convicted of a crime specified in Minnesota Rules, part 4668.0020, subpart 14, or a comparable crime in another jurisdiction is disqualified from being a personal care assistant, unless the individual meets the rehabilitation criteria specified in Minnesota Rules, part 4668.0020, subpart 15.

(f) "Personal care provider organization" means an organization enrolled to provide personal care services under the medical assistance program that complies with the following: (1) owners who have a five percent interest or more, and managerial officials are subject to a background study as provided in section 245A.04. This applies to currently enrolled personal care provider organizations and those agencies seeking enrollment as a personal care provider organization. An organization will be barred from enrollment if an owner or managerial official of the organization has been convicted of a crime specified in section 245A.04, or a comparable crime in another jurisdiction, unless the owner or

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managerial official meets the reconsideration criteria specified in section 245A.04; (2) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provides proof thereof. The insurer must notify the department of human services of the cancellation or lapse of policy; and (3) the organization must maintain documentation of services as specified in Minnesota Rules, part 9505.2175, subpart 7, as well as evidence of compliance with personal care assistant training requirements.

(g) "Responsible party" means an individual residing with a recipient of personal care services who is capable of providing the supportive care necessary to assist the recipient to live in the community, is at least 18 years old, and is not a personal care assistant. Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons who, as of April 1, 1992, are sharing personal care services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

(h) "Service plan" means a written description of the services needed based on the assessment developed by the nurse who conducts the assessment together with the recipient or responsible party. The service plan shall include a description of the covered home care services, frequency and duration of services, and expected outcomes and goals. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within 30 calendar days of the request for home care services by the recipient or responsible party.

(i) "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

- (1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;
- (2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;
- (3) assessments performed only by a registered nurse; and
- (4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

Sec. 51. Minnesota Statutes 1998, section 256B.0627, subdivision 2, is amended to read:

Subd. 2. **SERVICES COVERED.** Home care services covered under this section include:

- (1) nursing services under section 256B.0625, subdivision 6a;

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- (2) private duty nursing services under section 256B.0625, subdivision 7;
- (3) home health aide services under section 256B.0625, subdivision 6a;
- (4) personal care services under section 256B.0625, subdivision 19a;
- (5) nursing supervision of personal care assistant services provided by a qualified professional under section 256B.0625, subdivision 19a; ~~and~~
- (6) consulting professional of personal care assistant services under the fiscal agent option as specified in subdivision 10;
- (7) face-to-face assessments by county public health nurses for services under section 256B.0625, subdivision 19a; and
- (8) service updates and review of temporary increases for personal care assistant services by the county public health nurse for services under section 256B.0625, subdivision 19a.

Sec. 52. Minnesota Statutes 1998, section 256B.0627, subdivision 4, is amended to read:

Subd. 4. **PERSONAL CARE SERVICES.** (a) The personal care services that are eligible for payment are the following:

- (1) bowel and bladder care;
- (2) skin care to maintain the health of the skin;
- (3) repetitive maintenance range of motion, muscle strengthening exercises, and other tasks specific to maintaining a recipient's optimal level of function;
- (4) respiratory assistance;
- (5) transfers and ambulation;
- (6) bathing, grooming, and hairwashing necessary for personal hygiene;
- (7) turning and positioning;
- (8) assistance with furnishing medication that is self-administered;
- (9) application and maintenance of prosthetics and orthotics;
- (10) cleaning medical equipment;
- (11) dressing or undressing;
- (12) assistance with eating and meal preparation and necessary grocery shopping;
- (13) accompanying a recipient to obtain medical diagnosis or treatment;
- (14) assisting, monitoring, or prompting the recipient to complete the services in clauses (1) to (13);
- (15) redirection, monitoring, and observation that are medically necessary and an integral part of completing the personal care services described in clauses (1) to (14);
- (16) redirection and intervention for behavior, including observation and monitoring;

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(17) interventions for seizure disorders, including monitoring and observation if the recipient has had a seizure that requires intervention within the past three months;

(18) tracheostomy suctioning using a clean procedure if the procedure is properly delegated by a registered nurse. Before this procedure can be delegated to a personal care assistant, a registered nurse must determine that the tracheostomy suctioning can be accomplished utilizing a clean rather than a sterile procedure and must ensure that the personal care assistant has been taught the proper procedure; and

(19) incidental household services that are an integral part of a personal care service described in clauses (1) to (18).

For purposes of this subdivision, monitoring and observation means watching for outward visible signs that are likely to occur and for which there is a covered personal care service or an appropriate personal care intervention. For purposes of this subdivision, a clean procedure refers to a procedure that reduces the numbers of microorganisms or prevents or reduces the transmission of microorganisms from one person or place to another. A clean procedure may be used beginning 14 days after insertion.

(b) The personal care services that are not eligible for payment are the following:

(1) services not ordered by the physician;

(2) assessments by personal care provider organizations or by independently enrolled registered nurses;

(3) services that are not in the service plan;

(4) services provided by the recipient's spouse, legal guardian for an adult or child recipient, or parent of a recipient under age 18;

(5) services provided by a foster care provider of a recipient who cannot direct the recipient's own care, unless monitored by a county or state case manager under section 256B.0625, subdivision 19a;

(6) services provided by the residential or program license holder in a residence for more than four persons;

(7) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;

(8) sterile procedures;

(9) injections of fluids into veins, muscles, or skin;

(10) services provided by parents of adult recipients, adult children, or adult siblings of the recipient, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:

(i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;

(ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;

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(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;

(iv) the relative incurs substantial expenses by providing personal care for the recipient; or

(v) because of labor conditions, special language needs, or intermittent hours of care needed, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;

(11) homemaker services that are not an integral part of a personal care services;

(12) home maintenance, or chore services;

(13) services not specified under paragraph (a); and

(14) services not authorized by the commissioner or the commissioner's designee.

Sec. 53. Minnesota Statutes 1998, section 256B.0627, subdivision 5, is amended to read:

Subd. 5. **LIMITATION ON PAYMENTS.** Medical assistance payments for home care services shall be limited according to this subdivision.

(a) **LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.** A recipient may receive the following home care services during a calendar year:

(1) any initial assessment up to two face-to-face assessments to determine a recipient's need for personal care assistant services;

(2) up to two reassessments per year one service update done to determine a recipient's need for personal care services; and

(3) up to five skilled nurse visits.

(b) **PRIOR AUTHORIZATION; EXCEPTIONS.** All home care services above the limits in paragraph (a) must receive the commissioner's prior authorization, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened;

(3) a third-party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request;

(4) the commissioner has determined that a county or state human services agency has made an error; or

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(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer.

(c) **RETROACTIVE AUTHORIZATION.** A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.

(d) **ASSESSMENT AND SERVICE PLAN.** Assessments under section 256B.0627, subdivision 1, paragraph (a), shall be conducted initially, and at least annually thereafter, in person with the recipient and result in a completed service plan using forms specified by the commissioner. Within 30 days of recipient or responsible party request for home care services, the assessment, the service plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries shall be submitted to the commissioner. For personal care services:

(1) The amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers.

(2) If the recipient's medical need changes, the recipient's provider may assess the need for a change in service authorization and request the change from the county public health nurse. Within 30 days of the request, the public health nurse will determine whether to request the change in services based upon the provider assessment, or conduct a home visit to assess the need and determine whether the change is appropriate.

(3) To continue to receive personal care services after the first year, the recipient or the responsible party, in conjunction with the public health nurse, may complete a service update on forms developed by the commissioner according to criteria and procedures in subdivision 1. ~~The service update may substitute for the annual reassessment described in subdivision 1.~~

(e) **PRIOR AUTHORIZATION.** The commissioner, or the commissioner's designee, shall review the assessment, the service update, request for temporary services, service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows:

(1) **HOME HEALTH SERVICES.** All home health services provided by a licensed nurse or a home health aide must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit nurse and home health aide visits to no more than one visit each per day.

(2) **PERSONAL CARE SERVICES.** (i) All personal care services and registered nurse supervision by a qualified professional must be prior authorized by the commissioner or the commissioner's designee except for the assessments established in paragraph (a). The amount of personal care services authorized must be based on the recipient's home care rating. A child may not be found to be dependent in an activity of daily

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living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or

(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis; or

(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have Level I behavior, plus any inflation adjustment as provided by the legislature for personal care service; or

(D) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or

(E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and

(F) a reasonable amount of time for the provision of nursing supervision by a qualified professional of personal care services.

(ii) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, as established by May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, 1992. These limits shall be calculated to the nearest quarter hour.

(iii) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and protocols under this section and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.

(iv) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community-based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:

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- (A) daily tube feedings;
- (B) daily parenteral therapy;
- (C) wound or decubiti care;
- (D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;
- (E) catheterization;
- (F) ostomy care;
- (G) quadriplegia; or
- (H) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:

- (A) injury to the recipient's own body;
- (B) physical injury to other people; or
- (C) destruction of property.

(vi) Time authorized for personal care relating to Level I behavior in subclause (v), items (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.

(vii) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care services under subdivision 4, paragraph (a):

- (A) unusual or repetitive habits;
- (B) withdrawn behavior; or
- (C) offensive behavior.

(viii) A recipient with a home care rating of Level II behavior in subclause (vii), items (A) to (C), shall be rated as comparable to a recipient with complex medical needs under subclause (iv). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the next complex category up to the maximum rating under subclause (i), item (B).

**(3) PRIVATE DUTY NURSING SERVICES.** All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services in quarter-hour units when:

- (i) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

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(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0500 to 9505.0540.

The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

**(4) VENTILATOR-DEPENDENT RECIPIENTS.** If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

**(f) PRIOR AUTHORIZATION; TIME LIMITS.** The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

**(g) APPROVAL OF HOME CARE SERVICES.** The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according

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to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

**(h) PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.**

The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

**(i) PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.**

Home care services provided in an adult or child foster care setting must receive prior authorization by the department according to the limits established in paragraph (a).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules. Requests for home care services for recipients residing in a foster care setting must include the foster care placement agreement and determination of difficulty of care;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a;

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a;

(4) home care services when the number of foster care residents is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that home care services be provided, and case management is provided as required in section 256B.0625, subdivision 19a; or

(5) home care services when combined with foster care payments, other than room and board payments that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 54. Minnesota Statutes 1998, section 256B.0627, subdivision 8, is amended to read:

Subd. 8. **SHARED PERSONAL CARE ASSISTANT SERVICES; SHARED CARE.** (a) Medical assistance payments for shared personal care assistance shared care services shall be limited according to this subdivision.

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(b) Recipients of personal care assistant services may share staff and the commissioner shall provide a rate system for shared personal care assistant services. For two persons sharing ~~care~~ services, the rate paid to a provider shall not exceed 1-1/2 times the rate paid for serving a single individual, and for three persons sharing ~~care~~ services, the rate paid to a provider shall not exceed twice the rate paid for serving a single individual. These rates apply only to situations in which all recipients were present and received shared ~~care~~ services on the date for which the service is billed. No more than three persons may receive shared ~~care~~ services from a personal care assistant in a single setting.

(c) Shared ~~care~~ service is the provision of personal care services by a personal care assistant to two or three recipients at the same time and in the same setting. For the purposes of this subdivision, "setting" means:

- (1) the home or foster care home of one of the individual recipients; or
- (2) a child care program in which all recipients served by one personal care assistant are participating, which is licensed under chapter 245A or operated by a local school district or private school.

The provisions of this subdivision do not apply when a personal care assistant is caring for multiple recipients in more than one setting.

(d) The recipient or the recipient's responsible party, in conjunction with the county public health nurse, shall determine:

- (1) whether shared ~~care~~ personal care assistant services is an appropriate option based on the individual needs and preferences of the recipient; and
- (2) the amount of shared ~~care~~ services allocated as part of the overall authorization of personal care services.

The recipient or the responsible party, in conjunction with the supervising ~~registered nurse~~ qualified professional, shall approve arrange the setting, and grouping, and arrangement of shared ~~care~~ services based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share ~~care~~ services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

(e) The following items must be considered by the recipient or the responsible party and the supervising ~~nurse~~ qualified professional, and documented in the recipient's ~~care plan~~ health service record:

- (1) the additional qualifications needed by the personal care assistant to provide care to several recipients in the same setting;
- (2) the additional training and supervision needed by the personal care assistant to ensure that the needs of the recipient are met appropriately and safely. The provider must provide on-site supervision by a ~~registered nurse~~ qualified professional within the first 14 days of shared ~~care~~ services, and monthly thereafter;
- (3) the setting in which the shared ~~care~~ services will be provided;
- (4) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting; and
- (5) a contingency plan which accounts for absence of the recipient in a shared ~~care~~ services setting due to illness or other circumstances and staffing contingencies.

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(f) The provider must offer the recipient or the responsible party the option of shared or individual one-on-one personal care assistant care services. The recipient or the responsible party can withdraw from participating in a shared care services arrangement at any time.

(g) In addition to documentation requirements under Minnesota Rules, part 9505.2175, a personal care provider must meet documentation requirements for shared personal care assistant services and must document the following in the health service record for each individual recipient sharing care services:

(1) authorization permission by the recipient or the recipient's responsible party, if any, for the maximum number of shared care services hours per week chosen by the recipient;

(2) authorization permission by the recipient or the recipient's responsible party, if any, for personal care assistant services provided outside the recipient's residence;

(3) authorization permission by the recipient or the recipient's responsible party, if any, for others to receive shared care services in the recipient's residence;

(4) revocation by the recipient or the recipient's responsible party, if any, of the shared care service authorization, or the shared care service to be provided to others in the recipient's residence, or the shared care service to be provided outside the recipient's residence;

(5) supervision of the shared care personal care assistant services by the supervisory nurse qualified professional, including the date, time of day, number of hours spent supervising the provision of shared care services, whether the supervision was face-to-face or another method of supervision, changes in the recipient's condition, shared care services scheduling issues and recommendations;

(6) documentation by the personal care assistant qualified professional of telephone calls or other discussions with the supervisory nurse personal care assistant regarding services being provided to the recipient; and

(7) daily documentation of the shared care services provided by each identified personal care assistant including:

(i) the names of each recipient receiving shared care services together;

(ii) the setting for the day's care shared services, including the starting and ending times that the recipient received shared care services; and

(iii) notes by the personal care assistant regarding changes in the recipient's condition, problems that may arise from the sharing of care services, scheduling issues, care issues, and other notes as required by the supervising nurse qualified professional.

(h) Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to personal care services apply to shared care services.

Nothing in this subdivision shall be construed to reduce the total number of hours authorized for an individual recipient.

Sec. 55. Minnesota Statutes 1998, section 256B.0627, is amended by adding a subdivision to read:

Subd. 9. FLEXIBLE USE OF PERSONAL CARE ASSISTANT HOURS. (a) The commissioner may allow for the flexible use of personal care assistant hours. "Flex-

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ible use" means the scheduled use of authorized hours of personal care assistant services, which vary within the length of the service authorization in order to more effectively meet the needs and schedule of the recipient. Recipients may use their approved hours flexibly within the service authorization period for medically necessary covered services specified in the assessment required in subdivision 1. The flexible use of authorized hours does not increase the total amount of authorized hours available to a recipient as determined under subdivision 5. The commissioner shall not authorize additional personal care assistant services to supplement a service authorization that is exhausted before the end date under a flexible service use plan, unless the county public health nurse determines a change in condition and a need for increased services is established.

(b) The recipient or responsible party, together with the county public health nurse, shall determine whether flexible use is an appropriate option based on the needs and preferences of the recipient or responsible party, and, if appropriate, must ensure that the allocation of hours covers the ongoing needs of the recipient over the entire service authorization period. As part of the assessment and service planning process, the recipient or responsible party must work with the county public health nurse to develop a written month-to-month plan of the projected use of personal care assistant services that is part of the service plan and ensures that the:

- (1) health and safety needs of the recipient will be met;
- (2) total annual authorization will not exceed before the end date; and
- (3) how actual use of hours will be monitored.

(c) If the actual use of personal care assistant service varies significantly from the use projected in the plan, the written plan must be promptly updated by the recipient or responsible party and the county public health nurse.

(d) The recipient or responsible party, together with the provider, must work to monitor and document the use of authorized hours and ensure that a recipient is able to manage services effectively throughout the authorized period. The provider must ensure that the month-to-month plan is incorporated into the care plan. Upon request of the recipient or responsible party, the provider must furnish regular updates to the recipient or responsible party on the amount of personal care assistant services used.

(e) The recipient or responsible party may revoke the authorization for flexible use of hours by notifying the provider and county public health nurse in writing.

(f) If the requirements in paragraphs (a) to (e) have not substantially been met, the commissioner shall deny, revoke, or suspend the authorization to use authorized hours flexibly. The recipient or responsible party may appeal the commissioner's action according to section 256.045. The denial, revocation, or suspension to use the flexible hours option shall not affect the recipient's authorized level of personal care assistant services as determined under subdivision 5.

Sec. 56. Minnesota Statutes 1998, section 256B.0627, is amended by adding a subdivision to read:

**Subd. 10. FISCAL AGENT OPTION AVAILABLE FOR PERSONAL CARE ASSISTANT SERVICES.** (a) "Fiscal agent option" is an option that allows the recipient to:

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- (1) use a fiscal agent instead of a personal care provider organization;
- (2) supervise the personal care assistant; and
- (3) use a consulting professional.

The commissioner may allow a recipient of personal care assistant services to use a fiscal agent to assist the recipient in paying and accounting for medically necessary covered personal care assistant services authorized in subdivision 4 and within the payment parameters of subdivision 5. Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to personal care services apply to a recipient using the fiscal agent option.

(b) The recipient or responsible party shall:

(1) hire, and terminate the personal care assistant and consulting professional, with the fiscal agent;

(2) recruit the personal care assistant and consulting professional and orient and train the personal care assistant in areas that do not require professional delegation as determined by the county public health nurse;

(3) supervise and evaluate the personal care assistant in areas that do not require professional delegation as determined in the assessment;

(4) cooperate with a consulting professional and implement recommendations pertaining to the health and safety of the recipient;

(5) hire a qualified professional to train and supervise the performance of delegated tasks done by the personal care assistant;

(6) monitor services and verify in writing the hours worked by the personal care assistant and the consulting professional;

(7) develop and revise a care plan with assistance from a consulting professional;

(8) verify and document the credentials of the consulting professional; and

(9) enter into a written agreement, as specified in paragraph (f).

(c) The duties of the fiscal agent shall be to:

(1) bill the medical assistance program for personal care assistant and consulting professional services;

(2) request and secure background checks on personal care assistants and consulting professionals according to section 245A.04;

(3) pay the personal care assistant and consulting professional based on actual hours of services provided;

(4) withhold and pay all applicable federal and state taxes;

(5) verify and document hours worked by the personal care assistant and consulting professional;

(6) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

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(7) enroll in the medical assistance program as a fiscal agent; and

(8) enter into a written agreement as specified in paragraph (f) before services are provided.

(d) The fiscal agent:

(1) may not be related to the recipient, consulting professional, or the personal care assistant;

(2) must ensure arm's length transactions with the recipient and personal care assistant; and

(3) shall be considered a joint employer of the personal care assistant and consulting professional to the extent specified in this section.

The fiscal agent or owners of the entity that provides fiscal agent services under this subdivision must pass a criminal background check as required in section 256B.0627, subdivision 1, paragraph (e).

(e) The consulting professional providing assistance to the recipient shall meet the qualifications specified in section 256B.0625, subdivision 19c. The consulting professional shall assist the recipient in developing and revising a plan to meet the recipient's assessed needs, and supervise the performance of delegated tasks, as determined by the public health nurse. In performing this function, the consulting professional must visit the recipient in the recipient's home at least once annually. The consulting professional must report to the local county public health nurse concerns relating to the health and safety of the recipient, and any suspected abuse, neglect, or financial exploitation of the recipient to the appropriate authorities.

(f) The fiscal agent, recipient or responsible party, personal care assistant, and consulting professional shall enter into a written agreement before services are started. The agreement shall include:

(1) the duties of the recipient, professional, personal care assistant, and fiscal agent based on paragraphs (a) to (e);

(2) the salary and benefits for the personal care assistant and those providing professional consultation;

(3) the administrative fee of the fiscal agent and services paid for with that fee, including background check fees;

(4) procedures to respond to billing or payment complaints; and

(5) procedures for hiring and terminating the personal care assistant and those providing professional consultation.

(g) The rates paid for personal care services, professional assistance, and fiscal agency services under this subdivision shall be the same rates paid for personal care services and qualified professional services under subdivision 2 respectively. Except for the administrative fee of the fiscal agent specified in paragraph (f), the remainder of the rates paid to the fiscal agent must be used to pay for the salary and benefits for the personal care assistant or those providing professional consultation.

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(h) As part of the assessment defined in subdivision 1, the following conditions must be met to use or continue use of a fiscal agent:

(1) the recipient must be able to direct the recipient's own care, or the responsible party for the recipient must be readily available to direct the care of the personal care assistant;

(2) the recipient or responsible party must be knowledgeable of the health care needs of the recipient and be able to effectively communicate those needs;

(3) a face-to-face assessment must be conducted by the local county public health nurse at least annually, or when there is a significant change in the recipient's condition or change in the need for personal care assistant services. The county public health nurse shall determine the services that require professional delegation, if any, and the amount and frequency of related supervision;

(4) the recipient cannot select the shared services option as specified in subdivision 8; and

(5) parties must be in compliance with the written agreement specified in paragraph (f).

(i) The commissioner shall deny, revoke, or suspend the authorization to use the fiscal agent option if:

(1) it has been determined by the consulting professional or local county public health nurse that the use of this option jeopardizes the recipient's health and safety;

(2) the parties have failed to comply with the written agreement specified in paragraph (f); or

(3) the use of the option has led to abusive or fraudulent billing for personal care assistant services.

The recipient or responsible party may appeal the commissioner's action according to section 256.045. The denial, revocation, or suspension to use the fiscal agent option shall not affect the recipient's authorized level of personal care assistant services as determined in subdivision 5.

Sec. 57. Minnesota Statutes 1998, section 256B.0627, is amended by adding a subdivision to read:

**Subd. 11. SHARED PRIVATE DUTY NURSING CARE OPTION.** (a) Medical assistance payments for shared private duty nursing services by a private duty nurse shall be limited according to this subdivision. For the purposes of this section, "private duty nursing agency" means an agency licensed under chapter 144A to provide private duty nursing services.

(b) Recipients of private duty nursing services may share nursing staff and the commissioner shall provide a rate methodology for shared private duty nursing. For two persons sharing nursing care, the rate paid to a provider shall not exceed 1.5 times the non-waivered private duty nursing rates paid for serving a single individual who is not ventilator dependent, by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared private duty nursing

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care on the date for which the service is billed. No more than two persons may receive shared private duty nursing services from a private duty nurse in a single setting.

(c) Shared private duty nursing care is the provision of nursing services by a private duty nurse to two recipients at the same time and in the same setting. For the purposes of this subdivision, "setting" means:

- (1) the home or foster care home of one of the individual recipients; or
- (2) a child care program licensed under chapter 245A or operated by a local school district or private school; or
- (3) an adult day care service licensed under chapter 245A.

This subdivision does not apply when a private duty nurse is caring for multiple recipients in more than one setting.

(d) The recipient or the recipient's legal representative, and the recipient's physician, in conjunction with the home health care agency, shall determine:

- (1) whether shared private duty nursing care is an appropriate option based on the individual needs and preferences of the recipient; and
- (2) the amount of shared private duty nursing services authorized as part of the overall authorization of nursing services.

(e) The recipient or the recipient's legal representative, in conjunction with the private duty nursing agency, shall approve the setting, grouping, and arrangement of shared private duty nursing care based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

(f) The following items must be considered by the recipient or the recipient's legal representative and the private duty nursing agency, and documented in the recipient's health service record:

- (1) the additional training needed by the private duty nurse to provide care to several recipients in the same setting and to ensure that the needs of the recipients are met appropriately and safely;
- (2) the setting in which the shared private duty nursing care will be provided;
- (3) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting;
- (4) a contingency plan which accounts for absence of the recipient in a shared private duty nursing setting due to illness or other circumstances;
- (5) staffing backup contingencies in the event of employee illness or absence; and
- (6) arrangements for additional assistance to respond to urgent or emergency care needs of the recipients.

(g) The provider must offer the recipient or responsible party the option of shared or one-on-one private duty nursing services. The recipient or responsible party can withdraw from participating in a shared service arrangement at any time.

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(h) The private duty nursing agency must document the following in the health service record for each individual recipient sharing private duty nursing care:

(1) permission by the recipient or the recipient's legal representative for the maximum number of shared nursing care hours per week chosen by the recipient;

(2) permission by the recipient or the recipient's legal representative for shared private duty nursing services provided outside the recipient's residence;

(3) permission by the recipient or the recipient's legal representative for others to receive shared private duty nursing services in the recipient's residence;

(4) revocation by the recipient or the recipient's legal representative of the shared private duty nursing care authorization, or the shared care to be provided to others in the recipient's residence, or the shared private duty nursing services to be provided outside the recipient's residence; and

(5) daily documentation of the shared private duty nursing services provided by each identified private duty nurse, including:

(i) the names of each recipient receiving shared private duty nursing services together;

(ii) the setting for the shared services, including the starting and ending times that the recipient received shared private duty nursing care; and

(iii) notes by the private duty nurse regarding changes in the recipient's condition, problems that may arise from the sharing of private duty nursing services, and scheduling and care issues.

(i) Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to private duty nursing services apply to shared private duty nursing services.

Nothing in this subdivision shall be construed to reduce the total number of private duty nursing hours authorized for an individual recipient under subdivision 5.

Sec. 58. Minnesota Statutes 1998, section 256B.0627, is amended by adding a subdivision to read:

**Subd. 12. PUBLIC HEALTH NURSE ASSESSMENT RATE.** (a) The reimbursement rates for public health nurse visits that relate to the provision of personal care services under this section and section 256B.0625, subdivision 19a, are:

(i) \$210.50 for a face-to-face assessment visit;

(ii) \$105.25 for each service update; and

(iii) \$105.25 for each request for a temporary service increase.

(b) The rates specified in paragraph (a) must be adjusted to reflect provider rate increases for personal care assistant services that are approved by the legislature for the fiscal year ending June 30, 2000, and subsequent fiscal years. Any requirements applied by the legislature to provider rate increases for personal care assistant services also apply to adjustments under this paragraph.

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Sec. 59. Minnesota Statutes 1998, section 256B.0635, subdivision 3, is amended to read:

Subd. 3. **MEDICAL ASSISTANCE FOR MFIP-S PARTICIPANTS WHO OPT TO DISCONTINUE MONTHLY CASH ASSISTANCE.** ~~Upon federal approval,~~ Medical assistance is available to persons who received MFIP-S in at least three of the six months preceding the month in which the person opted to discontinue receiving MFIP-S cash assistance under section 256J.31, subdivision 12. A person who is eligible for medical assistance under this section may receive medical assistance without reapplication as long as the person meets MFIP-S eligibility requirements, ~~unless the assistance unit does not include a dependent child.~~ Medical assistance may be paid pursuant to subdivisions 1 and 2 for persons who are no longer eligible for MFIP-S due to increased employment or child support. A person may be eligible for MinnesotaCare due to increased employment or child support, and as such must be informed of the option to transition onto MinnesotaCare.

Sec. 60. **[256B.0914] CONFLICTS OF INTEREST RELATED TO MEDICAID EXPENDITURES.**

Subdivision 1. **DEFINITIONS.** (a) “Contract” means a written, fully executed agreement for the purchase of goods and services involving a substantial expenditure of Medicaid funding. A contract under a renewal period shall be considered a separate contract.

(b) “Contractor bid or proposal information” means cost or pricing data, indirect costs, and proprietary information marked as such by the bidder in accordance with applicable law.

(c) “Particular expenditure” means a substantial expenditure as defined below, for a specified term, involving specific parties. The renewal of an existing contract for the substantial expenditure of Medicaid funds is considered a separate, particular expenditure from the original contract.

(d) “Source selection information” means any of the following information prepared for use by the state, county, or independent contractor for the purpose of evaluating a bid or proposal to enter into a Medicaid procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(1) bid prices submitted in response to a solicitation for sealed bids, or lists of the bid prices before bid opening;

(2) proposed costs or prices submitted in response to a solicitation, or lists of those proposed costs or prices;

(3) source selection plans;

(4) technical evaluations plans;

(5) technical evaluations of proposals;

(6) cost or price evaluation of proposals;

(7) competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract;

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(8) rankings of bids, proposals, or competitors;

(9) the reports and evaluations of source selection panels, boards, or advisory councils; and

(10) other information marked as "source selection information" based on a case-by-case determination by the head of the agency, contractor, designees, or the contracting officer that disclosure of the information would jeopardize the integrity or successful completion of the Medicaid procurement to which the information relates.

(e) "Substantial expenditure" and "substantial amounts" mean a purchase of goods or services in excess of \$10,000,000 in Medicaid funding under this chapter or chapter 256L.

Subd. 2. **APPLICABILITY.** (a) Unless provided otherwise, this section applies to:

(1) any state or local officer, employee, or independent contractor who is responsible for the substantial expenditures of medical assistance or MinnesotaCare funding under this chapter or chapter 256L for which federal Medicaid matching funds are available;

(2) any individual who formerly was such an officer, employee, or independent contractor; and

(3) any partner of such a state or local officer, employee, or independent contractor.

(b) This section is intended to meet the requirements of state participation in the Medicaid program at United States Code, title 42, sections 1396a(a)(4) and 1396u-2(d)(3), which require that states have in place restrictions against conflicts of interest in the Medicaid procurement process, that are at least as stringent as those in effect under United States Code, title 41, section 423, and title 18, sections 207 and 208, as they apply to federal employees.

Subd. 3. **DISCLOSURE OF PROCUREMENT INFORMATION.** A person described in subdivision 2 may not knowingly disclose contractor bid or proposal information, or source selection information before the award by the state, county, or independent contractor of a Medicaid procurement contract to which the information relates unless the disclosure is otherwise authorized by law. No person, other than as provided by law, shall knowingly obtain contractor bid or proposal information or source selection information before the award of a Medicaid procurement contract to which the information relates.

Subd. 4. **OFFERS OF EMPLOYMENT.** When a person described in subdivision 2, paragraph (a), is participating personally and substantially in a Medicaid procurement for a contract contacts or is contacted by a person who is a bidder or offeror in the same procurement regarding possible employment outside of the entity by which the person is currently employed, the person must:

(1) report the contact in writing to the person's supervisor and employer's ethics officer; and

(2) either:

(i) reject the possibility of employment with the bidder or offeror; or

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(ii) be disqualified from further participation in the procurement until the bidder or offeror is no longer involved in that procurement, or all discussions with the bidder or offeror regarding possible employment have terminated without an arrangement for employment. A bidder or offeror may not engage in employment discussions with an official who is subject to this subdivision, until the bidder or offeror is no longer involved in that procurement.

**Subd. 5. ACCEPTANCE OF COMPENSATION BY A FORMER OFFICIAL.**

(a) A former official of the state or county, or a former independent contractor, described in subdivision 2 may not accept compensation from a Medicaid contractor of a substantial expenditure as an employee, officer, director, or consultant of the contractor within one year after the former official or independent contractor:

(1) served as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which the contractor was selected for award;

(2) served as the program manager, deputy program manager, or administrative contracting officer for a contract awarded to the contractor; or

(3) personally made decisions for the state, county, or independent contractor to:

(i) award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order to the contractor;

(ii) establish overhead or other rates applicable to a contract or contracts with the contractor;

(iii) approve issuance of a contract payment or payments to the contractor; or

(iv) pay or settle a claim with the contractor.

(b) Paragraph (a) does not prohibit a former official of the state, county, or independent contractor from accepting compensation from any division or affiliate of a contractor not involved in the same or similar products or services as the division or affiliate of the contractor that is responsible for the contract referred to in paragraph (a), clause (1), (2), or (3).

(c) A contractor shall not provide compensation to a former official knowing that the former official is accepting that compensation in violation of this subdivision.

**Subd. 6. PERMANENT RESTRICTIONS ON REPRESENTATION AND COMMUNICATION.** (a) A person described in subdivision 2, after termination of his or her service with state, county, or independent contractor, is permanently restricted from knowingly making, with the intent to influence, any communication to or appearance before an officer or employee of a department, agency, or court of the United States, the state of Minnesota and its counties in connection with a particular expenditure:

(1) in which the United States, the state of Minnesota, or a Minnesota county is a party or has a direct and substantial interest;

(2) in which the person participated personally and substantially as an officer, employee, or independent contractor; and

(3) which involved a specific party or parties at the time of participation.

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(b) For purposes of this subdivision and subdivisions 7 and 9, "participated" means an action taken through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action.

**Subd. 7. TWO-YEAR RESTRICTIONS ON REPRESENTATION AND COMMUNICATION.** No person described in subdivision 2, within two years after termination of service with the state, county, or independent contractor, shall knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of any government department, agency, or court in connection with a particular expenditure:

(1) in which the United States, the state of Minnesota, or a Minnesota county is a party or has a direct and substantial interest;

(2) which the person knows or reasonably should know was actually pending under the official's responsibility as an officer, employee, or independent contractor within one year before the termination of the official's service with the state, county, or independent contractor; and

(3) which involved a specific party or parties at the time the expenditure was pending.

**Subd. 8. EXCEPTIONS TO PERMANENT AND TWO-YEAR RESTRICTIONS ON REPRESENTATION AND COMMUNICATION.** Subdivisions 6 and 7 do not apply to:

(1) communications or representations made in carrying out official duties on behalf of the United States, the state of Minnesota or local government, or as an elected official of the state or local government;

(2) communications made solely for the purpose of furnishing scientific or technological information; or

(3) giving testimony under oath. A person subject to subdivisions 6 and 7 may serve as an expert witness in that matter, without restriction, for the state, county, or independent contractor. Under court order, a person subject to subdivisions 6 and 7 may serve as an expert witness for others. Otherwise, the person may not serve as an expert witness in that matter.

**Subd. 9. WAIVER.** The commissioner of human services, or the governor in the case of the commissioner, may grant a waiver of a restriction in subdivisions 6 and 7 if he or she determines that a waiver is in the public interest and that the services of the officer or employee are critically needed for the benefit of the state or county government.

**Subd. 10. ACTS AFFECTING A PERSONAL FINANCIAL INTEREST.** A person described in subdivision 2, paragraph (a), clause (1), who participates in a particular expenditure in which the person has knowledge or has a financial interest, is subject to the penalties in subdivision 12. For purposes of this subdivision, "financial interest" also includes the financial interest of a spouse, minor child, general partner, organization in which the officer or employee is serving as an officer, director, trustee, general partner, or employee, or any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment.

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**Subd. 11. EXCEPTIONS TO PROHIBITIONS REGARDING FINANCIAL INTEREST.** Subdivision 10 does not apply if:

(1) the person first advises the person's supervisor and the employer's ethics officer regarding the nature and circumstances of the particular expenditure and makes full disclosure of the financial interest and receives in advance a written determination made by the commissioner of human services, or the governor in the case of the commissioner, that the interest is not so substantial as to likely affect the integrity of the services which the government may expect from the officer, employee, or independent contractor;

(2) the financial interest is listed as an exemption at Code of Federal Regulations, title 5, sections 2640.201 to 2640.203, as too remote or inconsequential to affect the integrity of the services of the office, employee, or independent contractor to which the requirement applies.

**Subd. 12. CRIMINAL PENALTIES.** (a) A person who violates subdivisions 3 to 5 for the purpose of either exchanging the information covered by this section for anything of value, or for obtaining or giving anyone a competitive advantage in the award of a Medicaid contract, may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$50,000 for each violation, or the amount of compensation which the person received or offered for the prohibited conduct, whichever is greater, or both.

(b) A person who violates a provision of subdivisions 6 to 11 may be sentenced to imprisonment for not more than one year or payment of a fine of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater, or both. A person who willfully engages in conduct in violation of subdivisions 6 to 11 may be sentenced to imprisonment for not more than five years or to payment of fine of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater, or both.

(c) Nothing in this section precludes prosecution under other laws such as section 609.43.

**Subd. 13. CIVIL PENALTIES AND INJUNCTIVE RELIEF.** (a) The Minnesota attorney general may bring a civil action in Ramsey county district court against a person who violates this section. Upon proof of such conduct by a preponderance of evidence, the person is subject to a civil penalty. An individual who violates this section is subject to a civil penalty of not more than \$50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that violates this section is subject to a civil penalty of not more than \$500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

(b) If the Minnesota attorney general has reason to believe that a person is engaging in conduct in violation of this section, the attorney general may petition the Ramsey county district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such a violation. The filing of a petition under this subdivision does not preclude any other remedy which is available by law.

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Subd. 14. ADMINISTRATIVE ACTIONS. (a) If a state agency, local agency, or independent contractor receives information that a contractor or a person has violated this section, the state agency, local agency, or independent contractor may:

- (1) cancel the procurement if a contract has not already been awarded;
- (2) rescind the contract; or
- (3) initiate suspension or debarment proceedings according to applicable state or federal law.

(b) If the contract is rescinded, the state agency, local agency, or independent contractor is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) This section does not:

- (1) restrict the disclosure of information to or from any person or class of persons authorized to receive that information;
- (2) restrict a contractor from disclosing the contractor's bid or proposal information or the recipient from receiving that information;
- (3) restrict the disclosure or receipt of information relating to a Medicaid procurement after it has been canceled by the state agency, county agency, or independent contractor before the contract award unless the agency or independent contractor plans to resume the procurement; or
- (4) limit the applicability of any requirements, sanctions, contract penalties, and remedies established under any other law or regulation.

(d) No person may file a protest against the award or proposed award of a Medicaid contract alleging a violation of this section unless that person reported the information the person believes constitutes evidence of the offense to the applicable state agency, local agency, or independent contractor responsible for the procurement. The report must be made no later than 14 days after the person first discovered the possible violation.

Sec. 61. Minnesota Statutes 1998, section 256B.0916, is amended to read:

**256B.0916 EXPANSION OF HOME AND COMMUNITY-BASED SERVICES; MANAGEMENT AND ALLOCATION RESPONSIBILITIES.**

(a) The commissioner shall expand availability of home and community-based services for persons with mental retardation and related conditions to the extent allowed by federal law and regulation and shall assist counties in transferring persons from semi-independent living services to home and community-based services. The commissioner may transfer funds from the state semi-independent living services account available under section 252.275, subdivision 8, and state community social services aids available under section 256E.15 to the medical assistance account to pay for the nonfederal share of nonresidential and residential home and community-based services authorized under section 256B.092 for persons transferring from semi-independent living services.

(b) Upon federal approval, county boards are not responsible for funding semi-independent living services as a social service for those persons who have transferred to the home and community-based waiver program as a result of the expansion under this sub-

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division. The county responsibility for those persons transferred shall be assumed under section 256B.092. Notwithstanding the provisions of section 252.275, the commissioner shall continue to allocate funds under that section for semi-independent living services and county boards shall continue to fund services under sections 256B.06 and 256B.14 for those persons who cannot access home and community-based services under section 256B.092.

(c) Eighty percent of the state funds made available to the commissioner under section 252.275 as a result of persons transferring from the semi-independent living services program to the home and community-based services program shall be used to fund additional persons in the semi-independent living services program.

(d) Beginning August 1, 1998, the commissioner shall issue an annual report on the home and community-based waiver for persons with mental retardation or related conditions, that includes a list of the counties in which less than 95 percent of the allocation provided, excluding the county waived services reserve, has been committed for two or more quarters during the previous state fiscal year. For each listed county, the report shall include the amount of funds allocated but not used, the number and ages of individuals screened and waiting for services, the services needed, a description of the technical assistance provided by the commissioner to assist the counties in jointly planning with other counties in order to serve more persons, and additional actions which will be taken to serve those screened and waiting for services.

Subdivision 1. REDUCTION OF WAITING LIST. (a) The legislature recognizes that as of January 1, 1999, 3,300 persons with mental retardation or related conditions have been screened and determined eligible for the home and community-based waiver services program for persons with mental retardation or related conditions. Many wait for several years before receiving service.

(b) The waiting list for this program shall be reduced or eliminated by June 30, 2003. In order to reduce the number of eligible persons waiting for identified services provided through the home and community-based waiver for persons with mental retardation or related conditions, funding shall be increased to add 100 additional eligible persons each year beyond the February 1999 medical assistance forecast.

(c) The commissioner shall allocate resources in such a manner as to use all resources budgeted for the home and community-based waiver for persons with mental retardation or related conditions according to the priorities listed in subdivision 2, paragraph (b), and then to serve other persons on the waiting list. Resources allocated for a fiscal year to serve persons affected by public and private sector ICF/MR closures, but not expected to be expended for that purpose, must be reallocated within that fiscal year to serve other persons on the waiting list, and the number of waiver diversion slots shall be adjusted accordingly.

(d) For fiscal year 2001, at least one-half of the increase in funding over the previous year provided in the February 1999 medical assistance forecast for the home and community-based waiver for persons with mental retardation and related conditions, including changes made by the 1999 legislature, must be used to serve persons who are not affected by public and private sector ICF/MR closures.

Subd. 2. DISTRIBUTION OF FUNDS; PARTNERSHIPS. (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and

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community-based waiver services for persons with mental retardation or related conditions to individual counties or to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:

- (1) requirements in Minnesota Rules, part 9525.1880;
- (2) unstable living situations due to the age or incapacity of the primary caregiver;
- (3) the need for services to avoid out-of-home placement of children; and
- (4) the need to serve persons affected by private sector ICF/MR closures.

The plan must also identify changes made to improve services to eligible persons and to improve program management.

(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.

(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.

(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.

**Subd. 3. FAILURE TO DEVELOP PARTNERSHIPS OR SUBMIT A PLAN.**

(a) By October 1 of each year the commissioner shall notify the county board if any county determined by the commissioner to have insufficient capacity to maximize use of available resources fails to develop a partnership with other counties or fails to submit a plan as required in subdivision 2. The commissioner shall provide needed technical assistance to a county or group of counties that fails to form a partnership or submit a plan. If a county has not joined a county partnership or submitted a plan within 30 days following the notice by the commissioner of its failure, the commissioner shall require and assist that county to develop a plan or contract with another county or group of counties to plan and administer the waiver services program in that county.

(b) Counties may request technical assistance, management information, and administrative support from the commissioner at any time. The commissioner shall respond to county requests within 30 days. Priority shall be given to activities that support the administrative needs of newly formed county partnerships.

**Subd. 4. ALLOWED RESERVE.** Counties or groups of counties participating in partnerships that have submitted a plan under this section may develop an allowed reserve amount to meet crises and other unmet needs of current home and community-based waiver recipients. The amount of the allowed reserve shall be a county specific

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amount based upon documented past experience and projected need for the coming year described in an allowed reserve plan submitted for approval to the commissioner with the allocation request for the fiscal year.

**Subd. 5. PRIORITIES FOR REASSIGNMENT OF RESOURCES AND APPROVAL OF INCREASED CAPACITY.** In order to maximize the number of persons served with waiver funds, the commissioner shall monitor county utilization of allocated resources and, as appropriate, reassign resources not utilized and approve increased capacity within available county allocations. Priority consideration for reassignment of resources and approval of increased capacity shall be given to counties with sufficient capacity and counties that form partnerships. In addition to the priorities listed in Minnesota Rules, part 9525.1880, the commissioner shall also give priority consideration to persons whose living situations are unstable due to the age or incapacity of the primary caregiver and to children to avoid out-of-home placement.

**Subd. 6. WAIVER REQUEST.** (a) The commissioner shall submit to the federal Health Care Financing Administration by September 1, 1999, a request for a waiver to include an option that would allow waiver service recipients to directly receive 95 percent of the funds that would be allocated to individuals based on written county criteria and procedures approved by the commissioner for the purchase of services to meet their long-term care needs. The waiver request must include a provision requiring recipients who receive funds directly to provide to the commissioner annually, a description of the type of services used, the amount paid for the services purchased, and the amount of unspent funds.

(b) The commissioner, in cooperation with county representatives, waiver service providers, recipients, recipients' families, legal guardians, and advocacy groups, shall develop criteria for:

(1) eligibility to receive funding directly;

(2) determination of the amount of funds made available to each eligible person based on need; and

(3) the accountability required of persons directly receiving funds.

(c) If this waiver is approved and implemented, any unspent money from the waiver services allocation, including the five percent not directly allocated to recipients and any unspent portion of the money that is directly allocated, shall be used to meet the needs of other eligible persons waiting for services funded through the waiver.

(d) The commissioner, in consultation with county social services agencies, waiver services providers, recipients, recipients' families, legal guardians, and advocacy groups shall evaluate the effectiveness of this option within two years of its implementation.

**Subd. 7. ANNUAL REPORT BY COMMISSIONER.** Beginning October 1, 1999, and each October 1 thereafter, the commissioner shall issue an annual report on county and state use of available resources for the home and community-based waiver for persons with mental retardation or related conditions. For each county or county partnership, the report shall include:

(1) the amount of funds allocated but not used;

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- (2) the county specific allowed reserve amount approved and used;
- (3) the number, ages and living situations of individuals screened and waiting for services;
- (4) the urgency of need for services to begin within one, two, or more than two years for each individual;
- (5) the services needed;
- (6) the number of additional persons served by approval of increased capacity with existing allocations;
- (7) results of action by the commissioner to streamline administrative requirements and improve county resource management; and
- (8) additional action that would decrease the number of those eligible and waiting for waived services.

The commissioner shall specify intended outcomes for the program and the degree to which these specified outcomes are attained.

(e) **Subd. 8. FINANCIAL INFORMATION BY COUNTY.** The commissioner shall make available to interested parties, upon request, financial information by county including the amount of resources allocated for the home and community-based waiver for persons with mental retardation and related conditions, the resources committed, the number of persons screened and waiting for services, the type of services requested by those waiting, and the amount of allocated resources not committed.

**Subd. 9. LEGAL REPRESENTATIVE PARTICIPATION EXCEPTION.** The commissioner, in cooperation with representatives of counties, service providers, service recipients, family members, legal representatives and advocates, shall develop criteria to allow legal representatives to be reimbursed for providing specific support services to meet the person's needs when a plan which assures health and safety has been agreed upon and carried out by the legal representative, the person, and the county. Legal representatives providing support under consumer-directed community support services pursuant to section 256B.092, subdivision 4, or the consumer support grant program pursuant to section 256B.092, subdivision 7, shall not be considered to have a direct or indirect service provider interest under section 256B.092, subdivision 7, if a health and safety plan which meets the criteria established has been agreed upon and implemented. By October 1, 1999, the commissioner shall submit, for federal approval, amendments to allow legal representatives to provide supports and receive reimbursement under the consumer-directed community support services section of the home and community-based waiver plan.

Sec. 62. Minnesota Statutes 1998, section 256B.0917, subdivision 8, is amended to read:

**Subd. 8. LIVING-AT-HOME/BLOCK NURSE PROGRAM GRANT.** (a) The organization awarded the contract under subdivision 7, shall develop and administer a grant program to establish or expand up to ~~27~~ 33 community-based organizations that will implement living-at-home/block nurse programs that are designed to enable senior citizens to live as independently as possible in their homes and in their communities. At

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least one-half of the programs must be in counties outside the seven-county metropolitan area. Nonprofit organizations and units of local government are eligible to apply for grants to establish the community organizations that will implement living-at-home/block nurse programs. In awarding grants, the organization awarded the contract under subdivision 7 shall give preference to nonprofit organizations and units of local government from communities that:

(1) have high nursing home occupancy rates;

(2) have a shortage of health care professionals;

(3) are located in counties adjacent to, or are located in, counties with existing living-at-home/block nurse programs; and

(4) meet other criteria established by LAH/BN, Inc., in consultation with the commissioner.

(b) Grant applicants must also meet the following criteria:

(1) the local community demonstrates a readiness to establish a community model of care, including the formation of a board of directors, advisory committee, or similar group, of which at least two-thirds is comprised of community citizens interested in community-based care for older persons;

(2) the program has sponsorship by a credible, representative organization within the community;

(3) the program has defined specific geographic boundaries and defined its organization, staffing and coordination/delivery of services;

(4) the program demonstrates a team approach to coordination and care, ensuring that the older adult participants, their families, the formal and informal providers are all part of the effort to plan and provide services; and

(5) the program provides assurances that all community resources and funding will be coordinated and that other funding sources will be maximized, including a person's own resources.

(c) Grant applicants must provide a minimum of five percent of total estimated development costs from local community funding. Grants shall be awarded for four-year periods, and the base amount shall not exceed \$80,000 per applicant for the grant period. The organization under contract may increase the grant amount for applicants from communities that have socioeconomic characteristics that indicate a higher level of need for assistance. Subject to the availability of funding, grants and grant renewals awarded or entered into on or after July 1, 1997, shall be renewed by LAH/BN, Inc. every four years, unless LAH/BN, Inc. determines that the grant recipient has not satisfactorily operated the living-at-home/block nurse program in compliance with the requirements of paragraphs (b) and (d). Grants provided to living-at-home/block nurse programs under this paragraph may be used for both program development and the delivery of services.

(d) Each living-at-home/block nurse program shall be designed by representatives of the communities being served to ensure that the program addresses the specific needs of the community residents. The programs must be designed to:

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(1) incorporate the basic community, organizational, and service delivery principles of the living-at-home/block nurse program model;

(2) provide senior citizens with registered nurse directed assessment, provision and coordination of health and personal care services on a sliding fee basis as an alternative to expensive nursing home care;

(3) provide information, support services, homemaking services, counseling, and training for the client and family caregivers;

(4) encourage the development and use of respite care, caregiver support, and in-home support programs, such as adult foster care and in-home adult day care;

(5) encourage neighborhood residents and local organizations to collaborate in meeting the needs of senior citizens in their communities;

(6) recruit, train, and direct the use of volunteers to provide informal services and other appropriate support to senior citizens and their caregivers; and

(7) provide coordination and management of formal and informal services to senior citizens and their families using less expensive alternatives.

Sec. 63. Minnesota Statutes 1998, section 256B.0951, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** The region 10 quality assurance commission is established. The commission consists of at least ~~13~~ 14 but not more than ~~20~~ 21 members as follows: at least three but not more than five members representing advocacy organizations; at least three but not more than five members representing consumers, families, and their legal representatives; at least three but not more than five members representing service providers; and at least three but not more than five members representing counties; and the commissioner of human services or the commissioner's designee. Initial membership of the commission shall be recruited and approved by the region 10 stakeholders group. Prior to approving the commission's membership, the stakeholders group shall provide to the commissioner a list of the membership in the stakeholders group, as of February 1, 1997, a brief summary of meetings held by the group since July 1, 1996, and copies of any materials prepared by the group for public distribution. The first commission shall establish membership guidelines for the transition and recruitment of membership for the commission's ongoing existence. Members of the commission who do not receive a salary or wages from an employer for time spent on commission duties may receive a per diem payment when performing commission duties and functions. All members may be reimbursed for expenses related to commission activities. Notwithstanding the provisions of section 15.059, subdivision 5, the commission expires on June 30, 2001.

Sec. 64. Minnesota Statutes 1998, section 256B.0951, subdivision 3, is amended to read:

Subd. 3. **COMMISSION DUTIES.** (a) By October 1, 1997, the commission, in cooperation with the commissioners of human services and health, shall do the following: (1) approve an alternative quality assurance licensing system based on the evaluation of outcomes; (2) approve measurable outcomes in the areas of health and safety, consumer evaluation, education and training, providers, and systems that shall be evaluated dur-

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ing the alternative licensing process; and (3) establish variable licensure periods not to exceed three years based on outcomes achieved. For purposes of this subdivision, "outcome" means the behavior, action, or status of a person that can be observed or measured and can be reliably and validly determined.

(b) By January 15, 1998, the commission shall approve, in cooperation with the commissioner of human services, a training program for members of the quality assurance teams established under section 256B.0952, subdivision 4.

(c) The commission and the commissioner shall establish an ongoing review process for the alternative quality assurance licensing system. The review shall take into account the comprehensive nature of the alternative system, which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to clients, as compared to the current licensing system.

(d) The commission shall contract with an independent entity to conduct a financial review of the alternative quality assurance pilot project. The review shall take into account the comprehensive nature of the alternative system, which is designed to evaluate the broad spectrum of licensed and unlicensed entities that provide services to clients, as compared to the current licensing system. The review shall include an evaluation of possible budgetary savings within the department of human services as a result of implementation of the alternative quality assurance pilot project. If a federal waiver is approved under subdivision 7, the financial review shall also evaluate possible savings within the department of health. This review must be completed by December 15, 2000.

(e) The commission shall submit a report to the legislature by January 15, 2001, on the results of the review process for the alternative quality assurance pilot project, a summary of the results of the independent financial review, and a recommendation on whether the pilot project should be extended beyond June 30, 2001.

Sec. 65. Minnesota Statutes 1998, section 256B.0955, is amended to read:

**256B.0955 DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.**

(a) Effective July 1, 1998, the commissioner of human services shall delegate authority to perform licensing functions and activities, in accordance with section 245A.16, to counties participating in the alternative licensing system. The commissioner shall not license or reimburse a facility, program, or service for persons with developmental disabilities in a county that participates in the alternative licensing system if the commissioner has received from the appropriate county notification that the facility, program, or service has been reviewed by a quality assurance team and has failed to qualify for licensure.

(b) The commissioner may conduct random licensing inspections based on outcomes adopted under section 256B.0951 at facilities, programs, and services governed by the alternative licensing system. The role of such random inspections shall be to verify that the alternative licensing system protects the safety and well-being of consumers and maintains the availability of high-quality services for persons with developmental disabilities.

(c) The commissioner shall provide technical assistance and support or training to the alternative licensing system pilot project.

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(d) ~~The commissioner and the commission shall establish an ongoing evaluation process for the alternative licensing system.~~

(e) ~~The commissioner shall contract with an independent entity to conduct a financial review of the alternative licensing system, including an evaluation of possible budgetary savings within the department of human services and the department of health as a result of implementation of the alternative quality assurance licensing system. This review must be completed by December 15, 2000.~~

(f) ~~The commissioner and the commission shall submit a report to the legislature by January 15, 2001, on the results of the evaluation process of the alternative licensing system, a summary of the results of the independent financial review, and a recommendation on whether the pilot project should be extended beyond June 30, 2001.~~

Sec. 66. Minnesota Statutes 1998, section 256B.37, subdivision 2, is amended to read:

Subd. 2. **CIVIL ACTION FOR RECOVERY.** ~~To recover under this section, the attorney general, or the appropriate county attorney, acting upon direction from the attorney general, may institute or join a civil action to enforce the subrogation rights of the commissioner established under this section.~~

Any prepaid health plan providing services under sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; or the county-based purchasing entity providing services under section 256B.692 may retain legal representation to enforce the subrogation rights created under this section or, if no action has been brought, may initiate and prosecute an independent action on their behalf against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

Sec. 67. Minnesota Statutes 1998, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED PRACTICES.** A nursing facility 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 facility 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 available to all residents in all areas of the nursing facility 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 facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility. 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

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the payment rate for the previous reporting year. A nursing facility 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 resident or the resident's legal representative has a cause of action for civil damages against a nursing facility 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 facility 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 facility, 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 facility, or promise to leave all or part of the applicant's estate to the facility.

(c) Requiring any resident of the nursing facility to utilize a vendor of health care services chosen by the nursing facility. A nursing facility may require a resident to use pharmacies that utilize unit dose packing systems approved by the Minnesota board of pharmacy, and may require a resident to use pharmacies that are able to meet the federal regulations for safe and timely administration of medications such as systems with specific number of doses, prompt delivery of medications, or access to medications on a 24-hour basis. Notwithstanding the provisions of this paragraph, nursing facilities shall not restrict a resident's choice of pharmacy because the pharmacy utilizes a specific system of unit dose drug packing.

(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 facility, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing facility 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 facility of financial information of any applicant pursuant to a preadmission screening program established by law shall not raise an inference that the nursing facility 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

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amount based on utilization or service levels or any portion of the vendor's fee to the nursing facility except as payment for renting or leasing space or equipment or purchasing support services from the nursing facility as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing facilities 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 facility with more than 325 beds including at least 150 licensed nursing facility 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 facility 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 facility 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 facility to permit the applicant to withdraw from the facility 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 facility 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 facility to correct the violation. The nursing facility 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 facility 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 facility 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.

In the event that the commissioner determines that a nursing facility is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing facility to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing facility.

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.

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Sec. 68. Minnesota Statutes 1998, section 256B.37, subdivision 2, is amended to read:

Subd. 2. **CIVIL ACTION FOR RECOVERY.** To recover under this section, the attorney general, ~~or the appropriate county attorney, acting upon direction from the attorney general,~~ may institute or join a civil action to enforce the subrogation rights of the commissioner established under this section.

Any prepaid health plan providing services under sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; or the county-based purchasing entity providing services under section 256B.692 may retain legal representation to enforce the subrogation rights created under this section or, if no action has been brought, may initiate and prosecute an independent action on their behalf against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

Sec. 69. Minnesota Statutes 1998, section 256B.501, subdivision 8a, is amended to read:

Subd. 8a. **PAYMENT FOR PERSONS WITH SPECIAL NEEDS FOR CRISIS INTERVENTION SERVICES.** ~~State-operated, Community-based crisis services provided in accordance with section 252.50, subdivision 7, to authorized by the commissioner or the commissioner's designee for a resident of an intermediate care facility for persons with mental retardation (ICF/MR) reimbursed under this section shall be paid by medical assistance in accordance with the paragraphs (a) to (h)~~ (g).

(a) "Crisis services" means the specialized services listed in clauses (1) to (3) provided to prevent the recipient from requiring placement in a more restrictive institutional setting such as an inpatient hospital or regional treatment center and to maintain the recipient in the present community setting.

(1) The crisis services provider shall assess the recipient's behavior and environment to identify factors contributing to the crisis.

(2) The crisis services provider shall develop a recipient-specific intervention plan in coordination with the service planning team and provide recommendations for revisions to the individual service plan if necessary to prevent or minimize the likelihood of future crisis situations. The intervention plan shall include a transition plan to aid the recipient in returning to the community-based ICF/MR if the recipient is receiving residential crisis services.

(3) The crisis services provider shall consult with and provide training and ongoing technical assistance to the recipient's service providers to aid in the implementation of the intervention plan and revisions to the individual service plan.

(b) "Residential crisis services" means crisis services that are provided to a recipient ~~admitted to the crisis services foster care setting an alternative, state-licensed site approved by the commissioner, because the ICF/MR receiving reimbursement under this section is not able, as determined by the commissioner, to provide the intervention and protection of the recipient and others living with the recipient that is necessary to prevent the recipient from requiring placement in a more restrictive institutional setting.~~

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(c) Residential crisis services providers must be licensed by maintain a license from the commissioner under section 245A.03 to provide foster care, must exclusively provide for the residence when providing crisis services for short-term crisis intervention, and must not be located in a private residence.

(d) Payment rates are determined annually for each crisis services provider based on cost of care for each provider as defined in section 246.50. Interim payment rates are calculated on a per diem basis by dividing the projected cost of providing care by the projected number of contact days for the fiscal year, as estimated by the commissioner. Final payment rates are calculated by dividing the actual cost of providing care by the actual number of contact days in the applicable fiscal year shall be established consistent with county negotiated crisis intervention services.

(e) Payment shall be made for each contact day. "Contact day" means any day in which the crisis services provider has face-to-face contact with the recipient or any of the recipient's medical assistance service providers for the purpose of providing crisis services as defined in paragraph (c).

(f) Payment for residential crisis services is limited to 21 days, unless an additional period is authorized by the commissioner or part of an approved regional plan. The additional period may not exceed 21 days.

(g) Payment for crisis services shall be made only for services provided while the ICF/MR receiving reimbursement under this section:

(1) has a shared services agreement with the crisis services provider in effect in accordance with under section 246.57; and

(2) has reassigned payment for the provision of the crisis services under this subdivision to the commissioner in accordance with Code of Federal Regulations, title 42, section 447.10(e); and

(3) has executed a cooperative agreement with the crisis services provider to implement the intervention plan and revisions to the individual service plan as necessary to prevent or minimize the likelihood of future crisis situations, to maintain the recipient in the present community setting, and to prevent the recipient from requiring a more restrictive institutional setting.

(h) Payment to the ICF/MR receiving reimbursement under this section shall be made for up to 18 therapeutic leave days during which the recipient is receiving residential crisis services, if the ICF/MR is otherwise eligible to receive payment for a therapeutic leave day under Minnesota Rules, part 9505.0415. Payment under this paragraph shall be terminated if the commissioner determines that the ICF/MR is not meeting the terms of the cooperative shared service agreement under paragraph (g) (f) or that the recipient will not return to the ICF/MR.

Sec. 70. Minnesota Statutes 1998, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. **COUNTY AUTHORITY.** (a) The commissioner, when implementing the general assistance medical care, or medical assistance prepayment program within a county, must include the county board in the process of development, approval, and issuance of the request for proposals to provide services to eligible individuals within the

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proposed county. County boards must be given reasonable opportunity to make recommendations regarding the development, issuance, review of responses, and changes needed in the request for proposals. The commissioner must provide county boards the opportunity to review each proposal based on the identification of community needs under chapters 145A and 256E and county advocacy activities. If a county board finds that a proposal does not address certain community needs, the county board and commissioner shall continue efforts for improving the proposal and network prior to the approval of the contract. The county board shall make recommendations regarding the approval of local networks and their operations to ensure adequate availability and access to covered services. The provider or health plan must respond directly to county advocates and the state prepaid medical assistance ombudsperson regarding service delivery and must be accountable to the state regarding contracts with medical assistance and general assistance medical care funds. The county board may recommend a maximum number of participating health plans after considering the size of the enrolling population; ensuring adequate access and capacity; considering the client and county administrative complexity; and considering the need to promote the viability of locally developed health plans. The county board or a single entity representing a group of county boards and the commissioner shall mutually select health plans for participation at the time of initial implementation of the prepaid medical assistance program in that county or group of counties and at the time of contract renewal. The commissioner shall also seek input for contract requirements from the county or single entity representing a group of county boards at each contract renewal and incorporate those recommendations into the contract negotiation process. The commissioner, in conjunction with the county board, shall actively seek to develop a mutually agreeable timetable prior to the development of the request for proposal, but counties must agree to initial enrollment beginning on or before January 1, 1999, in either the prepaid medical assistance and general assistance medical care programs or county-based purchasing under section 256B.692. At least 90 days before enrollment in the medical assistance and general assistance medical care prepaid programs begins in a county in which the prepaid programs have not been established, the commissioner shall provide a report to the chairs of senate and house committees having jurisdiction over state health care programs which verifies that the commissioner complied with the requirements for county involvement that are specified in this subdivision.

(b) The commissioner shall seek a federal waiver to allow a fee-for-service plan option to MinnesotaCare enrollees. The commissioner shall develop an increase of the premium fees required under section 256L.06 up to 20 percent of the premium fees for the enrollees who elect the fee-for-service option. Prior to implementation, the commissioner shall submit this fee schedule to the chair and ranking minority member of the senate health care committee, the senate health care and family services funding division, the house of representatives health and human services committee, and the house of representatives health and human services finance division.

(c) At the option of the county board, the board may develop contract requirements related to the achievement of local public health goals to meet the health needs of medical assistance and general assistance medical care enrollees. These requirements must be reasonably related to the performance of health plan functions and within the scope of the medical assistance and general assistance medical care benefit sets. If the county board and the commissioner mutually agree to such requirements, the department shall include such requirements in all health plan contracts governing the prepaid medical assistance

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and general assistance medical care programs in that county at initial implementation of the program in that county and at the time of contract renewal. The county board may participate in the enforcement of the contract provisions related to local public health goals.

(d) For counties in which prepaid medical assistance and general assistance medical care programs have not been established, the commissioner shall not implement those programs if a county board submits acceptable and timely preliminary and final proposals under section 256B.692, until county-based purchasing is no longer operational in that county. For counties in which prepaid medical assistance and general assistance medical care programs are in existence on or after September 1, 1997, the commissioner must terminate contracts with health plans according to section 256B.692, subdivision 5, if the county board submits and the commissioner accepts preliminary and final proposals according to that subdivision. The commissioner is not required to terminate contracts that begin on or after September 1, 1997, according to section 256B.692 until two years have elapsed from the date of initial enrollment.

(e) In the event that a county board or a single entity representing a group of county boards and the commissioner cannot reach agreement regarding: (i) the selection of participating health plans in that county; (ii) contract requirements; or (iii) implementation and enforcement of county requirements including provisions regarding local public health goals, the commissioner shall resolve all disputes after taking into account the recommendations of a three-person mediation panel. The panel shall be composed of one designee of the president of the association of Minnesota counties, one designee of the commissioner of human services, and one designee of the commissioner of health.

(f) If a county which elects to implement county-based purchasing ceases to implement county-based purchasing, it is prohibited from assuming the responsibility of county-based purchasing for a period of five years from the date it discontinues purchasing.

(g) Notwithstanding the requirement in this subdivision that a county must agree to initial enrollment on or before January 1, 1999, the commissioner shall grant a delay of ~~up to nine months~~ in the implementation of the county-based purchasing authorized in section 256B.692 until federal waiver authority and approval has been granted, if the county or group of counties has submitted a preliminary proposal for county-based purchasing by September 1, 1997, has not already implemented the prepaid medical assistance program before January 1, 1998, and has submitted a written request for the delay to the commissioner by July 1, 1998. In order for the delay to be continued, the county or group of counties must also submit to the commissioner the following information by December 1, 1998. The information must:

(1) identify the proposed date of implementation, ~~not later than October 1, 1999~~ as determined under section 256B.692, subdivision 5;

(2) include copies of the county board resolutions which demonstrate the continued commitment to the implementation of county-based purchasing by the proposed date. County board authorization may remain contingent on the submission of a final proposal which meets the requirements of section 256B.692, subdivision 5, paragraph (b);

(3) demonstrate actions taken for the establishment of a governance structure between the participating counties and describe how the fiduciary responsibilities of

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county-based purchasing will be allocated between the counties, if more than one county is involved in the proposal;

(4) describe how the risk of a deficit will be managed in the event expenditures are greater than total capitation payments. This description must identify how any of the following strategies will be used:

- (i) risk contracts with licensed health plans;
- (ii) risk arrangements with providers who are not licensed health plans;
- (iii) risk arrangements with other licensed insurance entities; and
- (iv) funding from other county resources;

(5) include, if county-based purchasing will not contract with licensed health plans or provider networks, letters of interest from local providers in at least the categories of hospital, physician, mental health, and pharmacy which express interest in contracting for services. These letters must recognize any risk transfer identified in clause (4), item (ii); and

(6) describe the options being considered to obtain the administrative services required in section 256B.692, subdivision 3, clauses (3) and (5).

(h) For counties which receive a delay under this subdivision, the final proposals required under section 256B.692, subdivision 5, paragraph (b), must be submitted at least six months prior to the requested implementation date. Authority to implement county-based purchasing remains contingent on approval of the final proposal as required under section 256B.692.

(i) If the commissioner is unable to provide county-specific, individual-level fee-for-service claims to counties by June 4, 1998, the commissioner shall grant a delay under paragraph (g) of up to 12 months in the implementation of county-based purchasing, and shall require implementation not later than January 1, 2000. In order to receive an extension of the proposed date of implementation under this paragraph, a county or group of counties must submit a written request for the extension to the commissioner by August 1, 1998, must submit the information required under paragraph (g) by December 1, 1998, and must submit a final proposal as provided under paragraph (h).

(j) Notwithstanding other requirements of this subdivision, the commissioner shall not require the implementation of the county-based purchasing authorized in section 256B.692 until six months after federal waiver approval has been obtained for county-based purchasing, if the county or counties have submitted the final plan as required in section 256B.692, subdivision 5. The commissioner shall allow the county or counties which submitted information under section 256B.692, subdivision 5, to submit supplemental or additional information which was not possible to submit by April 1, 1999. A county or counties shall continue to submit the required information and substantive detail necessary to obtain a prompt response and waiver approval. If amendments to the final plan are necessary due to the terms and conditions of the waiver approval, the commissioner shall allow the county or group of counties 60 days to make the necessary amendments to the final plan and shall not require implementation of the county-based purchasing until six months after the revised final plan has been submitted.

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Sec. 71. Minnesota Statutes 1998, section 256B.69, is amended by adding a subdivision to read:

**Subd. 3b. PROVISION OF DATA TO COUNTY BOARDS.** The commissioner, in consultation with representatives of county boards of commissioners shall identify program information and data necessary on an ongoing basis for county boards to: (1) make recommendations to the commissioner related to state purchasing under the prepaid medical assistance program; and (2) effectively administer county-based purchasing. This information and data must include, but is not limited to, county-specific, individual-level fee-for-service and prepaid health plan claims information.

Sec. 72. Minnesota Statutes 1998, section 256B.69, is amended by adding a subdivision to read:

**Subd. 4b. INDIVIDUAL EDUCATION PLAN AND INDIVIDUALIZED FAMILY SERVICE PLAN SERVICES.** The commissioner shall amend the federal waiver allowing the state to separate out individual education plan and individualized family service plan services for children enrolled in the prepaid medical assistance program and the MinnesotaCare program. Effective July 1, 1999, or upon federal approval, medical assistance coverage of eligible individual education plan and individualized family service plan services shall not be included in the capitated services for children enrolled in health plans through the prepaid medical assistance program and the MinnesotaCare program. Upon federal approval, local school districts shall bill the commissioner for these services, and claims shall be paid on a fee-for-service basis.

Sec. 73. Minnesota Statutes 1998, section 256B.69, subdivision 5a, is amended to read:

**Subd. 5a. MANAGED CARE CONTRACTS.** Managed care contracts under this section, sections 256.9363, and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995.

A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

Sec. 74. Minnesota Statutes 1998, section 256B.69, subdivision 5b, is amended to read:

**Subd. 5b. PROSPECTIVE REIMBURSEMENT RATES.** (a) For prepaid medical assistance and general assistance medical care program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, 1998, capitation rates for nonmetropolitan counties shall on a weighted average be no less than 88 percent of the capitation rates for metropolitan counties, excluding Hennepin county. The commissioner shall make a pro rata adjustment in capitation rates paid to counties other than nonmetropolitan counties in order to make this provision budget neutral.

(b) For prepaid medical assistance program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, 2001, capitation rates for nonme-

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metropolitan counties shall, on a weighted average, be no less than 89 percent of the capita-  
tion rates for metropolitan counties, excluding Hennepin county.

Sec. 75. Minnesota Statutes 1998, section 256B.69, is amended by adding a subdivision to read:

Subd. 5e. MEDICAL EDUCATION AND RESEARCH PAYMENTS. For the  
calendar years 1999, 2000, and 2001, a hospital that participates in funding the federal  
share of the medical education and research trust fund payment under Laws 1998, chap-  
ter 407, article 1, section 3, shall not be held liable for any amounts attributable to this  
payment above the charge limit of section 256.969, subdivision 3a. The commissioner of  
human services shall assume liability for any corresponding federal share of the pay-  
ments above the charge limit.

Sec. 76. Minnesota Statutes 1998, section 256B.692, subdivision 2, is amended to read:

Subd. 2. DUTIES OF THE COMMISSIONER OF HEALTH. (a) Notwithstand-  
ing chapters 62D and 62N, a county that elects to purchase medical assistance and general  
assistance medical care in return for a fixed sum without regard to the frequency or  
extent of services furnished to any particular enrollee is not required to obtain a certificate  
of authority under chapter 62D or 62N. The county board of commissioners is the gov-  
erning body of a county-based purchasing program. In a multicounty arrangement, the  
governing body is a joint powers board established under section 471.59.

(b) A county that elects to purchase medical assistance and general assistance medi-  
cal care services under this section must satisfy the commissioner of health that the re-  
quirements for assurance of consumer protection, provider protection, and fiscal solven-  
cy of chapter 62D, applicable to health maintenance organizations, or chapter 62N, applic-  
able to community integrated service networks, will be met.

(c) A county must also assure the commissioner of health that the requirements of  
sections 62J.041; 62J.48; 62J.71 to 62J.73; 62M.01 to 62M.16; all applicable provisions of  
chapter 62Q, including sections 62Q.07; 62Q.075; 62Q.105; 62Q.1055; 62Q.106;  
62Q.11; 62Q.12; 62Q.135; 62Q.14; 62Q.145; 62Q.19; 62Q.23, paragraph (c); 62Q.30;  
62Q.43; 62Q.47; 62Q.50; 62Q.52 to 62Q.56; 62Q.58; 62Q.64; and 72A.201 will be met.

(d) All enforcement and rulemaking powers available under chapters 62D, 62J,  
62M, 62N, and 62Q are hereby granted to the commissioner of health with respect to  
counties that purchase medical assistance and general assistance medical care services  
under this section.

(e) The commissioner, in consultation with county government, shall develop ad-  
ministrative and financial reporting requirements for county-based purchasing pro-  
grams relating to sections 62D.041, 62D.042, 62D.045, 62D.08, 62N.28, 62N.29, and  
62N.31, and other sections as necessary, that are specific to county administrative, ac-  
counting, and reporting systems and consistent with other statutory requirements of  
counties.

Sec. 77. Minnesota Statutes 1998, section 256B.75, is amended to read:

**256B.75 HOSPITAL OUTPATIENT REIMBURSEMENT.**

(a) For outpatient hospital facility fee payments for services rendered on or after Oc-  
tober 1, 1992, the commissioner of human services shall pay the lower of (1) submitted

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charge, or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for which there is a federal maximum allowable payment. Effective for services rendered on or after January 1, 2000, payment rates for nonsurgical outpatient hospital facility fees and emergency room facility fees shall be increased by eight percent over the rates in effect on December 31, 1999, except for those services for which there is a federal maximum allowable payment. Services for which there is a federal maximum allowable payment shall be paid at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare upper limit. If it is determined that a provision of this section 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 upper limitations.

(b) Notwithstanding paragraph (a), payment for outpatient, emergency, and ambulatory surgery hospital facility fee services for critical access hospitals designated under section 144.1483, clause (11), shall be paid on a cost-based payment system that is based on the cost-finding methods and allowable costs of the Medicare program.

Sec. 78. Minnesota Statutes 1998, section 256B.76, is amended to read:

**256B.76 PHYSICIAN AND DENTAL REIMBURSEMENT.**

~~(a) The physician reimbursement increase provided in section 256B.74, subdivision 2, shall not be implemented.~~ Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Health Care Finance Administration's common procedural coding system (HCPCS) codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," Caesarean delivery and pharmacologic management provided to psychiatric patients, and HCPCS level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992; and

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992;

(4) effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services; and

(5) the increases in clause (4) shall be implemented January 1, 2000, for managed care.

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(b) ~~The dental reimbursement increase provided in section 256B.74, subdivision 5, shall not be implemented.~~ Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992; and

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases;

(3) effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999;

(4) the commissioner shall award grants to community clinics or other nonprofit community organizations, political subdivisions, professional associations, or other organizations that demonstrate the ability to provide dental services effectively to public program recipients. Grants may be used to fund the costs related to coordinating access for recipients, developing and implementing patient care criteria, upgrading or establishing new facilities, acquiring furnishings or equipment, recruiting new providers, or other development costs that will improve access to dental care in a region. In awarding grants, the commissioner shall give priority to applicants that plan to serve areas of the state in which the number of dental providers is not currently sufficient to meet the needs of recipients of public programs or uninsured individuals. The commissioner shall consider the following in awarding the grants: (i) potential to successfully increase access to an underserved population; (ii) the ability to raise matching funds; (iii) the long-term viability of the project to improve access beyond the period of initial funding; (iv) the efficiency in the use of the funding; and (v) the experience of the proposers in providing services to the target population.

The commissioner shall monitor the grants and may terminate a grant if the grantee does not increase dental access for public program recipients. The commissioner shall consider grants for the following:

(i) implementation of new programs or continued expansion of current access programs that have demonstrated success in providing dental services in underserved areas;

(ii) a pilot program for utilizing hygienists outside of a traditional dental office to provide dental hygiene services; and

(iii) a program that organizes a network of volunteer dentists, establishes a system to refer eligible individuals to volunteer dentists, and through that network provides donated dental care services to public program recipients or uninsured individuals.

(5) beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (i) submitted charge, or (ii) 80 percent of median 1997 charges; and

(6) the increases listed in clauses (3) and (5) shall be implemented January 1, 2000, for managed care.

(c) An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is li-

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censed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

**Sec. 79. [256B.765] PROVIDER RATE INCREASES.**

(a) Effective July 1, 2001, within the limits of appropriations specifically for this purpose, the commissioner shall provide an annual inflation adjustment for the providers listed in paragraph (c). The index for the inflation adjustment must be based on the change in the Employment Cost Index for Private Industry Workers - Total Compensation forecasted by Data Resources, Inc., as forecasted in the fourth quarter of the calendar year preceding the fiscal year. The commissioner shall increase reimbursement or allocation rates by the percentage of this adjustment, and county boards shall adjust provider contracts as needed.

(b) The commissioner of finance shall include an annual inflationary adjustment in reimbursement rates for the providers listed in paragraph (c) using the inflation factor specified in paragraph (a) as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

(c) The annual adjustment under paragraph (a) shall be provided for home and community-based waiver services for persons with mental retardation or related conditions under section 256B.501; home and community-based waiver services for the elderly under section 256B.0915; waived services under community alternatives for disabled individuals under section 256B.49; community alternative care waived services under section 256B.49; traumatic brain injury waived services under section 256B.49; nursing services and home health services under section 256B.0625, subdivision 6a; personal care services and nursing supervision of personal care services under section 256B.0625, subdivision 19a; private duty nursing services under section 256B.0625, subdivision 7; day training and habilitation services for adults with mental retardation or related conditions under sections 252.40 to 252.46; physical therapy services under sections 256B.0625, subdivision 8, and 256D.03, subdivision 4; occupational therapy services under sections 256B.0625, subdivision 8a, and 256D.03, subdivision 4; speech-language therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0390; respiratory therapy services under section 256D.03, subdivision 4, and Minnesota Rules, part 9505.0295; alternative care services under section 256B.0913; adult residential program grants under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and family community support grants under Minnesota Rules, parts 9535.1700 to 9535.1760; semi-independent living services under section 252.275 including SILS funding under county social services grants formerly funded under chapter 256I; and community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication.

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Sec. 80. Minnesota Statutes 1998, section 256B.77, subdivision 7a, is amended to read:

Subd. 7a. **ELIGIBLE INDIVIDUALS.** (a) Persons are eligible for the demonstration project as provided in this subdivision.

(b) "Eligible individuals" means those persons living in the demonstration site who are eligible for medical assistance and are disabled based on a disability determination under section 256B.055, subdivisions 7 and 12, or who are eligible for medical assistance and have been diagnosed as having:

(1) serious and persistent mental illness as defined in section 245.462, subdivision 20;

(2) severe emotional disturbance as defined in section ~~245.487~~ 245.4871, subdivision 6; or

(3) mental retardation, or being a mentally retarded person as defined in section 252A.02, or a related condition as defined in section 252.27, subdivision 1a.

Other individuals may be included at the option of the county authority based on agreement with the commissioner.

~~(c) Eligible individuals residing on a federally recognized Indian reservation may be excluded from participation in the demonstration project at the discretion of the tribal government based on agreement with the commissioner, in consultation with the county authority.~~

(4) Eligible individuals include individuals in excluded time status, as defined in chapter 256G. Enrollees in excluded time at the time of enrollment shall remain in excluded time status as long as they live in the demonstration site and shall be eligible for 90 days after placement outside the demonstration site if they move to excluded time status in a county within Minnesota other than their county of financial responsibility.

~~(e) (d) A person who is a sexual psychopathic personality as defined in section 253B.02, subdivision 18a, or a sexually dangerous person as defined in section 253B.02, subdivision 18b, is excluded from enrollment in the demonstration project.~~

Sec. 81. Minnesota Statutes 1998, section 256B.77, is amended by adding a subdivision to read:

Subd. 7b. **AMERICAN INDIAN RECIPIENTS.** (a) Beginning on or after July 1, 1999, for American Indian recipients of medical assistance who are required to enroll with a county administrative entity or service delivery organization under subdivision 7, medical assistance shall cover health care services provided at American Indian health services facilities and facilities operated by a tribe or tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title III of the Indian Self-Determination and Education Assistance Act, Public Law Number 93-638, if those services would otherwise be covered under section 256B.0625. Payments for services provided under this subdivision shall be made on a fee-for-service basis, and may, at the option of the tribe or tribal organization, be made according to rates authorized under sections 256.969, subdivision 16, and 256B.0625, subdivision 34. Implementation of this purchasing model is contingent on federal approval.

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(b) The commissioner of human services, in consultation with tribal governments, shall develop a plan for tribes to assist in the enrollment process for American Indian recipients enrolled in the demonstration project for people with disabilities under this section. This plan also shall address how tribes will be included in ensuring the coordination of care for American Indian recipients between Indian health service or tribal providers and other providers.

(c) For purposes of this subdivision, "American Indian" has the meaning given to persons to whom services will be provided for in Code of Federal Regulations, title 42, section 36.12.

Sec. 82. Minnesota Statutes 1998, section 256B.77, subdivision 8, is amended to read:

**Subd. 8. RESPONSIBILITIES OF THE COUNTY ADMINISTRATIVE ENTITY.** (a) The county administrative entity shall meet the requirements of this subdivision, unless the county authority or the commissioner, with written approval of the county authority, enters into a service delivery contract with a service delivery organization for any or all of the requirements contained in this subdivision.

(b) The county administrative entity shall enroll eligible individuals regardless of health or disability status.

(c) The county administrative entity shall provide all enrollees timely access to the medical assistance benefit set. Alternative services and additional services are available to enrollees at the option of the county administrative entity and may be provided if specified in the personal support plan. County authorities are not required to seek prior authorization from the department as required by the laws and rules governing medical assistance.

(d) The county administrative entity shall cover necessary services as a result of an emergency without prior authorization, even if the services were rendered outside of the provider network.

(e) The county administrative entity shall authorize necessary and appropriate services when needed and requested by the enrollee or the enrollee's legal representative in response to an urgent situation. Enrollees shall have 24-hour access to urgent care services coordinated by experienced disability providers who have information about enrollees' needs and conditions.

(f) The county administrative entity shall accept the capitation payment from the commissioner in return for the provision of services for enrollees.

(g) The county administrative entity shall maintain internal grievance and complaint procedures, including an expedited informal complaint process in which the county administrative entity must respond to verbal complaints within ten calendar days, and a formal grievance process, in which the county administrative entity must respond to written complaints within 30 calendar days.

(h) The county administrative entity shall provide a certificate of coverage, upon enrollment, to each enrollee and the enrollee's legal representative, if any, which describes the benefits covered by the county administrative entity, any limitations on those benefits, and information about providers and the service delivery network. This in-

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formation must also be made available to prospective enrollees. This certificate must be approved by the commissioner.

(i) The county administrative entity shall present evidence of an expedited process to approve exceptions to benefits, provider network restrictions, and other plan limitations under appropriate circumstances.

(j) The county administrative entity shall provide enrollees or their legal representatives with written notice of their appeal rights under subdivision 16, and of ombudsman and advocacy programs under subdivisions 13 and 14, at the following times: upon enrollment, upon submission of a written complaint, when a service is reduced, denied, or terminated, or when renewal of authorization for ongoing service is refused.

(k) The county administrative entity shall determine immediate needs, including services, support, and assessments, within 30 calendar days of after enrollment, or within a shorter time frame if specified in the intergovernmental contract.

(l) The county administrative entity shall assess the need for services of new enrollees within 60 calendar days of after enrollment, or within a shorter time frame if specified in the intergovernmental contract, and periodically reassess the need for services for all enrollees.

(m) The county administrative entity shall ensure the development of a personal support plan for each person within 60 calendar days of enrollment, or within a shorter time frame if specified in the intergovernmental contract, unless otherwise agreed to by the enrollee and the enrollee's legal representative, if any. Until a personal support plan is developed and agreed to by the enrollee, enrollees must have access to the same amount, type, setting, duration, and frequency of covered services that they had at the time of enrollment unless other covered services are needed. For an enrollee who is not receiving covered services at the time of enrollment and for enrollees whose personal support plan is being revised, access to the medical assistance benefit set must be assured until a personal support plan is developed or revised. If an enrollee chooses not to develop a personal support plan, the enrollee will be subject to the network and prior authorization requirements of the county administrative entity or service delivery organization 60 days after enrollment. An enrollee can choose to have a personal support plan developed at any time. The personal support plan must be based on choices, preferences, and assessed needs and strengths of the enrollee. The service coordinator shall develop the personal support plan, in consultation with the enrollee or the enrollee's legal representative and other individuals requested by the enrollee. The personal support plan must be updated as needed or as requested by the enrollee. Enrollees may choose not to have a personal support plan.

(n) The county administrative entity shall ensure timely authorization, arrangement, and continuity of needed and covered supports and services.

(o) The county administrative entity shall offer service coordination that fulfills the responsibilities under subdivision 12 and is appropriate to the enrollee's needs, choices, and preferences, including a choice of service coordinator.

(p) The county administrative entity shall contract with schools and other agencies as appropriate to provide otherwise covered medically necessary medical assistance services as described in an enrollee's individual family support plan, as described in sections 125A.26 to 125A.48, or individual education plan, as described in chapter 125A.

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(q) The county administrative entity shall develop and implement strategies, based on consultation with affected groups, to respect diversity and ensure culturally competent service delivery in a manner that promotes the physical, social, psychological, and spiritual well-being of enrollees and preserves the dignity of individuals, families, and their communities.

(r) When an enrollee changes county authorities, county administrative entities shall ensure coordination with the entity that is assuming responsibility for administering the medical assistance benefit set to ensure continuity of supports and services for the enrollee.

(s) The county administrative entity shall comply with additional requirements as specified in the intergovernmental contract.

(t) To the extent that alternatives are approved under subdivision 17, county administrative entities must provide for the health and safety of enrollees and protect the rights to privacy and to provide informed consent.

Sec. 83. Minnesota Statutes 1998, section 256B.77, subdivision 10, is amended to read:

Subd. 10. **CAPITATION PAYMENT.** (a) The commissioner shall pay a capitation payment to the county authority and, when applicable under subdivision 6, paragraph (a), to the service delivery organization for each medical assistance eligible enrollee. The commissioner shall develop capitation payment rates for the initial contract period for each demonstration site in consultation with an independent actuary, to ensure that the cost of services under the demonstration project does not exceed the estimated cost for medical assistance services for the covered population under the fee-for-service system for the demonstration period. For each year of the demonstration project, the capitation payment rate shall be based on 96 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service during each of those years. Rates shall be adjusted within the limits of the available risk adjustment technology, as mandated by section 62Q.03. In addition, the commissioner shall implement appropriate risk and savings sharing provisions with county administrative entities and, when applicable under subdivision 6, paragraph (a), service delivery organizations within the projected budget limits. Capitation rates shall be adjusted, at least annually, to include any rate increases and payments for expanded or newly covered services for eligible individuals. The initial demonstration project rate shall include an amount in addition to the fee-for-service payments to adjust for underutilization of dental services. Any savings beyond those allowed for the county authority, county administrative entity, or service delivery organization shall be first used to meet the unmet needs of eligible individuals. Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2.

(b) The commissioner shall monitor and evaluate annually the effect of the discount on consumers, the county authority, and providers of disability services. Findings shall be reported and recommendations made, as appropriate, to ensure that the discount effect does not adversely affect the ability of the county administrative entity or providers of services to provide appropriate services to eligible individuals, and does not result in cost shifting of eligible individuals to the county authority.

(c) For risk-sharing to occur under this subdivision, the aggregate fee-for-service cost of covered services provided by the county administrative entity under this section

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(2) Implement incentives to encourage appropriate, high quality, efficient services.

(1) Offset rate increases for regional treatment services under subdivision 22 which are higher than was expected by the commissioner when the capitation was set at 96 per cent; and

(d) In addition to other payments under this subdivision, the commissioner may increase payments by up to 0.25 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service. The commissioner may make the increased payments to:

(4) For the fourth and subsequent contract years for each project, the county administrative entity shall be responsible for all costs in excess of the capitation payments.

(3) For the third contract year for each project, the commissioner shall pay the county administrative entity 25 percent of the difference between the sum of the capitation payments and 100 percent of projected fee-for-service costs. The county administrative entity shall be responsible for all costs in excess of 100 percent of projected fee-for-service costs.

(2) For the second contract year for each project, the commissioner shall pay the county administrative entity 37.5 percent of the difference between the sum of the capitation payments and 100 percent of projected fee-for-service costs. The county administrative entity shall be responsible for all costs in excess of 100 percent of projected fee-for-service costs.

(1) For the first contract year for each project, the commissioner shall pay the county administrative entity 50 percent of the difference between the sum of the capitation payments and 100 percent of projected fee-for-service costs. For aggregate fee-for-service costs in excess of 100 percent of projected fee-for-service costs, the commissioner shall pay 250 percent of the difference between the aggregate fee-for-service cost and the projected fee-for-service cost, up to 104 percent of the projected fee-for-service costs. The county administrative entity shall be responsible for all costs in excess of 104 percent of projected fee-for-service costs.

If the commissioner finds that the aggregate fee-for-service cost is greater than the sum of the capitation payments, the commissioner shall settle according to the following schedule:

shall not include any third-party recoveries or cost-avoided amounts.  
entity's encounter claims submitted to the commissioner. The aggregate fee-for-service cost medical assistance fee schedule to services identified on the county administrative entity's encounter claims shall base its calculation of the fee-for-service costs on application of the capitation payments related to the services provided for the term of this contract. The commissioner shall then compare the fee-for-service costs and covered services. The commissioner shall be deducted from the aggregate fee-for-service cost of amount of underspending shall be deducted from the aggregate fee-for-service cost of nonmedical assistance spending on enrollees. If the county authority spends less in non-medical assistance dollars on enrollees than it spent the year prior to the contract year, the entity under this section. The county authority is required to maintain its current level of must exceed the aggregate sum of capitation payments made to the county administrative

Sec. 84. Minnesota Statutes 1998, section 256B.77, subdivision 14, is amended to read:

Subd. 14. **EXTERNAL ADVOCACY.** In addition to ombudsman services, enrollees shall have access to advocacy services on a local or regional basis. The purpose of external advocacy includes providing individual advocacy services for enrollees who have complaints or grievances with the county administrative entity, service delivery organization, or a service provider; assisting enrollees to understand the service delivery system and select providers and, if applicable, a service delivery organization; and understand and exercise their rights as an enrollee. External advocacy contractors must demonstrate that they have the expertise to advocate on behalf of all categories of eligible individuals and are independent of the commissioner, county authority, county administrative entity, service delivery organization, or any service provider within the demonstration project.

These advocacy services shall be provided through the ombudsman for mental health and mental retardation directly, or under contract with private, nonprofit organizations, with funding provided through the demonstration project. The funding shall be provided annually to the ombudsman's office based on 0.1 percent of the projected per person costs that would otherwise have been paid under medical assistance fee-for-service during these years. Funding for external advocacy shall be provided for each year of the demonstration period through general fund appropriations. This funding is in addition to the capitation payment available under subdivision 10.

Sec. 85. Minnesota Statutes 1998, section 256B.77, is amended by adding a subdivision to read:

Subd. 27. SERVICE COORDINATION TRANSITION. Demonstration sites designated under subdivision 5, with the permission of an eligible individual, may implement the provisions of subdivision 12 beginning 60 calendar days prior to an individual's enrollment. This implementation may occur prior to the enrollment of eligible individuals, but is restricted to eligible individuals.

Sec. 86. Minnesota Statutes 1998, 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 who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in paragraph (b), except as provided in paragraph (c); and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program--statewide (MFIP-S), who is having a payment made on the person's behalf under sections 256I.01 to 256I.06, or who resides in group residential housing as defined in chapter 256I and can meet a spenddown using the cost of remedial services received through group residential housing; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B, with

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the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; and

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down according to section 256B.056, subdivision 5, using a six-month budget period. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall follow section 256B.056, subdivision 1a. However, if a disregard of \$30 and one-third of the remainder has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or MFIP-S for 12 consecutive months. The earned income and work expense 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 the disregard of the first \$50 of earned income is not allowed;

(3) 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; or

(4) who is ineligible for medical assistance under chapter 256B or general assistance medical care under any other provision of this section, and is receiving care and rehabilitation services from a nonprofit center established to serve victims of torture. These individuals are eligible for general assistance medical care only for the period during which they are receiving services from the center. During this period of eligibility, individuals eligible under this clause shall not be required to participate in prepaid general assistance medical care.

(b) Beginning January 1, 2000, applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are:

(i) adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines; or

(ii) adults without children with earned income and whose family gross income is between 75 percent of the federal poverty guidelines and the amount set by section 256L.04, subdivision 7, shall be terminated from general assistance medical care upon enrollment in MinnesotaCare.

(c) For services rendered on or after July 1, 1997, eligibility is limited to one month prior to application if the person is determined eligible in the prior month. A redetermination of eligibility must occur every 12 months. Beginning January 1, 2000, Minnesota health care program applications completed by recipients and applicants who are persons described in paragraph (b), may be returned to the county agency to be forwarded to the department of human services or sent directly to the department of human services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general

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assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph (e).

(d) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and social security number, signed and dated, to the county agency or the department of human services. If the applicant is unable to provide an initial application when health care is delivered due to a medical condition or disability, a health care provider may act on the person's behalf to complete the initial application. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary. On the basis of information provided on the completed application, an applicant who meets the following criteria shall be determined eligible beginning in the month of application:

- (1) has gross income less than 90 percent of the applicable income standard;
- (2) has liquid assets that total within \$300 of the asset standard;
- (3) does not reside in a long-term care facility; and
- (4) meets all other eligibility requirements.

The applicant must provide all required verifications within 30 days' notice of the eligibility determination or eligibility shall be terminated.

(e) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

(f) General assistance medical care is not available for a person in a correctional facility unless the person 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, and 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.

(g) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance. General assistance medical care is limited to payment of emergency services only for applicants or recipients as described in paragraph (b), whose MinnesotaCare coverage is denied or terminated for nonpayment of premiums as required by sections 256L.06 and 256L.07.

(h) 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 60 months preceding application for general assistance medical care or during the period of eligibility. Any

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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, including partial months, 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. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(i) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules.

(j)(1) An undocumented noncitizen or a nonimmigrant is ineligible for general assistance medical care other than emergency services. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(2) This paragraph does not apply to a child under age 18, to a Cuban or Haitian entrant as defined in Public Law Number 96-422, section 501(e)(1) or (2)(a), or to a noncitizen who is aged, blind, or disabled as defined in Code of Federal Regulations, title 42, sections 435.520, 435.530, 435.531, 435.540, and 435.541, or effective October 1, 1998, to an individual eligible for general assistance medical care under paragraph (a), clause (4), who cooperates with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify the individual for medical assistance with federal financial participation.

(3) For purposes of this paragraph, "emergency services" has the meaning given in Code of Federal Regulations, title 42, section 440.255(b)(1), except that it also means services rendered because of suspected or actual pesticide poisoning.

(k) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

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Sec. 87. Minnesota Statutes 1998, section 256D.03, subdivision 4, is amended to read:

Subd. 4. **GENERAL ASSISTANCE, MEDICAL CARE; SERVICES.** (a) For a person who is eligible under subdivision 3, paragraph (a), clause (3), general assistance medical care covers, except as provided in paragraph (c):

- (1) inpatient hospital services;
- (2) outpatient hospital services;
- (3) services provided by Medicare certified rehabilitation agencies;
- (4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;
- (5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;
- (6) eyeglasses and eye examinations provided by a physician or optometrist;
- (7) hearing aids;
- (8) prosthetic devices;
- (9) laboratory and X-ray services;
- (10) physician's services;
- (11) medical transportation;
- (12) chiropractic services as covered under the medical assistance program;
- (13) podiatric services;
- (14) dental services;
- (15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;
- (16) day treatment services for mental illness provided under contract with the county board;
- (17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;
- (18) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;
- (19) medical 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;
- (20) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/ gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if (1) the services are service is otherwise covered under this chapter as a physician service, (2) a service provided on an inpatient basis is not

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included as part of the cost for inpatient services included in the operating payment rate, and if (3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171; and

(21) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171; and

(22) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b.

(b) Except as provided in paragraph (c), for a recipient who is eligible under subdivision 3, paragraph (a), clause (1) or (2), general assistance medical care covers the services listed in paragraph (a) with the exception of special transportation services.

(c) Gender reassignment surgery and related services are not covered services under this subdivision unless the individual began receiving gender reassignment services prior to July 1, 1995.

(d) 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 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. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology. Notwithstanding the provisions of subdivision 3, an individual who becomes ineligible for general assistance medical care because of failure to submit income reports or recertification forms in a timely manner, shall remain enrolled in the prepaid health plan and shall remain eligible for general assistance medical care coverage through the last day of the month in which the enrollee became ineligible for general assistance medical care.

(e) 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:

(i) 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

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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.

(ii) 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.

(iii) 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.

(iv) 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 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.

(v) 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.

(f) 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.

(g) Any county may, from its own resources, provide medical payments for which state payments are not made.

(h) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

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(i) 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.

(j) 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. 88. Minnesota Statutes 1998, section 256D.03, subdivision 8, is amended to read:

Subd. 8. **PRIVATE INSURANCE POLICIES.** (a) Private accident and health care coverage for medical services is primary coverage and must be exhausted before general assistance medical care is paid. When a person who is otherwise eligible for general assistance medical care has private accident or health care coverage, including a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent. General assistance medical care payment will not be made when either covered charges are paid in full by a third party or the provider has an agreement to accept payment for less than charges as payment in full. Payment for patients that are simultaneously covered by general assistance medical care and a liable third party other than Medicare will be determined as the lesser of clauses (1) to (3):

- (1) the patient liability according to the provider/insurer agreement;
- (2) covered charges minus the third party payment amount; or
- (3) the general assistance medical care rate minus the third party payment amount.

A negative difference will not be implemented.

(b) When a parent or a person with an obligation of support has enrolled in a prepaid health care plan under section 518.171, subdivision 1, the commissioner of human services shall limit the recipient of general assistance medical care to the benefits payable under that prepaid health care plan to the extent that services available under general assistance medical care are also available under the prepaid health care plan.

(c) Upon furnishing general assistance medical care or general assistance to any person having private accident or health care coverage, or having a cause of action arising out of an occurrence that necessitated the payment of assistance, the state agency shall be subrogated, to the extent of the cost of medical care, subsistence, or other payments furnished, to any rights the person may have under the terms of the coverage or under the cause of action. For purposes of this subdivision, "state agency" includes prepaid health plans under contract with the commissioner according to sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; and county-based purchasing entities under section 256B.692.

This right of subrogation includes all portions of the cause of action, notwithstanding any settlement allocation or apportionment that purports to dispose of portions of the cause of action not subject to subrogation.

(d) To recover under this section, the attorney general ~~or the appropriate county attorney, acting upon direction from the attorney general,~~ may institute or join a civil action to enforce the subrogation rights the commissioner established under this section.

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Any prepaid health plan providing services under sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; or the county-based purchasing entity providing services under section 256B.692 may retain legal representation to enforce the subrogation rights created under this section or, if no action has been brought, may initiate and prosecute an independent action on their behalf against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

(e) The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages, or otherwise obligated to pay part or all of the costs related to an injury when the state agency has paid or become liable for the cost of care or payments related to the injury. Notice must be given as follows:

(i) Applicants for general assistance or general assistance medical care shall notify the state or county agency of any possible claims when they submit the application. Recipients of general assistance or general assistance medical care shall notify the state or county agency of any possible claims when those claims arise.

(ii) A person providing medical care services to a recipient of general assistance medical care shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(iii) A person who is party to a claim upon which the state agency may be entitled to subrogation under this section shall notify the state agency of its potential subrogation claim before filing a claim, commencing an action, or negotiating a settlement. A person who is a party to a claim includes the plaintiff, the defendants, and any other party to the cause of action.

Notice given to the county agency is not sufficient to meet the requirements of paragraphs (b) and (c).

(f) Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has a subrogation right, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of general assistance or general assistance medical care paid to or on behalf of the person as a result of the injury must be deducted next and paid to the state agency. The rest must be paid to the public assistance recipient or other plaintiff. The plaintiff, however, must receive at least one-third of the net recovery after attorney fees and collection costs.

Sec. 89. Minnesota Statutes 1998, section 256L.03, subdivision 5, is amended to read:

**Subd. 5. COPAYMENTS AND COINSURANCE.** (a) The MinnesotaCare benefit plan shall include the following copayments and coinsurance requirements for all enrollees except parents and relative caretakers of children under the age of 21 in households with income at or below 175 percent of the federal poverty guidelines and pregnant women and children under the age of 21:

(1) ten percent of the paid charges for inpatient hospital services for adult enrollees, subject to an annual inpatient out-of-pocket maximum of \$1,000 per individual and \$3,000 per family;

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(2) \$3 per prescription for adult enrollees;

(3) \$25 for eyeglasses for adult enrollees; and

(4) effective July 1, 1998, 50 percent of the fee-for-service rate for adult dental care services other than preventive care services for persons eligible under section 256L.04, subdivisions 1 to 7, with income equal to or less than 175 percent of the federal poverty guidelines.

The exceptions described in this paragraph shall only be implemented if required to obtain federal Medicaid funding for these individuals and shall expire July 1, 2000.

(b) Effective July 1, 1997, adult enrollees with family gross income that exceeds 175 percent of the federal poverty guidelines and who are not pregnant shall be financially responsible for the coinsurance amount and amounts which exceed the \$10,000 inpatient hospital benefit limit.

(c) When a MinnesotaCare enrollee becomes a member of a prepaid health plan, or changes from one prepaid health plan to another during a calendar year, any charges submitted towards the \$10,000 annual inpatient benefit limit, and any out-of-pocket expenses incurred by the enrollee for inpatient services, that were submitted or incurred prior to enrollment, or prior to the change in health plans, shall be disregarded.

Sec. 90. Minnesota Statutes 1998, section 256L.03, subdivision 6, is amended to read:

Subd. 6. **LIEN.** When the state agency provides, pays for, or becomes liable for covered health services, the agency shall have a lien for the cost of the covered health services upon any and all causes of action accruing to the enrollee, or to the enrollee's legal representatives, as a result of the occurrence that necessitated the payment for the covered health services. All liens under this section shall be subject to the provisions of section 256.015. For purposes of this subdivision, "state agency" includes authorized agents of the state agency prepaid health plans under contract with the commissioner according to sections 256B.69, 256D.03, subdivision 4, paragraph (d), and 256L.12; and county-based purchasing entities under section 256B.692.

Sec. 91. Minnesota Statutes 1998, section 256L.04, subdivision 2, is amended to read:

Subd. 2. **COOPERATION IN ESTABLISHING THIRD-PARTY LIABILITY, PATERNITY, AND OTHER MEDICAL SUPPORT.** (a) To be eligible for MinnesotaCare, individuals and families must cooperate with the state agency to identify potentially liable third-party payers and assist the state in obtaining third-party payments. "Cooperation" includes, but is not limited to, identifying any third party who may be liable for care and services provided under MinnesotaCare to the enrollee, providing relevant information to assist the state in pursuing a potentially liable third party, and completing forms necessary to recover third-party payments.

(b) A parent, guardian, relative caretaker, or child enrolled in the MinnesotaCare program must cooperate with the department of human services and the local agency in establishing the paternity of an enrolled child and in obtaining medical care support and payments for the child and any other person for whom the person can legally assign rights, in accordance with applicable laws and rules governing the medical assistance

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program. A child shall not be ineligible for or disenrolled from the MinnesotaCare program solely because the child's parent, relative caretaker, or guardian fails to cooperate in establishing paternity or obtaining medical support.

Sec. 92. Minnesota Statutes 1998, section 256L.04, subdivision 8, is amended to read:

Subd. 8. **APPLICANTS POTENTIALLY ELIGIBLE FOR MEDICAL ASSISTANCE.** (a) Individuals who receive supplemental security income or retirement, survivors, or disability benefits due to a disability, or other disability-based pension, who qualify under subdivision 7, but who are potentially eligible for medical assistance without a spenddown shall be allowed to enroll in MinnesotaCare for a period of 60 days, so long as the applicant meets all other conditions of eligibility. The commissioner shall identify and refer the applications of such individuals to their county social service agency. The county and the commissioner shall cooperate to ensure that the individuals obtain medical assistance coverage for any months for which they are eligible.

(b) The enrollee must cooperate with the county social service agency in determining medical assistance eligibility within the 60-day enrollment period. Enrollees who do not cooperate with medical assistance within the 60-day enrollment period shall be disenrolled from the plan within one calendar month. Persons disenrolled for nonapplication for medical assistance may not reenroll until they have obtained a medical assistance eligibility determination. Persons disenrolled for noncooperation with medical assistance may not reenroll until they have cooperated with the county agency and have obtained a medical assistance eligibility determination.

(c) Beginning January 1, 2000, counties that choose to become MinnesotaCare enrollment sites shall consider MinnesotaCare applications of individuals described in paragraph (a) to also be applications for medical assistance and shall first determine whether medical assistance eligibility exists. Adults with children with family income under 175 percent of the federal poverty guidelines for the applicable family size, pregnant women, and children who qualify under subdivision 1 Applicants who are potentially eligible for medical assistance without a spenddown, except for those described in paragraph (a), may choose to enroll in either MinnesotaCare or medical assistance.

(d) The commissioner shall redetermine provider payments made under MinnesotaCare to the appropriate medical assistance payments for those enrollees who subsequently become eligible for medical assistance.

Sec. 93. Minnesota Statutes 1998, section 256L.04, subdivision 11, is amended to read:

Subd. 11. **MINNESOTACARE OUTREACH.** (a) The commissioner shall award grants to public or private organizations to provide information on the importance of maintaining insurance coverage and on how to obtain coverage through the MinnesotaCare program in areas of the state with high uninsured populations.

(b) In awarding the grants, the commissioner shall consider the following:

- (1) geographic areas and populations with high uninsured rates;
- (2) the ability to raise matching funds; and

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(3) the ability to contact or serve eligible populations.

The commissioner shall monitor the grants and may terminate a grant if the outreach effort does not increase ~~the MinnesotaCare program enrollment in medical assistance, general assistance medical care, or the MinnesotaCare program.~~

Sec. 94. Minnesota Statutes 1998, section 256L.04, subdivision 13, is amended to read:

Subd. 13. **FAMILIES WITH GRANDPARENTS, RELATIVE CARETAKERS, FOSTER PARENTS, OR LEGAL GUARDIANS.** Beginning January 1, 1999, in families that include a grandparent, relative caretaker as defined in the medical assistance program, foster parent, or legal guardian, the grandparent, relative caretaker, foster parent, or legal guardian may apply as a family or may apply separately for the children. If the caretaker applies separately for the children, only the children's income is counted and the provisions of subdivision 1, paragraph (b), do not apply. If the grandparent, relative caretaker, foster parent, or legal guardian applies with the children, their income is included in the gross family income for determining eligibility and premium amount.

Sec. 95. Minnesota Statutes 1998, section 256L.05, is amended by adding a subdivision to read:

Subd. 3c. **RETROACTIVE COVERAGE.** Notwithstanding subdivision 3, the effective date of coverage shall be the first day of the month following termination from medical assistance or general assistance medical care for families and individuals who are eligible for MinnesotaCare and who submitted a written request for retroactive MinnesotaCare coverage with a completed application within 30 days of the mailing of notification of termination from medical assistance or general assistance medical care. The applicant must provide all required verifications within 30 days of the written request for verification. For retroactive coverage, premiums must be paid in full for any retroactive month, current month, and next month within 30 days of the premium billing.

Sec. 96. Minnesota Statutes 1998, section 256L.05, subdivision 4, is amended to read:

Subd. 4. **APPLICATION PROCESSING.** The commissioner of human services shall determine an applicant's eligibility for MinnesotaCare no more than 30 days from the date that the application is received by the department of human services. Beginning January 1, 2000, this requirement also applies to local county human services agencies that determine eligibility for MinnesotaCare. Once annually at application or reenrollment, to prevent processing delays, applicants or enrollees who, from the information provided on the application, appear to meet eligibility requirements shall be enrolled upon timely payment of premiums. The enrollee must provide all required verifications within 30 days of enrollment notification of the eligibility determination or coverage from the program shall be terminated. Enrollees who are determined to be ineligible when verifications are provided shall be disenrolled from the program.

Sec. 97. Minnesota Statutes 1998, section 256L.06, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATION AND COMMISSIONER'S DUTIES.** (a) Premiums are dedicated to the commissioner for MinnesotaCare.

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(b) The commissioner shall develop and implement procedures to: (1) require enrollees to report changes in income; (2) adjust sliding scale premium payments, based upon changes in enrollee income; and (3) disenroll enrollees from MinnesotaCare for failure to pay required premiums. Beginning July 1, 1998, Failure to pay includes payment with a dishonored check and, a returned automatic bank withdrawal, or a refused credit card or debit card payment. The commissioner may demand a guaranteed form of payment, including a cashier's check or a money order, as the only means to replace a dishonored check, returned, or refused payment.

(c) Premiums are calculated on a calendar month basis and may be paid on a monthly, quarterly, or annual basis, with the first payment due upon notice from the commissioner of the premium amount required. The commissioner shall inform applicants and enrollees of these premium payment options. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare.

(d) Nonpayment of the premium will result in disenrollment from the plan within one calendar month after the due date. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll until four calendar months have elapsed. Persons disenrolled for nonpayment who pay all past due premiums as well as current premiums due, including premiums due for the period of disenrollment, within 20 days of disenrollment, shall be reenrolled retroactively to the first day of disenrollment. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll for four calendar months unless the person demonstrates good cause for nonpayment. Good cause does not exist if a person chooses to pay other family expenses instead of the premium. The commissioner shall define good cause in rule.

Sec. 98. Minnesota Statutes 1998, section 256L.07, is amended to read:

**256L.07 ELIGIBILITY FOR SUBSIDIZED PREMIUMS BASED ON SLIDING SCALE MINNESOTACARE.**

Subdivision 1. **GENERAL REQUIREMENTS.** (a) Children enrolled in the original children's health plan as of September 30, 1992, children who enrolled in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines are eligible for ~~subsidized premium payments~~ without meeting the requirements of subdivision 2, as long as they maintain continuous coverage in the MinnesotaCare program or medical assistance. Children who apply for MinnesotaCare on or after the implementation date of the employer-subsidized health coverage program as described in Laws 1998, chapter 407, article 5, section 45, who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines, must meet the requirements of subdivision 2 to be eligible for MinnesotaCare.

(b) Families enrolled in MinnesotaCare under section 256L.04, subdivision 1, whose income increases above 275 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Individuals enrolled in MinnesotaCare under section 256L.04, subdivision 7, whose income increases above 175 percent of the federal poverty guidelines are no longer eligible for the program and shall be disenrolled by the commissioner. For persons disenrolled under this subdivi-

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sion, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual, determined over a four-month period as required by section 256L.15, subdivision 2, exceeds program income limits.

(c) Notwithstanding paragraph (b), individuals and families may remain enrolled in MinnesotaCare if ten percent of their annual income is less than the annual premium for a policy with a \$500 deductible available through the Minnesota comprehensive health association. Individuals and families who are no longer eligible for MinnesotaCare under this subdivision shall be given an 18-month notice period from the date that ineligibility is determined before disenrollment.

**Subd. 2. MUST NOT HAVE ACCESS TO EMPLOYER-SUBSIDIZED COVERAGE.** (a) To be eligible for subsidized premium payments based on a sliding scale, a family or individual must not have access to subsidized health coverage through an employer and must not have had access to employer-subsidized coverage through a current employer for 18 months prior to application or reapplication. A family or individual whose employer-subsidized coverage is lost due to an employer terminating health care coverage as an employee benefit during the previous 18 months is not eligible.

(b) For purposes of this requirement, subsidized health coverage means health coverage for which the employer pays at least 50 percent of the cost of coverage for the employee or dependent, or a higher percentage as specified by the commissioner. Children are eligible for employer-subsidized coverage through either parent, including the non-custodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans and any other employer benefits intended to pay health care costs as qualified employer subsidies toward the cost of health coverage for employees for purposes of this subdivision.

**Subd. 3. OTHER HEALTH COVERAGE.** (a) Families and individuals enrolled in the MinnesotaCare program must have no health coverage while enrolled or for at least four months prior to application and renewal. Children enrolled in the original children's health plan and children in families with income equal to or less than 150 percent of the federal poverty guidelines, who have other health insurance, are eligible if the other health coverage meets the requirements of Minnesota Rules, part 9506.0020, subpart 3, item B- coverage:

(1) lacks two or more of the following:

(i) basic hospital insurance;

(ii) medical-surgical insurance;

(iii) prescription drug coverage;

(iv) dental coverage; or

(v) vision coverage;

(2) requires a deductible of \$100 or more per person per year; or

(3) lacks coverage because the child has exceeded the maximum coverage for a particular diagnosis or the policy excludes a particular diagnosis.

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The commissioner may change this eligibility criterion for sliding scale premiums in order to remain within the limits of available appropriations. The requirement of no health coverage does not apply to newborns.

(b) ~~For purposes of this section,~~ Medical assistance, general assistance medical care, and civilian health and medical program of the uniformed service, CHAMPUS, are not considered insurance or health coverage for purposes of the four-month requirement described in this subdivision.

(c) For purposes of this section subdivision, Medicare Part A or B coverage under title XVIII of the Social Security Act, United States Code, title 42, sections 1395c to 1395w-4, is considered health coverage. An applicant or enrollee may not refuse Medicare coverage to establish eligibility for MinnesotaCare.

(d) Applicants who were recipients of medical assistance or general assistance medical care within one month of application must meet the provisions of this subdivision and subdivision 2.

**Subd. 4. FAMILIES WITH CHILDREN IN NEED OF CHEMICAL DEPENDENCY TREATMENT.** Premiums for families with children when a parent has been determined to be in need of chemical dependency treatment pursuant to an assessment conducted by the county under section 626.556, subdivision 10, or a case plan under section 257.071 or 260.191, subdivision 1e, who are eligible for MinnesotaCare under section 256L.04, subdivision 1, may be paid by the county of residence of the person in need of treatment for one year from the date the family is determined to be eligible or if the family is currently enrolled in MinnesotaCare from the date the person is determined to be in need of chemical dependency treatment. Upon renewal, the family is responsible for any premiums owed under section 256L.15. If the family is not currently enrolled in MinnesotaCare, the local county human services agency shall determine whether the family appears to meet the eligibility requirements and shall assist the family in applying for the MinnesotaCare program.

Sec. 99. Minnesota Statutes 1998, section 256L.15, subdivision 1, is amended to read:

Subdivision 1. **PREMIUM DETERMINATION.** Families with children and individuals shall pay a premium determined according to a sliding fee based on the ~~cost of~~ coverage as a percentage of the family's gross family income. Pregnant women and children under age two are exempt from the provisions of section 256L.06, subdivision 3, paragraph (b), clause (3), requiring disenrollment for failure to pay premiums. For pregnant women, this exemption continues until the first day of the month following the 60th day postpartum. Women who remain enrolled during pregnancy or the postpartum period, despite nonpayment of premiums, shall be disenrolled on the first of the month following the 60th day postpartum for the penalty period that otherwise applies under section 256L.06, unless they begin paying premiums.

Sec. 100. Minnesota Statutes 1998, section 256L.15, subdivision 1b, is amended to read:

Subd. 1b. **PAYMENTS NONREFUNDABLE.** Only MinnesotaCare premiums are not refundable paid for future months of coverage for which a health plan capitation fee has not been paid may be refunded.

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Sec. 101. Minnesota Statutes 1998, section 256L.15, subdivision 2, is amended to read:

Subd. 2. **SLIDING FEE SCALE TO DETERMINE PERCENTAGE OF GROSS INDIVIDUAL OR FAMILY INCOME.** (a) The commissioner shall establish a sliding fee scale to determine the percentage of gross individual or family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's gross individual or family income during the previous four months. The sliding fee scale must contain separate tables based on enrollment of one, two, or three or more persons. The sliding fee scale begins with a premium of 1.5 percent of gross individual or family income for individuals or families with incomes below the limits for the medical assistance program for families and children in effect on January 1, 1999, and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children in effect on January 1, 1999, to 275 percent of the federal poverty guidelines for the applicable family size, up to a family size of five. The sliding fee scale for a family of five must be used for families of more than five. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family or individual reports increased income after enrollment, premiums shall not be adjusted until eligibility renewal.

(b) Enrolled individuals and families whose gross annual income increases above 275 percent of the federal poverty guideline shall pay the maximum premium. The maximum premium is defined as a base charge for one, two, or three or more enrollees so that if all MinnesotaCare cases paid the maximum premium, the total revenue would equal the total cost of MinnesotaCare medical coverage and administration. In this calculation, administrative costs shall be assumed to equal ten percent of the total. The costs of medical coverage for pregnant women and children under age two and the enrollees in these groups shall be excluded from the total. The maximum premium for two enrollees shall be twice the maximum premium for one, and the maximum premium for three or more enrollees shall be three times the maximum premium for one.

Sec. 102. Minnesota Statutes 1998, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. **ADMINISTRATIVE RECONSIDERATION OF FINAL DETERMINATION OF MALTREATMENT.** (a) An individual or facility that the commissioner or a local social service agency determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment.

(b) If the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section.

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(c) If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) If an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

Sec. 103. Laws 1995, chapter 178, article 2, section 46, subdivision 10, is amended to read:

**Subd. 10. ADDITIONAL WAIVER REQUEST FOR EMPLOYED DISABLED PERSONS.** The commissioner shall seek a federal waiver in order to implement a work incentive for disabled persons eligible for medical assistance who are not residents of long-term care facilities when determining their eligibility for medical assistance. The waiver shall request authorization to establish a medical assistance earned income disregard for employed disabled persons who, but for earned income, are eligible for SSDI and who receive require personal care assistance under the Medical Assistance Program. The disregard shall be equivalent to the threshold amount applied to persons who qualify under section 1619(b) of the Social Security Act, except that when a disabled person's earned income reaches the maximum income permitted at the threshold under section 1619(b), the person shall retain medical assistance eligibility and must contribute to the costs of medical care on a sliding fee basis.

Sec. 104. Laws 1997, chapter 225, article 4, section 4, is amended to read:

**Sec. 4. SENIOR DRUG PROGRAM.**

The commissioner shall administer the senior drug program so that the costs to the state total no more than \$4,000,000 plus the amount of the rebate. The commissioner is authorized to discontinue enrollment in order to meet this level of funding.

The commissioner shall report to the legislature the estimated costs of the senior drug program without funding caps. The report shall be included as part of the November and February forecasts.

The commissioner of finance shall annually reimburse the general fund with health care access funds for the estimated increased costs in the QMB/SLMB program directly associated with the senior drug program. This reimbursement shall sunset June 30, 2001.

**Sec. 105. CHARITY CARE DATA COLLECTION.**

The commissioner of health shall determine a definition for charity care and bad debt that distinguishes these two terms for inpatient and ambulatory care. The commissioner shall use these definitions as a basis for collecting data on uncompensated care in hospitals, surgical centers, and health care clinics located in Minnesota.

**Sec. 106. MINNESOTACARE APPLICATION SIMPLIFICATION.**

The commissioner of human services shall develop a one page preapplication form for the MinnesotaCare program and may develop a pilot project that involves using this

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form in community health clinics, community health offices, and disproportionate share hospitals to determine the feasibility of using a one page application form for Minnesota-Care. As part of this pilot project, the commissioner shall track the number of individuals determined to be eligible from the preapplication form, the number determined to be eligible upon the completion of the full application, and for families with children the cost of providing the care to those found eligible.

#### **Sec. 107. EXPANSION OF SPECIAL EDUCATION SERVICES.**

The commissioner of human services shall examine opportunities to expand the scope of providers eligible for reimbursement for medical assistance services listed in a child's individual education plan based on state and federal requirements for provider qualifications. The commissioner shall complete these activities, in consultation with the commissioner of children, families, and learning, by December 1999 and seek necessary federal approval.

#### **Sec. 108. HOME-BASED MENTAL HEALTH SERVICES.**

By January 1, 2000, the commissioner of human services shall amend Minnesota Rules under the expedited process of Minnesota Statutes, section 14.389, to effect the following changes:

(1) amend Minnesota Rules, part 9505.0324, subpart 2, to permit a county board to contract with any agency qualified under Minnesota Rules, part 9505.0324, subparts 4 and 5, as an eligible provider of home-based mental health services;

(2) amend Minnesota Rules, part 9505.0324, subpart 2, to permit children's mental health collaboratives approved by the children's cabinet under Minnesota Statutes, section 245.493, to provide or to contract with any agency qualified under Minnesota Rules, part 9505.0324, subparts 4 and 5, as an eligible provider of home-based mental health services.

#### **Sec. 109. MEDICARE SUPPLEMENTAL COVERAGE FOR LOW-INCOME SENIORS.**

The commissioner of health, in consultation with the commissioners of human services and commerce, shall study the extent and type of Medicare supplemental coverage for low-income seniors. The commissioner shall also study the qualified Medicare beneficiaries eligible under Minnesota Statutes, section 256B.057, subdivision 3, in terms of developing a comprehensive set of services to supplement Medicare that these individuals may need to ensure independence and control of their lives. The commissioner shall make recommendations on the cost-effectiveness of expanding the benefits offered to qualified Medicare beneficiaries including the feasibility of the state providing health care coverage options to low-income seniors that would provide a comprehensive set of services and would build on existing or new Medicare products. The commissioner shall also study the fiscal impact of mandating coverage for Medicare supplemental products to include long-term care services, including home health services, homemaker services, and nursing facilities services and the fiscal implications of the state paying the premiums for this coverage for low-income seniors, including potential savings to the medical assistance program. The commissioner shall report to the legislature on the findings of the study with any recommendations by January 15, 2000.

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**Sec. 110. PROGRAMS FOR SENIOR CITIZENS.**

The commissioner of human services shall study the eligibility criteria of and benefits provided to persons age 65 and over through the array of cash assistance and health care programs administered by the department, and the extent to which these programs can be combined, simplified, or coordinated to reduce administrative costs and improve access. The commissioner shall also study potential barriers to enrollment for low-income seniors who would otherwise deplete resources necessary to maintain independent community living. At a minimum, the study must include an evaluation of asset requirements and enrollment sites. The commissioner shall report study findings and recommendations to the legislature by June 30, 2001.

**Sec. 111. AMENDING MEDICAL ASSISTANCE RULES.**

By January 1, 2001, the commissioner of human services shall amend Minnesota Rules, parts 9505.0323; 9505.0324; 9505.0326; and 9505.0327, as necessary to implement the changes outlined in Minnesota Statutes, section 256B.0625, subdivision 35.

**Sec. 112. REQUEST FOR WAIVER.**

By October 1, 1999, the commissioner of human services or health shall request a waiver from the federal Department of Health and Human Services to implement Minnesota Statutes, 256B.0951, subdivision 7.

**Sec. 113. DENTAL ACCESS STUDY.**

The commissioner of human services, in consultation with the commissioner of health, dental care providers, representatives of community clinics, client advocacy groups, and counties, shall review the dental access problem, evaluate the effects of the dental access initiatives adopted by the 1999 legislature, and make recommendations on other actions that could improve dental access for public program recipients. The commissioner shall present a progress report to the legislature by January 15, 2000, and shall present a final report to the legislature by January 15, 2001.

**Sec. 114. REPORT ON RATE SETTING AND RISK ADJUSTMENT.**

The commissioner of human services shall report to the legislature, by January 15, 2000, on the current rate setting process for state prepaid health care programs, rate setting and risk adjustment methods in other states, and the results of the application of risk adjustment on a trial basis in Minnesota for calendar year 1999. The report must also present an analysis of the feasibility of requiring prepaid health plans to report vendor costs rather than charges, an analysis of capitation rate equalization for MinnesotaCare and the prepaid medical assistance program, an analysis of the fiscal impact on state and county government of repealing Minnesota Statutes 1998, section 256B.69, subdivision 5d, and recommendations for providing actuarial and market analyses related to setting prepaid health plan rates to the legislature on a timely basis that would allow this information to be used in the appropriations process.

**Sec. 115. REPORT ON PREPAID MEDICAL ASSISTANCE PROGRAM.**

The commissioner of human services shall present recommendations to the legislature, by December 15, 1999, on methods for implementing county board authority under the prepaid medical assistance program.

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**Sec. 116. PHYSICIAN AND PROFESSIONAL SERVICES PAYMENT METHODOLOGY CONVERSION.**

The commissioner of human services shall submit a proposal to the legislature by January 15, 2000, detailing the medical assistance physician and professional services payment methodology conversion to resource based relative value scale.

**Sec. 117. RECOMMENDATIONS FOR DEFINITION OF SPECIALIZED MAINTENANCE THERAPY.**

The commissioner of human services shall develop recommendations for definitions of specialized maintenance therapy for each type of covered therapy, in consultation with representatives of professional therapy associations, providers who work with patients who need long-term specialized maintenance therapy, and patient advocates. The commissioner shall provide the recommended definitions to the chairs of the house health and human services finance committee and the senate health and family security budget division, by November 15, 1999.

**Sec. 118. DENTAL HYGIENIST DEMONSTRATION PROJECT.**

(a) The commissioner of human services may develop demonstration projects utilizing dental hygienists outside a traditional dental office to provide dental hygiene services to limited access patients. Notwithstanding Minnesota Statutes, section 150A.10, subdivision 1, a licensed dental hygienist may provide screening services, education, prophylaxis, and application of topical fluorides under general supervision as defined in Minnesota Rules, part 3100.0100, subpart 21, without the patient being first examined by a licensed dentist. Services under this section must be authorized by a licensed dentist and must be performed by a licensed dental hygienist and may be performed at a location other than the usual place of practice of the dentist or dental hygienist. For purposes of this section, "limited access patient" means a patient who the commissioner determines is unable to receive regular dental services in a dental office due to age, disability, or geographic location.

(b) The commissioner shall report to the legislature by January 15, 2001, on whether this demonstration project has been effective in improving access to dental services for limited access patients.

**Sec. 119. REPORTS ON ALTERNATIVE RESOURCE ALLOCATION METHODS AND PARENTS OF MINORS.**

(a) The commissioner of human services shall consider and evaluate administrative methods other than the current resource allocation system for the home and community-based waiver for persons with mental retardation and related conditions. In developing the alternatives, the commissioner shall consult with county commissioners from large and small counties, county agencies, consumers, advocates, and providers. The commissioner shall report to the chairs of the senate health and family security budget division and house health and human services finance committee by January 15, 2000.

(b) By January 15, 2000, the commissioner of human services shall present recommendations to the legislature on the conditions under which parents of minors may be reimbursed for services, consistent with federal requirements, health and safety, the child's needs, and not supplanting typical parental responsibilities.

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Sec. 120. **REPEALER.**

Minnesota Statutes 1998, sections 256B.74, subdivisions 2 and 5; and 462A.208, are repealed.

Sec. 121. **EFFECTIVE DATE.**

(a) Sections 3, 5, 45, and 97 are effective July 1, 2000.

(b) Section 56 is effective upon federal approval.

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**ARTICLE 5**

**STATE-OPERATED SERVICES;  
CHEMICAL DEPENDENCY; MENTAL HEALTH; LAND CONVEYANCES**

Section 1. Minnesota Statutes 1998, section 16C.10, subdivision 5, is amended to read:

Subd. 5. **SPECIFIC PURCHASES.** The solicitation process described in this chapter is not required for acquisition of the following:

- (1) merchandise for resale purchased under policies determined by the commissioner;
- (2) farm and garden products which, as determined by the commissioner, may be purchased at the prevailing market price on the date of sale;
- (3) goods and services from the Minnesota correctional facilities;
- (4) goods and services from rehabilitation facilities and sheltered workshops that are certified by the commissioner of economic security;
- (5) goods and services for use by a community-based residential facility operated by the commissioner of human services;
- (6) goods purchased at auction or when submitting a sealed bid at auction provided that before authorizing such an action, the commissioner consult with the requesting agency to determine a fair and reasonable value for the goods considering factors including, but not limited to, costs associated with submitting a bid, travel, transportation, and storage. This fair and reasonable value must represent the limit of the state's bid; and
- (7) utility services where no competition exists or where rates are fixed by law or ordinance.

Sec. 2. Minnesota Statutes 1998, section 245.462, subdivision 4, is amended to read:

Subd. 4. **CASE MANAGER MANAGEMENT SERVICE PROVIDER.** (a) "Case manager management service provider" means an individual a case manager or case manager associate employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711.

A case manager must have a bachelor's degree in one of the behavioral sciences or related fields including, but not limited to, social work, psychology, or nursing from an

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accredited college or university and. A case manager must have at least 2,000 hours of supervised experience in the delivery of services to 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 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 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.

(b) Supervision for a case manager during the first year of service providing case management services shall be one hour per week of clinical supervision from a case management supervisor. After the first year, the case manager shall receive regular ongoing supervision totaling 38 hours per year, of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The remainder may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours. Clinical supervision must be documented in the client record.

(c) A case manager with a bachelor's degree who is not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in mental illness and mental health services annually.

(d) A case manager with a bachelor's degree but without 2,000 hours of supervised experience described in paragraph (a), must complete 40 hours of training approved by the commissioner covering case management skills and the characteristics and needs of adults with serious and persistent mental illness.

(e) Case managers without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate;

(2) be a registered nurse without a bachelor's degree and have a combination of specialized training in psychiatry and work experience consisting of community interaction and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 department of human service federal waiver provision and meet the continuing education and mentoring requirements in this section.

(f) A case manager associate (CMA) must work under the direction of a case manager or case management supervisor and must be at least 21 years of age. A case manager associate must also have a high school diploma or its equivalent and meet one of the following criteria:

(1) have an associate of arts degree in one of the behavioral sciences or human services;

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(2) be a registered nurse without a bachelor's degree;

(3) within the previous ten years, have three years of life experience with serious and persistent mental illness as defined in section 245.462, subdivision 20; or as a child had severe emotional disturbance as defined in section 245.4871, subdivision 6; or have three years life experience as a primary caregiver to an adult with serious and persistent mental illness within the previous ten years;

(4) have 6,000 hours work experience as a nondegreed state hospital technician; or

(5) be a mental health practitioner as defined in section 245.462, subdivision 17, clause (2).

Individuals meeting one of the criteria in clauses (1) to (4) may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting the criteria in clause (5) may qualify as a case manager after three years of supervised experience as a case manager associate.

Case management associates must have 40 hours preservice training under paragraph (d) and receive at least 40 hours of continuing education in mental illness and mental health services annually. Case manager associates shall receive at least five hours of mentoring per week from a case management mentor. A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(g) A case management supervisor must meet the criteria for mental health professionals, as specified in section 245.462, subdivision 18.

(h) Until June 30, 1999, An immigrant who does not have the qualifications specified in this subdivision may provide case management services to adult immigrants with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is currently enrolled in and is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing 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 this subdivision are met.

(b) The commissioner may approve waivers submitted by counties to allow case managers without a bachelor's degree but with 6,000 hours of supervised experience in the delivery of services to adults with mental illness if the person:

(1) meets the qualifications for a mental health practitioner in subdivision 26;

(2) has completed 40 hours of training approved by the commissioner in case management skills and in the characteristics and needs of adults with serious and persistent mental illness; and

(3) demonstrates that the 6,000 hours of supervised experience are in identifying functional needs of persons with mental illness, coordinating assessment information

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and making referrals to appropriate service providers, coordinating a variety of services to support and treat persons with mental illness, and monitoring to ensure appropriate provision of services. The county board is responsible to verify that all qualifications, including content of supervised experience, have been met.

Sec. 3. Minnesota Statutes 1998, section 245.462, subdivision 17, is amended to read:

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:

(i) has at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness; or

(ii) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to persons with mental illness, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

(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

(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.

Sec. 4. Minnesota Statutes 1998, section 245.4711, subdivision 1, is amended to read:

Subdivision 1. **AVAILABILITY OF CASE MANAGEMENT SERVICES.** (a) By January 1, 1989, the county board shall provide case management services for all adults with serious and persistent mental illness who are residents of the county and 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.

(c) Case management services are eligible for reimbursement under the medical assistance program. Costs associated with mentoring, supervision, and continuing education may be included in the reimbursement rate methodology used for case management services under the medical assistance program.

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Sec. 5. Minnesota Statutes 1998, section 245.4712, subdivision 2, is amended to read:

Subd. 2. **DAY TREATMENT SERVICES PROVIDED.** (a) 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. Adults 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 support for residing in the community;
- (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) For purposes of complying with medical assistance requirements, an adult day treatment program may choose among the methods of clinical supervision specified in:

- (1) Minnesota Rules, part 9505.0323, subpart 1, item F;
- (2) Minnesota Rules, part 9505.0324, subpart 6, item F; or
- (3) Minnesota Rules, part 9520.0800, subparts 2 to 6.

A day treatment program may demonstrate compliance with these clinical supervision requirements by obtaining certification from the commissioner under Minnesota Rules, parts 9520.0750 to 9520.0870, or by documenting in its own records that it complies with one of the above methods.

(c) 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.

Sec. 6. Minnesota Statutes 1998, section 245.4871, subdivision 4, is amended to read:

Subd. 4. **CASE MANAGER MANAGEMENT SERVICE PROVIDER.** (a) "Case manager management service provider" means an individual a case manager or case manager associate 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.

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(b) A case manager must:

(1) have at least a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing 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 shall receive regular ongoing supervision totaling 38 hours per year, of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The remainder may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours.

(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~~ one hour 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) Case managers who have a bachelor's degree but are not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in severe emotional disturbance and mental health services annually.

(i) Case managers without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate;

(2) be a registered nurse without a bachelor's degree who has a combination of specialized training in psychiatry and work experience consisting of community interaction

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and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 department of human service federal waiver provision and meets the continuing education and mentoring requirements in this section.

(j) A case manager associate (CMA) must work under the direction of a case manager or case management supervisor and must be at least 21 years of age. A case manager associate must also have a high school diploma or its equivalent and meet one of the following criteria:

(1) have an associate of arts degree in one of the behavioral sciences or human services;

(2) be a registered nurse without a bachelor's degree;

(3) have three years of life experience as a primary caregiver to a child with serious emotional disturbance as defined in section 245.4871, subdivision 6, within the previous ten years;

(4) have 6,000 hours work experience as a nondegreed state hospital technician; or

(5) be a mental health practitioner as defined in section 245.462, subdivision 17, clause (2).

Individuals meeting one of the criteria in clauses (1) to (4) may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting the criteria in clause (5) may qualify as a case manager after three years of supervised experience as a case manager associate.

Case manager associates must have 40 hours of preservice training under paragraph (e), clause (1), and receive at least 40 hours of continuing education in severe emotional disturbance and mental health service annually. Case manager associates shall receive at least five hours of mentoring per week from a case management mentor. A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(k) A case management supervisor must meet the criteria for a mental health professional as specified in section 245.4871, subdivision 27.

(l) Until June 30, 1999, An immigrant who does not have the qualifications specified in this subdivision may provide case management services to child immigrants with severe emotional disturbance of the same ethnic group as the immigrant if the person:

(1) is currently enrolled in and 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

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(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.

(4) The commissioner may approve waivers submitted by counties to allow case managers without a bachelor's degree but with 6,000 hours of supervised experience in the delivery of services to children with severe emotional disturbance if the person:

(1) meets the qualifications for a mental health practitioner in subdivision 26;

(2) has completed 40 hours of training approved by the commissioner in case management skills and in the characteristics and needs of children with severe emotional disturbance; and

(3) demonstrates that the 6,000 hours of supervised experience are in identifying functional needs of children with severe emotional disturbance, coordinating assessment information and making referrals to appropriate service providers, coordinating a variety of services to support and treat children with severe emotional disturbance, and monitoring to ensure appropriate provision of services. The county board is responsible to verify that all qualifications, including content of supervised experience, have been met.

Sec. 7. Minnesota Statutes 1998, section 245.4871, subdivision 26, is amended to read:

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:

(i) has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; or

(ii) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to children with emotional disturbances, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

(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.

Sec. 8. Minnesota Statutes 1998, section 245.4881, subdivision 1, is amended to read:

Subdivision 1. **AVAILABILITY OF CASE MANAGEMENT SERVICES.** (a) By April 1, 1992, the county board shall provide case management services for each child

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with severe emotional disturbance who is a resident of 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) Except as permitted by law and the commissioner under demonstration projects, 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.

(c) Case management services are eligible for reimbursement under the medical assistance program. Costs of mentoring, supervision, and continuing education may be included in the reimbursement rate methodology used for case management services under the the medical assistance program.

**Sec. 9. [246.0136] PLANNING FOR TRANSITION OF REGIONAL TREATMENT CENTERS AND OTHER STATE-OPERATED SERVICES TO ENTERPRISE ACTIVITIES.**

Subdivision 1. PLANNING FOR ENTERPRISE ACTIVITIES. The commissioner of human services is directed to study and make recommendations to the legislature on establishing enterprise activities within state-operated services. Before implementing an enterprise activity, the commissioner must obtain statutory authorization for its implementation, except that the commissioner has authority to implement enterprise activities for adolescent services and to establish a public group practice without statutory authorization. Enterprise activities are defined as the range of services, which are delivered by state employees, needed by people with disabilities and are fully funded by public or private third-party health insurance or other revenue sources available to clients that provide reimbursement for the services provided. Enterprise activities within state-operated services shall specialize in caring for vulnerable people for whom no other providers are available or for whom state-operated services may be the provider selected by the payer. In subsequent biennia after an enterprise activity is established within a state-operated service, the base state appropriation for that state-operated service shall be reduced proportionate to the size of the enterprise activity.

Subd. 2. REQUIRED COMPONENTS OF ANY PROPOSAL; CONSIDERATIONS. In any proposal for an enterprise activity brought to the legislature by the commissioner, the commissioner must demonstrate that there is public or private third-party health insurance or other revenue available to the people served, that the anticipated revenues to be collected will fully fund the services, that there will be sufficient funds for cash flow purposes, and that access to services by vulnerable populations served by state-operated services will not be limited by implementation of an enterprise activity. In studying the feasibility of establishing an enterprise activity, the commissioner must consider:

- (1) creating public or private partnerships to facilitate client access to needed services;
- (2) administrative simplification and efficiencies throughout the state-operated services system;
- (3) converting or disposing of buildings not utilized and surplus lands; and
- (4) exploring the efficiencies and benefits of establishing state-operated services as an independent state agency.

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Sec. 10. Minnesota Statutes 1998, section 246.18, subdivision 6, is amended to read:

Subd. 6. **COLLECTIONS DEDICATED.** ~~Except for state-operated programs and services funded through a direct appropriation from the legislature, money received within the regional treatment center system for the following state-operated services is dedicated to the commissioner for the provision of those services:~~

~~(1) community-based residential and day training and habilitation services for mentally retarded persons;~~

~~(2) community health clinic services;~~

~~(3) accredited hospital outpatient department services;~~

~~(4) certified rehabilitation agency and rehabilitation hospital services; or~~

~~(5) community-based transitional support services for adults with serious and persistent mental illness. Except for state-operated programs funded through a direct appropriation from the legislature, any state-operated program or service established and operated as an enterprise activity, shall retain the revenues earned in an interest-bearing account.~~

When the commissioner determines the intent to transition from a direct appropriation to enterprise activity for which the commissioner has authority, all collections for the targeted state-operated service shall be retained and deposited into an interest-bearing account. At the end of the fiscal year, prior to establishing the enterprise activity, collections up to the amount of the appropriation for the targeted service shall be deposited to the general fund. All funds in excess of the amount of the appropriation will be retained and used by the enterprise activity for cash flow purposes.

These funds must be deposited in the state treasury in a revolving account and funds in the revolving account are appropriated to the commissioner to operate the services authorized, and any unexpended balances do not cancel but are available until spent.

Sec. 11. Minnesota Statutes 1998, section 252.46, subdivision 6, is amended to read:

Subd. 6. **VARIANCES.** (a) 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 on forms supplied by the commissioner with the recommended payment rates.

(b) A variance to the rate maximum 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, transportation, and other program related costs when any one of the criteria criterion in clauses (1) to (4) is also met:

(1) change is necessary to comply with licensing citations;

(2) a licensed vendor currently serving fewer than 70 persons with payment rates of 80 percent or less of the statewide average rates and with clients meeting the behavioral or medical criteria under clause (3) approved by the commissioner as a significant program change under section 252.28;

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(3) (1) A determination of need under section 252.28 is approved for a significant program change is approved by the commissioner under section 252.28 that is necessary for a vendor to provide authorized services to a new client or clients with very severe self-injurious or assaultive behavior, or medical conditions requiring delivery of physician-prescribed medical interventions requiring one-to-one staffing for at least 15 minutes each time they are performed, or to a new client or clients directly discharged to the vendor's program from a regional treatment center; or

(4) there is a need to maintain required staffing levels in order to provide authorized services approved by the commissioner under section 252.28, that is necessitated by a significant and permanent decrease in licensed capacity or clientele.

The county shall review the adequacy of services provided by vendors whose payment rates are 80 percent or more of the statewide average rates and 50 percent or more of the vendor's clients meet the behavioral or medical criteria in clause (3).

A variance under this paragraph may be approved only if the costs to the medical assistance program do not exceed the medical assistance costs for all clients served by the alternatives and all clients remaining in the existing services. one or more clients who meet one or more of the following criteria:

(a) the client is a new client and:

(i) exhibits severe behavior as indicated on the screening document;

(ii) periodically requires one-to-one staff time for at least 15 minutes at a time to deliver physician prescribed medical interventions; or

(iii) has been discharged directly to the vendor's program from a regional treatment center or the Minnesota extended treatment option.

(b) the client is an existing client who has developed one of the following changed circumstances which increases costs that are not covered by the vendor's current rate, and for whom a significant program change is necessary to ensure the continued provision of authorized services to that client:

(i) severe behavior as indicated on the screening document;

(ii) a medical condition periodically requiring one-to-one staff time for at least 15 minutes at a time to deliver physician prescribed medical interventions; or

(iii) a permanent decrease in skill functioning, as verified by medical reports or assessments;

(2) A licensing determination requires a program change that the vendor cannot comply with due to funding restraints;

(3) A determination of need under section 252.28 is approved for a significant and permanent decrease in licensed capacity and the vendor demonstrates the need to retain certain staffing levels to serve the remaining clients; or

(4) In cases where conditions in clauses (1) to (3) do not apply, but a determination of need under section 252.28 is approved for an unusual circumstance which exists that significantly impacts the type or amount of services delivered, as evidenced by documentation presented by the vendor and with the concurrence of the commissioner.

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(b) (c) A variance to the rate minimum may be granted when:

(1) the county board contracts for increased services from a vendor and for some or all individuals receiving services from the vendor lower per unit fixed costs result; or

(2) when the actual costs of delivering authorized service over a 12-month contract period have decreased.

(e) (d) The written variance request under this subdivision 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 vendor documents efforts to reallocate current staff and any additional staffing needs cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(3) The vendor documents that financial resources have been reallocated before applying for a variance. No variance may be granted for equipment, supplies, or other capital expenditures when depreciation expense for repair and replacement of such items is part of the current rate.

(4) For variances related to loss of clientele, the vendor documents the other program and administrative expenses, if any, that have been reduced.

(5) The county board submits verification of the conditions for which the variance is requested, 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.

(6) The county board's recommended payment rates do not exceed 95 percent of the greater of 125 percent of the current statewide median or 125 percent of the regional average payment rates, whichever is higher, for each of the regional commission districts under sections 462.381 to 462.396 in which the vendor is located except for the following: when a variance is recommended to allow authorized service delivery to new clients with severe self-injurious or assaultive behaviors or with medical conditions requiring delivery of physician prescribed medical interventions, or to persons being directly discharged from a regional treatment center or Minnesota extended treatment options to the vendor's program, those persons must be assigned a payment rate of 200 percent of the current statewide average rates. All other clients receiving services from the vendor must be assigned a payment rate equal to the vendor's current rate unless the vendor's current rate exceeds 95 percent of 125 percent of the statewide median or 125 percent of the regional average payment rates, whichever is higher. When the vendor's rates exceed 95 percent of 125 percent of the statewide median or 125 percent of the regional average rates, the maximum rates assigned to all other clients must be equal to the greater of 95 percent of 125 percent of the statewide median or 125 percent of the regional average rates. The maximum payment rate that may be recommended for the vendor under these conditions is determined by multiplying the number of clients at each limit by the rate corresponding to that limit and then dividing the sum by the total number of clients.

(d) (e) 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

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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. 12. Minnesota Statutes 1998, section 253B.045, is amended by adding a subdivision to read:

**Subd. 5. HEALTH PLAN COMPANY; DEFINITION.** For purposes of this section, "health plan company" has the meaning given it in section 62Q.01, subdivision 4, and also includes a demonstration provider as defined in section 256B.69, subdivision 2, paragraph (b), a county or group of counties participating in county-based purchasing according to section 256B.692, and a children's mental health collaborative under contract to provide medical assistance for individuals enrolled in the prepaid medical assistance and MinnesotaCare programs according to sections 245.493 to 245.496.

Sec. 13. Minnesota Statutes 1998, section 253B.045, is amended by adding a subdivision to read:

**Subd. 6. COVERAGE.** A health plan company must provide coverage, according to the terms of the policy, contract, or certificate of coverage, for all medically necessary covered services as determined by section 62Q.53 provided to an enrollee that are ordered by the court under this chapter.

Sec. 14. Minnesota Statutes 1998, section 253B.07, subdivision 1, is amended to read:

**Subdivision 1. PREPETITION SCREENING.** (a) Prior to filing a petition for commitment of or early intervention for a proposed patient, an interested person shall apply to the designated agency in the county of the proposed patient's residence or presence for conduct of a preliminary investigation, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment. The designated agency shall appoint a screening team to conduct an investigation which shall include:

(i) a personal interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient. If the proposed patient is not interviewed, reasons must be documented;

(ii) identification and investigation of specific alleged conduct which is the basis for application;

(iii) identification, exploration, and listing of the reasons for rejecting or recommending alternatives to involuntary placement; and

(iv) in the case of a commitment based on mental illness, the following information, if it is known or available: information that may be relevant to the administration of neuroleptic medications, if necessary, including the existence of a declaration under section 253B.03, subdivision 6d, or a health care directive under chapter 145C or a guardian, conservator, proxy, or agent with authority to make health care decisions for the proposed patient; information regarding the capacity of the proposed patient to make decisions regarding administration of neuroleptic medication; and whether the proposed patient is likely to consent or refuse consent to administration of the medication; and

(v) seeking input from the proposed patient's health plan company to provide the court with information about services the enrollee needs and the least restrictive alternatives.

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(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities. Data collected pursuant to this clause shall be considered private data on individuals. The prepetition screening report is not admissible in any court proceedings unrelated to the commitment proceedings.

(c) When the prepetition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed.

(d) The prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition screening team's decision shall be provided to the prospective petitioner.

(e) If the interested person wishes to proceed with a petition contrary to the recommendation of the prepetition screening team, application may be made directly to the county attorney, who may determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(f) If the proposed patient has been acquitted of a crime under section 611.026, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition, as could be obtained by a preliminary investigation, is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding. If a court petitions for commitment pursuant to the rules of criminal or juvenile procedure or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

Sec. 15. Minnesota Statutes 1998, section 253B.185, is amended by adding a subdivision to read:

Subd. 6. **AFTERCARE AND CASE MANAGEMENT.** The state, in collaboration with the designated agency, is responsible for arranging and funding the aftercare and case management services for persons under commitment as sexual psychopathic personalities and sexually dangerous persons discharged after July 1, 1999.

Sec. 16. Minnesota Statutes 1998, section 254B.01, is amended by adding a subdivision to read:

Subd. 7. **ROOM AND BOARD RATE.** "Room and board rate" means a rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for a person in need of chemical dependency services.

Sec. 17. Minnesota Statutes 1998, section 254B.03, subdivision 2, is amended to read:

Subd. 2. **CHEMICAL DEPENDENCY SERVICES FUND PAYMENT.** (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification that, if located outside of federally recognized tribal lands, would be required to be licensed by the commissioner as a chemical dependency treatment or rehabilitation program under sections 245A.01 to 245A.16, and services other than detoxification provided in another state that would be required to be licensed as a chemical depen-

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gency program if the program were in the state. Out of state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide chemical dependency treatment. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. Except for chemical dependency transitional rehabilitation programs, vendors receiving payments from the chemical dependency fund must not require copayment from a recipient of benefits for services provided under this subdivision. Payment from the chemical dependency fund shall be made for necessary room and board costs provided by vendors certified according to section 254B.05, or in a community hospital licensed by the commissioner of health according to sections 144.50 to 144.56 to a client who is:

(1) determined to meet the criteria for placement in a residential chemical dependency treatment program according to rules adopted under section 254A.03, subdivision 3; and

(2) concurrently receiving a chemical dependency treatment service in a program licensed by the commissioner and reimbursed by the chemical dependency fund.

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

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

Sec. 18. Minnesota Statutes 1998, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **LICENSURE REQUIRED.** Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs located on federally recognized tribal lands that provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors. Detoxification programs are not eligible vendors. Programs that are not licensed as a chemical dependency residential or non-residential treatment program by the commissioner or by tribal government are not eligible vendors. To be eligible for payment under the Consolidated Chemical Dependency

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Treatment Fund, a vendor of a chemical dependency service must participate in the Drug and Alcohol Abuse Normative Evaluation System and the treatment accountability plan.

Effective January 1, 2000, vendors of room and board are eligible for chemical dependency fund payment if the vendor:

(1) is certified by the county or tribal governing body as having rules prohibiting residents bringing chemicals into the facility or using chemicals while residing in the facility and provide consequences for infractions of those rules;

(2) has a current contract with a county or tribal governing body;

(3) is determined to meet applicable health and safety requirements;

(4) is not a jail or prison; and

(5) is not concurrently receiving funds under chapter 256I for the recipient.

Sec. 19. Minnesota Statutes 1998, section 256.01, subdivision 6, is amended to read:

Subd. 6. **ADVISORY TASK FORCES.** The commissioner may appoint advisory task forces to provide consultation on any of the programs under the commissioner's administration and supervision. A task force shall expire and the compensation, terms of office and removal of members shall be as provided in section 15.059. Notwithstanding section 15.059, the commissioner may pay a per diem of \$35 to consumers and family members whose participation is needed in legislatively authorized state-level task forces, and whose participation on the task force is not as a paid representative of any agency, organization, or association.

Sec. 20. Minnesota Statutes 1998, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. **MENTAL HEALTH CASE MANAGEMENT.** (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) at least a face-to-face contact with the adult or the adult's legal representative; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact with the adult or the adult's legal representative within the preceding two months.

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(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by county-contracted vendors shall be based on a monthly rate negotiated by the host county. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county, except to reimburse the county for advance funding provided by the county to the vendor.

(f) If the service is provided by a team which includes contracted vendors and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, the county must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(g) The commissioner shall calculate the nonfederal share of actual medical assistance and general assistance medical care payments for each county, based on the higher of calendar year 1995 or 1996, by service date, project that amount forward to 1999, and transfer one-half of the result from medical assistance and general assistance medical care to each county's mental health grants under sections 245.4886 and 256E.12 for calendar year 1999. The annualized minimum amount added to each county's mental health grant shall be \$3,000 per year for children and \$5,000 per year for adults. The commissioner may reduce the statewide growth factor in order to fund these minimums. The annualized total amount transferred shall become part of the base for future mental health grants for each county.

(h) Any net increase in revenue to the county as a result of the change in this section must be used to provide expanded mental health services as defined in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, excluding inpatient and residential treatment. For adults, increased revenue may also be used for services and consumer supports which are part of adult mental health projects approved under Laws 1997, chapter 203, article 7, section 25. For children, increased revenue may also be used for respite care and nonresidential individualized rehabilitation services as defined in section 245.492, subdivisions 17 and 23. "Increased revenue" has the meaning given in Minnesota Rules, part 9520.0903, subpart 3.

(i) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds.

(j) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, is responsible for

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any federal disallowances. The county may share this responsibility with its contracted vendors.

(k) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

- (1) the costs of developing and implementing this section; and
- (2) programming the information systems.

(l) Notwithstanding section 256.025, subdivision 2, payments to counties for case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(m) Notwithstanding section 256B.041, county payments for the cost of mental health case management services provided by county or state staff shall not be made to the state treasurer. For the purposes of mental health case management services provided by county or state staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(n) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(o) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the last 30 days of the recipient's residency in that facility and may not exceed more than two months in a calendar year.

(p) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(q) By July 1, 2000, the commissioner shall evaluate the effectiveness of the changes required by this section, including changes in number of persons receiving mental health case management, changes in hours of service per person, and changes in case-load size.

(r) For each calendar year beginning with the calendar year 2001, the annualized amount of state funds for each county determined under paragraph (g) shall be adjusted by the county's percentage change in the average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, in comparison to the prior fiscal year.

(s) For counties receiving the minimum allocation of \$3,000 or \$5,000 described in paragraph (g), the adjustment in paragraph (r) shall be determined so that the county receives the higher of the following amounts:

- (1) a continuation of the minimum allocation in paragraph (g); or
- (2) an amount based on that county's average number of clients per month who received case management under this section during the fiscal year that ended six months

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prior to the calendar year in question, in comparison to the prior fiscal year, times the average statewide grant per person per month for counties not receiving the minimum allocation.

(t) The adjustments in paragraphs (r) and (s) shall be calculated separately for children and adults.

Sec. 21. Laws 1995, chapter 207, article 8, section 41, as amended by Laws 1997, chapter 203, article 7, section 25, is amended to read:

**Sec. 41. [245.4661] PILOT PROJECTS TO ~~TEST~~ PROVIDE ALTERNATIVES TO DELIVERY OF ADULT MENTAL HEALTH SERVICES.**

Subdivision 1. **AUTHORIZATION FOR PILOT PROJECTS.** The commissioner of human services may approve pilot projects to test provide alternatives to or ~~the enhanced~~ enhance coordination of the delivery of mental health services required under the Minnesota Comprehensive Adult Mental Health Act, Minnesota Statutes, sections 245.461 to 245.486.

Subd. 2. **PROGRAM DESIGN AND IMPLEMENTATION.** (a) The pilot projects shall be established to design, plan, and improve the mental health service delivery system for adults with serious and persistent mental illness that would:

(1) provide an expanded array of services from which clients can choose services appropriate to their needs;

(2) be based on purchasing strategies that improve access and coordinate services without cost shifting;

(3) incorporate existing state facilities and resources into the community mental health infrastructure through creative partnerships with local vendors; and

(4) utilize existing categorical funding streams and reimbursement sources in combined and creative ways, except appropriations to regional treatment centers and all funds that are attributable to the operation of state-operated services are excluded unless appropriated specifically by the legislature for a purpose consistent with this section.

(b) All projects funded by January 1, 1997, must complete the planning phase and be operational by June 30, 1997; all projects funded by January 1, 1998, must be operational by June 30, 1998.

Subd. 3. **PROGRAM EVALUATION.** Evaluation of each project will be based on outcome evaluation criteria negotiated with each project prior to implementation.

Subd. 4. **NOTICE OF PROJECT DISCONTINUATION.** Each project may be discontinued for any reason by the project's managing entity or the commissioner of human services, after 90 days' written notice to the other party.

Subd. 5. **PLANNING FOR PILOT PROJECTS.** Each local plan for a pilot project must be developed under the direction of the county board, or multiple county boards acting jointly, as the local mental health authority. The planning process for each pilot shall include, but not be limited to, mental health consumers, families, advocates, local mental health advisory councils, local and state providers, representatives of state and local public employee bargaining units, and the department of human services. As part of

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the planning process, the county board or boards shall designate a managing entity responsible for receipt of funds and management of the pilot project.

Subd. 6. **DUTIES OF COMMISSIONER.** (a) For purposes of the pilot projects, the commissioner shall facilitate integration of funds or other resources as needed and requested by each project. These resources may include:

(1) residential services funds administered under Minnesota Rules, parts 9535.2000 to 9535.3000, in an amount to be determined by mutual agreement between the project's managing entity and the commissioner of human services after an examination of the county's historical utilization of facilities located both within and outside of the county and licensed under Minnesota Rules, parts 9520.0500 to 9520.0690;

(2) community support services funds administered under Minnesota Rules, parts 9535.1700 to 9535.1760;

(3) other mental health special project funds;

(4) medical assistance, general assistance medical care, MinnesotaCare and group residential housing if requested by the project's managing entity, and if the commissioner determines this would be consistent with the state's overall health care reform efforts; and

(5) regional treatment center nonfiscal resources to the extent agreed to by the project's managing entity and the regional treatment center.

(b) The commissioner shall consider the following criteria in awarding start-up and implementation grants for the pilot projects:

(1) the ability of the proposed projects to accomplish the objectives described in subdivision 2;

(2) the size of the target population to be served; and

(3) geographical distribution.

(c) The commissioner shall review overall status of the projects initiatives at least every two years and recommend any legislative changes needed by January 15 of each odd-numbered year.

(d) The commissioner may waive administrative rule requirements which are incompatible with the implementation of the pilot project.

(e) The commissioner may exempt the participating counties from fiscal sanctions for noncompliance with requirements in laws and rules which are incompatible with the implementation of the pilot project.

(f) The commissioner may award grants to an entity designated by a county board or group of county boards to pay for start-up and implementation costs of the pilot project.

Subd. 7. **DUTIES OF COUNTY BOARD.** The county board, or other entity which is approved to administer a pilot project, shall:

(1) administer the project in a manner which is consistent with the objectives described in subdivision 2 and the planning process described in subdivision 5;

(2) assure that no one is denied services for which they would otherwise be eligible; and

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(3) provide the commissioner of human services with timely and pertinent information through the following methods:

- (i) submission of community social services act plans and plan amendments;
- (ii) submission of social services expenditure and grant reconciliation reports, based on a coding format to be determined by mutual agreement between the project's managing entity and the commissioner; and
- (iii) submission of data and participation in an evaluation of the pilot projects, to be designed cooperatively by the commissioner and the projects.

Sec. 22. Laws 1997, chapter 203, article 9, section 19, is amended to read:

**Sec. 19. TRANSITION FOR THE COMPULSIVE GAMBLING TREATMENT PROGRAM.**

The commissioner of human services shall conduct a transition of treatment programs for compulsive gambling from the treatment center model to a model in which reimbursement for treatment of an individual compulsive gambler from an approved provider is on a fee-for-service basis on the following schedule:

- (1) one-third of compulsive gamblers treated through the program must receive services paid for from the individual treatment reimbursement model beginning October 1, 1997;
- (2) two-thirds of compulsive gamblers treated through the program must receive services paid for from the individual treatment reimbursement model beginning July 1, 1998; and
- (3) 100 percent of compulsive gamblers treated through the program must receive treatment paid for from the individual treatment reimbursement model beginning July 1, 1999 2000.

Sec. 23. Laws 1998, chapter 407, article 7, section 2, subdivision 3, is amended to read:

Subd. 3. **LAND DESCRIPTION.** That part of the Northeast Quarter (NE 1/4) of Section ~~30~~ 29, Township 45 North, Range 30 West, Crow Wing county, Minnesota, described as follows:

Commencing at the southeast corner of said Northeast quarter; thence North 00 degrees 46 minutes 05 seconds West, bearing based on the Crow Wing county Coordinate Database NAD 83/94, 1520.06 feet along the east line of said Northeast quarter to the point of beginning; thence continue North 00 degrees 46 minutes 05 seconds West 634.14 feet along said east line of the Northeast quarter; thence South 89 degrees 13 minutes 20 seconds West 550.00 feet; thence South 18 degrees 57 minutes 23 seconds East 115.59 feet; thence South 42 degrees 44 minutes 39 seconds East 692.37 feet; thence South 62 degrees 46 minutes 19 seconds East 20.24 feet; thence North 89 degrees 13 minutes 55 seconds East 33.00 feet to the point of beginning. Containing 4.69 acres, more or less. Subject to the right-of-way of the Township road along the east side thereof, subject to other easements, reservations, and restrictions of record, if any.

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**Sec. 24. ESTABLISHMENT AND PURPOSE OF THE SUPPORTIVE HOUSING AND MANAGED CARE PILOT PROJECT.**

Subdivision 1. ESTABLISHMENT AND PURPOSE. If funding is available, the commissioner of human services may establish a supportive housing and managed care pilot project to determine whether integrating the delivery of housing, supportive services, and health care into a single, flexible program will reduce public expenditures on homeless individuals, increase their employment rates, and provide a new alternative to providing services to a hard-to-serve population.

The commissioner of human services may create a block grant program for counties for the purpose of providing rent subsidies and supportive services to eligible individuals. Minimum project and application requirements may be developed by the commissioner in cooperation with counties and their nonprofit partners with the goal to provide the maximum flexibility in program design. If any funds are available, the funds must be coordinated with health care services for eligible individuals.

Subd. 2. COUNTY ELIGIBILITY. If the commissioner establishes the pilot project under subdivision 1, a county may request funding for the purposes of the pilot project if the county:

(1) agrees to develop, in cooperation with nonprofit partners, a supportive housing and managed care pilot project that integrates the delivery of housing, support services, and health care for eligible individuals or agrees to contract with an existing integrated program; and

(2) develops a method for evaluating the quality of the integrated services provided and the amount of any resulting cost savings to the county and state.

Subd. 3. PARTICIPANT ELIGIBILITY. In order to be eligible for the pilot project, a county must determine that an individual:

(1) meets the eligibility requirements of the group residential housing program under Minnesota Statutes, section 256I.04, subdivision 1;

(2) is a homeless person or a person at risk of homelessness. For purposes of this pilot project, "homeless person" means a person who is living, or at imminent risk of living, on the street, in a shelter, or is evicted from a dwelling or discharged from a regional human services center, community hospital, or residential treatment program, and has no appropriate housing available and lacks the resources necessary to access permanent housing as determined by the county requesting funding under the pilot project; and

(3) is a person with mental illness, a history of substance abuse, or a person with HIV.

Subd. 4. FUNDING. If the commissioner establishes the pilot project under subdivision 1, a county may request funding from the commissioner for a specified number of eligible participants for the pilot project. The commissioner shall review the request for compliance with subdivisions 1 to 3 and may approve or disapprove the request. The commissioner shall transfer funding to be allocated to participating counties as a block grant and paid on a monthly basis.

Subd. 5. REPORT. If the commissioner establishes the pilot project under subdivision 1, participating counties and the commissioner of human services shall collaborate

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to prepare and issue an annual report beginning December 1, 2001, to the appropriate committee chairs in the senate and house on the use of state resources, including other funds leveraged for this initiative, the status of individuals being served in the pilot project, and the cost-effectiveness of the pilot project. The commissioner shall provide data that may be needed to evaluate the pilot project to counties that request the data.

Subd. 6. SUNSET. The pilot project shall sunset June 30, 2005.

**Sec. 25. CONVEYANCE OF STATE LANDS TO COUNTY OF ISANTI.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 to 94.16, the commissioner of human services, through the commissioner of administration, may transfer to the county of Isanti the lands described in paragraph (c), for no consideration. The commissioner of human services and the county may attach to the transfer conditions that they agree are appropriate, including conditions that relate to water and sewer service. The deed to convey the property must contain a clause that the property shall revert to the state if the property ceases to be used for a public purpose.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land that may be transferred consists of 21.9 acres, more or less, and is described as follows:

That part of the Southwest Quarter of the Southeast Quarter and that part of Government Lot 4, both in Section 32, Township 36, Range 23, Isanti County, Minnesota, described jointly as follows: Commencing at the southwest corner of the Southwest Quarter of the Southeast Quarter of Section 32; thence North 89 degrees 45 minutes 12 seconds East, assumed bearing, along the south line of said SW 1/4 of SE 1/4, a distance of 609.48 feet; thence North 1 degree 30 minutes 30 seconds West, a distance of 149.17 feet to the point of beginning of the parcel to be herein described; thence continuing North 1 degrees 30 minutes 30 seconds West, a distance of 1113.59 feet; thence South 89 degrees 59 minutes 36 seconds West, a distance of 496.41 feet; thence southwesterly along a tangential curve concave to the southeast, radius 318.10 feet, central angle 90 degrees 16 minutes 37 seconds, for an arc length of 501.21 feet; thence South 0 degrees 17 minutes 01 seconds East, tangent to said curve, for a distance of 86.59 feet; thence southerly along a tangential curve concave to the west, radius 398.10 feet, central angle 29 degrees 47 minutes 02 seconds, for an arc length of 206.94 feet; thence south 29 degrees 30 minutes 01 seconds West, tangent to said curve, for a distance of 34.23 feet; thence southerly along a tangential curve concave to the east, radius 318.10 feet, central angle 29 degrees 49 minutes 32 seconds, for an arc length of 165.59 feet; thence South 0 degrees 19 minutes 31 seconds East, tangent to said curve for a distance of 320.65 feet to the point of intersection with a line that bears West (North 90 degrees 00 minutes West) from the point of beginning; thence East (North 90 degrees 00 minutes East), a distance of 951.22 feet to the point of beginning.

Subject to the existing city of Cambridge water main easement.

(d) The county of Isanti may use the land for economic development. Economic development is a public purpose within the meaning of the term as used in Laws 1990, chap-

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ter 610, article 1, section 12, subdivision 5, and sales or conveyances to private parties shall be considered economic development. Property conveyed by the state under this section shall not revert to the state if it is conveyed or otherwise encumbered by the county as part of the county economic development activity.

**Sec. 26. CONVEYANCE OF STATE LAND TO CITY OF CAMBRIDGE.**

(a) Notwithstanding Minnesota Statutes, sections 94.09 to 94.16, the commissioner of human services, through the commissioner of administration, may transfer to the city of Cambridge the lands described in paragraph (c), for no consideration. The commissioner of human services and the city may attach to the transfer conditions that they agree are appropriate, including conditions that relate to water and sewer service. The deed to convey the property must contain a clause that the property shall revert to the state if the property ceases to be used for a public purpose.

(b) The conveyance must be in a form approved by the attorney general.

(c) Subject to the right-of-way for state trunk highway No. 293 and south Dellwood street and subject to other easements, reservations, road or street right-of-ways, and restrictions of record, if any, the land to be conveyed may include all or part of any of the parcels described as follows:

(1) that part of the Northeast Quarter of the Northeast Quarter of Section 5, Township 35, Range 23, Isanti County, Minnesota, lying north of a line drawn parallel with and 50 feet north of the center line of State Highway No. 293, as laid out and constructed and lying westerly of the following described line:

Commencing at a point where the West line of the right-of-way of the Great Northern Railway Company (presently the Burlington Northern and Santa Fe Railway) intersects the North line of said Section 5, said point now being the intersection of the North line of said Section 5 with the center line of State Trunk Highway No. 65 as now laid out and constructed (presently known as South Main Street); thence on a bearing of West and along the North line of said Section 5 a distance of 539.5 feet to the point of beginning of the line to be herein described; thence on a bearing of South, a distance of 451.75 feet to the point of intersection with a line drawn parallel with and distant 50 feet north of the center line of State Highway No. 293, as laid out and constructed and there terminating. Containing 1/4 acre, more or less.

(2) that part of the Northwest Quarter of the Southeast Quarter and that part of Governments Lots 3 and 4, all in Section 32, Township 36, Range 23, Isanti County, Minnesota, described jointly as follows:

Commencing at the East quarter corner of Section 32, Township 36, Range 23, Isanti County, Minnesota; thence South 89 degrees 44 minutes 35 seconds West, assumed bearing, along the east-west quarter line of said Section 32, a distance of 2251.43 feet; thence South 1 degree 48 minutes 40 seconds East, a distance of 344.47 feet to the south line of Lot 30 of Auditor's Subdivision No. 9; thence South 89 degrees 35 minutes 5 seconds West, along said south line and the westerly projection thereof, a distance of 740.00 feet to the point of beginning of the parcel to be herein described; thence North 89 degrees 35 minutes, 05 seconds East, retracing the last described course, a distance of

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534.66 feet to the northwest corner of the recorded plat of RIVERWOOD VILLAGE; thence South 2 degrees 40 minutes 50 seconds East, a distance of 338.38 feet, along the westerly line of said RIVERWOOD VILLAGE to the southwest corner of said RIVERWOOD VILLAGE; thence North 89 degrees 44 minutes 50 seconds East, along the south line of said RIVERWOOD VILLAGE, a distance of 1074.56 feet; thence South 3 degrees 35 minutes 15 seconds East, a distance of 258.66 feet; thence southwesterly along a tangential curve concave to the northwest, radius 318.10 feet, central angle 93 degrees 34 minutes 51 seconds for an arc length of 519.56 feet; thence South 89 degrees 59 minutes 37 seconds West tangent to said curve for a distance of 825.86 feet; thence southwesterly along a tangential curve concave to the southeast, radius 398.10 feet, central angle 70 degrees 55 minutes 13 seconds, for an arc length of 492.76 feet; thence South 89 degrees 51 minutes 30 seconds West, not tangent to the last described curve for a distance of 523.31 feet; thence South 1 degree 57 minutes 33 seconds West, a distance of 29.59 feet; thence South 89 degrees 57 minutes 55 seconds West, a distance of 1020 feet, more or less, to the easterly shoreline of the Rum River; thence northerly along said easterly shoreline to the point of intersection with a line that bears North 45 degrees 24 minutes 55 seconds West from the point of beginning; thence South 45 degrees 24 minutes 55 seconds East, along said line, a distance of 180 feet, more or less, to the point of beginning. Containing 48 acres, more or less.

(3) that part of the Northwest Quarter of the Northeast Quarter and that part of the Northeast Quarter of the Northwest Quarter, both in Section 5, Township 35, Range 23, Isanti County, Minnesota, described jointly as follows:

Beginning at the northwest corner of the NW 1/4 of NE 1/4 of Section 5; thence North 89 degrees 45 minutes 12 seconds East, assumed bearing, along the north line of said NW 1/4 of NE 1/4, a distance of 1321.82 feet to the northeast corner of said NW 1/4 of NE 1/4 thence South 4 degrees 04 minutes 02 seconds West, along the east line of said NW 1/4 of NE 1/4, a distance of 452.83 feet; thence South 89 degrees 45 minutes 02 seconds West, a distance of 1393.6 feet; thence northwesterly, along a nontangential curve concave to the northeast, radius 318.17 feet, central angle 75 degrees 28 minutes 03 seconds, for an arc length of 419.08 feet (the chord of said curve bears North 38 degrees 03 minutes 32 seconds West and has a length of 389.44 feet); thence North 0 degrees 19 minutes 31 seconds West, tangent to said curve, for a distance of 142.65 feet to the north line of the NE 1/4 of NW 1/4 of said Section 5; thence North 89 degrees 32 minutes 15 seconds East, along said north line, a distance of 344.81 feet to the point of beginning. Containing 16 acres, more or less.

(4) that part of the Southwest Quarter of the Southeast Quarter, that part of the Northwest Quarter of the Southeast Quarter and that part of Government Lot 4, all in Section 32, Township 36, Range 23, Isanti County, Minnesota, described jointly as follows:

Beginning at the southwest corner of the SW 1/4 of SE 1/4 of Section 32; thence North 89 degrees 45 minutes 12 seconds East, assumed bearing, along

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the south line of said SW 1/4 of SE 1/4, a distance of 1321.82 feet to the south-east corner of said SW 1/4 of SE 1/4 thence North 2 degrees 40 minutes 49 seconds West, along the east line of said SW 1/4 of SE 1/4 and along the east line of the NW 1/4 of SE 1/4, a distance of 1465.32 feet; thence southwesterly along a nontangential curve concave to the northwest, radius 398.10 feet, central angle 60 degrees 52 minutes 54 seconds, for an arc length of 423.02 feet (said curve has a chord that bears South 59 degrees 33 minutes 09 seconds West and a chord length of 403.40 feet); thence South 89 degrees 59 minutes 37 seconds West, tangent to said curve, for a distance of 825.68 feet; thence southwesterly along a tangential curve concave to the southeast, radius 318.10 feet, central angle 90 degrees 16 minutes 37 seconds, for an arc length of 501.21 feet; thence South 0 degrees 17 minutes 01 seconds East, tangent to said curve, for a distance of 86.59 feet; thence southerly along a tangential curve concave to the West, radius 398.10 feet, central angle 29 degrees 47 minutes 02 seconds, for an arc length of 206.94 feet; thence South 29 degrees 30 minutes 01 seconds West tangent to said curve, for a distance of 34.23 feet; thence southerly along a tangential curve concave to the east, radius 318.20 feet, central angle 29 degrees 49 minutes 32 seconds for an arc length of 165.59 feet; thence South 0 degrees 19 minutes 31 seconds East, tangent to said curve, for a distance of 475.17 feet to the south line of Government Lot 4, Section 32; thence North 89 degrees 32 minutes 15 seconds East, along said south line, a distance of 344.81 feet to the point of beginning. Containing 44.9 acres, more or less.

EXCEPTING THEREFROM that parcel described on Quit Claim Deed from the State of Minnesota to Wilfred R. and June E. Norman, filed in Book 92 of Deeds, page 647, in the office of the County Recorder, Isanti County, Minnesota.

ALSO EXCEPTING THEREFROM that parcel described on Quit Claim Deed from the State of Minnesota to Frank C. Brody and Lorraine D.S. Brody, filed in Book 102 of Deeds, page 232, in the office of the County Recorder, Isanti County, Minnesota.

(d) The city of Cambridge may use the land for economic development. Economic development is a public purpose within the meaning of the term as used in Laws 1990, chapter 610, article 1, section 12, subdivision 5, and sales or conveyances to private parties shall be considered economic development. Property conveyed by the state under this section shall not revert to the state if it is conveyed or otherwise encumbered by the city as a part of the city economic development activity.

#### **Sec. 27. CONVEYANCE OF CITY LAND TO STATE OF MINNESOTA.**

(a) The commissioner of administration may accept all, or any part of, the land described in paragraph (d) from the city of Cambridge, after the city council passes a resolution which declares the property is surplus to its needs.

(b) The conveyance shall be in a form approved by the attorney general.

(c) The conveyance may be subject to a scenic easement, as defined in Minnesota Statutes, section 103F.311, subdivision 6. The easement shall be under the custodial control of the commissioner of natural resources and only required on the portion of con-

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veyed land that is designated for inclusion in the wild and scenic river system under Minnesota Statutes, section 103F.325. The scenic easement shall allow for continued use of any existing structures located within the easement and for development of walking paths or trails within the easement.

(d) Subject to the right-of-way for state trunk highway No. 293, and subject to other easements, reservations, street right-of-ways, and restrictions of record, if any, the land to be conveyed may include all, or part of, the parcel described as follows:

That part of Government Lot 4 and that part of the Northeast Quarter of the Northwest Quarter, all in Section 5, Township 35, Range 23, Isanti County, Minnesota, described jointly as follows: Commencing at the Northeast corner of the Northwest Quarter of Section 5, thence South 89 degrees 47 minutes 10 seconds West, assumed bearing along the north line of the Northwest Quarter of Section 5, a distance of 656.00 feet to the point of beginning of the parcel to be herein described, thence South 00 degrees 03 minutes 35 seconds East, a distance of 350.00 feet, thence South 89 degrees 47 minutes 10 seconds West, parallel with the north line of said Northwest Quarter of Section 5 to the easterly shoreline of the Rum River, thence northeasterly along said easterly shoreline to the north line of the Northwest Quarter of Section 5, thence North 89 degrees 47 minutes 10 seconds East, along said north line to the point of beginning.

**Sec. 28. REPORT TO LEGISLATURE ON ESTABLISHING ENTERPRISE ACTIVITIES WITHIN STATE-OPERATED SERVICES.**

The commissioner of human services shall report and make recommendations to the legislature, by December 15, 1999, on establishing enterprise activities within state-operated services, under Minnesota Statutes, section 246.0136, and their status.

**Sec. 29. REPEALER.**

Minnesota Statutes 1998, section 254A.145, is repealed.

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**ARTICLE 6**

**ASSISTANCE PROGRAMS**

Section 1. Minnesota Statutes 1998, section 256D.051, subdivision 2a, is amended to read:

Subd. 2a. **DUTIES OF COMMISSIONER.** In addition to any other duties imposed by law, the commissioner shall:

(1) based on this section and section 256D.052 and Code of Federal Regulations, title 7, section 273.7, supervise the administration of food stamp employment and training services to county agencies;

(2) disburse money appropriated for food stamp employment and training services to county agencies based upon the county's costs as specified in section 256D.06 256D.051, subdivision 6c;

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(3) accept and supervise the disbursement of any funds that may be provided by the federal government or from other sources for use in this state for food stamp employment and training services;

(4) cooperate with other agencies including any agency of the United States or of another state in all matters concerning the powers and duties of the commissioner under this section and section 256D.052; and

(5) in cooperation with the commissioner of economic security, ensure that each component of an employment and training program carried out under this section is delivered through a statewide workforce development system, unless the component is not available locally through such a system.

Sec. 2. Minnesota Statutes 1998, section 256D.051, is amended by adding a subdivision to read:

Subd. 6c. PROGRAM FUNDING. Within the limits of available resources, the commissioner shall reimburse the actual costs of county agencies and their employment and training service providers for the provision of food stamp employment and training services, including participant support services, direct program services, and program administrative activities. The cost of services for each county's food stamp employment and training program shall not exceed an average of \$400 per participant. No more than 15 percent of program funds may be used for administrative activities. The county agency may expend county funds in excess of the limits of this subdivision without state reimbursement.

Program funds shall be allocated based on the county's average number of food stamp cases as compared to the statewide total number of such cases. The average number of cases shall be based on counts of cases as of March 31, June 30, September 30, and December 31 of the previous calendar year. The commissioner may reallocate unexpended money appropriated under this section to those county agencies that demonstrate a need for additional funds.

Sec. 3. Minnesota Statutes 1998, section 256D.053, subdivision 1, is amended to read:

Subdivision 1. PROGRAM ESTABLISHED. For the period of July 1, 1998, to June 30, 1999, The Minnesota food assistance program is established to provide food assistance to legal noncitizens residing in this state who are ineligible to participate in the federal Food Stamp Program solely due to the provisions of section 402 or 403 of Public Law Number 104-193, as authorized by Title VII of the 1997 Emergency Supplemental Appropriations Act, Public Law Number 105-18, and as amended by Public Law Number 105-185.

Beginning July 1, 2000, the Minnesota food assistance program is limited to those noncitizens described in this subdivision who are 50 years of age or older.

Sec. 4. Minnesota Statutes 1998, section 256D.06, subdivision 5, is amended to read:

Subd. 5. Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source shall (a) make application for those benefits within 30 days of the general assistance application; and (b) execute an interim

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assistance authorization agreement on a form as directed by the commissioner. The commissioner shall review a denial of an application for other maintenance benefits and may require a recipient of general assistance to file an appeal of the denial if appropriate. If found eligible for benefits from other sources, and a payment received from another source relates to the period during which general assistance was also being received, the recipient shall be required to reimburse the county agency for the interim assistance paid. Reimbursement shall not exceed the amount of general assistance paid during the time period to which the other maintenance benefits apply and shall not exceed the state standard applicable to that time period. The commissioner shall adopt rules authorizing county agencies or other client representatives to retain from the amount recovered under an interim assistance agreement 25 percent plus actual reasonable fees, costs, and disbursements of appeals and litigation, of providing special assistance to the recipient in processing the recipient's claim for maintenance benefits from another source. The money retained under this section shall be from the state share of the recovery. The commissioner or the county agency may contract with qualified persons to provide the special assistance. The rules adopted by the commissioner shall include the methods by which county agencies shall identify, refer, and assist recipients who may be eligible for benefits under federal programs for the disabled. This subdivision does not require repayment of per diem payments made to shelters for battered women pursuant to section 256D.05, subdivision 3.

Sec. 5. Minnesota Statutes 1998, section 256J.02, subdivision 2, is amended to read:

Subd. 2. **USE OF MONEY.** State money appropriated for purposes of this section and TANF block grant money must be used for:

(1) financial assistance to or on behalf of any minor child who is a resident of this state under section 256J.12;

(2) employment and training services under this chapter or chapter 256K;

(3) emergency financial assistance and services under section 256J.48;

(4) diversionary assistance under section 256J.47; and

(5) the health care and human services training and retention program under chapter 116L, for costs associated with families with children with incomes below 200 percent of the federal poverty guidelines;

(6) the pathways program under section 116L.04, subdivision 1a;

(7) welfare-to-work extended employment services for MFIP participants with severe impairment to employment as defined in section 268A.15, subdivision 1a;

(8) the family homeless prevention and assistance program under section 462A.204;

(9) the rent assistance for family stabilization demonstration project under section 462A.205; and

(10) program administration under this chapter.

Sec. 6. Minnesota Statutes 1998, section 256J.08, subdivision 11, is amended to read:

Subd. 11. **CAREGIVER.** "Caregiver" means a minor child's natural or adoptive parent or parents and stepparent who live in the home with the minor child. For purposes

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of determining eligibility for this program, caregiver also means any of the following individuals, if adults, who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents or stepparents do not reside in the same home: legal custodian or guardian, grandfather, grandmother, brother, sister, half-brother, half-sister, stepbrother, stepsister, uncle, aunt, first cousin or first cousin once removed, nephew, niece, person of preceding generation as denoted by prefixes of "great," "great-great," or "great-great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Sec. 7. Minnesota Statutes 1998, section 256J.08, subdivision 24, is amended to read:

Subd. 24. **DISREGARD.** "Disregard" means earned income that is not counted when determining initial eligibility or ongoing eligibility and calculating the amount of the assistance payment for participants. The commissioner shall determine the amount of the disregard according to section 256J.24, subdivision 10.

Sec. 8. Minnesota Statutes 1998, section 256J.08, is amended by adding a subdivision to read:

Subd. 28a. **ENCUMBRANCE.** "Encumbrance" means a legal claim against real or personal property that is payable upon the sale of that property.

Sec. 9. Minnesota Statutes 1998, section 256J.08, is amended by adding a subdivision to read:

Subd. 55a. **MFIP STANDARD OF NEED.** "MFIP standard of need" means the appropriate standard used to determine MFIP benefit payments for the MFIP unit and applies to:

(1) the transitional standard, sections 256J.08, subdivision 85, and 256J.24, subdivision 5;

(2) the shared household standard, section 256J.24, subdivision 9; and

(3) the interstate transition standard, section 256J.43.

Sec. 10. Minnesota Statutes 1998, section 256J.08, subdivision 65, is amended to read:

Subd. 65. **PARTICIPANT.** "Participant" means a person who is currently receiving cash assistance and or the food portion available through MFIP ~~§~~ MFIP as funded by TANF and the food stamp program. A person who fails to withdraw or access electronically any portion of the person's cash and food assistance payment by the end of the payment month, who makes a written request for closure before the first of a payment month and repays cash and food assistance electronically issued for that payment month within that payment month, or who returns any uncashed assistance check and food coupons and withdraws from the program is not a participant. A person who withdraws a cash or food assistance payment by electronic transfer or receives and cashes a cash an MFIP assistance check or food coupons and is subsequently determined to be ineligible for assistance for that period of time is a participant, regardless whether that assistance is repaid. The term "participant" includes the caregiver relative and the minor child whose needs are included in the assistance payment. A person in an assistance unit who does not re-

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ceive a cash and food assistance payment because the person has been suspended from MFIP-S or because the person's need falls below the \$10 minimum payment level MFIP is a participant.

Sec. 11. Minnesota Statutes 1998, section 256J.08, subdivision 82, is amended to read:

Subd. 82. **SANCTION.** "Sanction" means the reduction of a family's assistance payment by a specified percentage of the applicable transitional MFIP standard of need because: a nonexempt participant fails to comply with the requirements of sections 256J.52 to 256J.55; a parental caregiver fails without good cause to cooperate with the child support enforcement requirements; or a participant fails to comply with the insurance, tort liability, or other requirements of this chapter.

Sec. 12. Minnesota Statutes 1998, section 256J.08, subdivision 83, is amended to read:

Subd. 83. **SIGNIFICANT CHANGE.** "Significant change" means a decline in gross income of 36 percent the amount of the disregard as defined in subdivision 24 or more from the income used to determine the grant for the current month.

Sec. 13. Minnesota Statutes 1998, section 256J.08, subdivision 86a, is amended to read:

Subd. 86a. **UNRELATED MEMBER.** "Unrelated member" means an individual in the household who does not meet the definition of an eligible caregiver; ~~but does not include an individual who provides child care to a child in the assistance unit.~~

Sec. 14. Minnesota Statutes 1998, section 256J.11, subdivision 2, is amended to read:

Subd. 2. **NONCITIZENS; FOOD PORTION.** (a) For the period September 1, 1997, to October 31, 1997, ~~noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, but were residing in this state as of July 1, 1997, are eligible for the 6/10 of the average value of food stamps for the same family size and composition until MFIP-S is operative in the noncitizen's county of financial responsibility and thereafter, the 6/10 of the food portion of MFIP-S. However, federal food stamp dollars cannot be used to fund the food portion of MFIP-S benefits for an individual under this subdivision.~~

(b) For the period November 1, 1997, to June 30, 1999, ~~noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and are receiving cash assistance under the AFDC, family general assistance, MFIP or MFIP-S programs are eligible for the average value of food stamps for the same family size and composition until MFIP-S is operative in the noncitizen's county of financial responsibility and thereafter, the food portion of MFIP-S. However, federal food stamp dollars cannot be used to fund the food portion of MFIP-S benefits for an individual under this subdivision. State dollars shall fund the food portion of a noncitizen's MFIP benefits when federal food stamp dollars cannot be used to fund those benefits. The assistance provided under this subdivision, which is designated as a supplement to replace lost benefits under the federal food stamp program, must be disregarded as income in all programs that do not count food stamps as income where the commissioner has the authority to make the income disregard determination for the program.~~

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(e) The commissioner shall submit a state plan to the secretary of agriculture to allow the commissioner to purchase federal Food Stamp Program benefits in an amount equal to the MFIP-S food portion for each legal noncitizen receiving MFIP-S assistance who is ineligible to participate in the federal Food Stamp Program solely due to the provisions of section 402 or 403 of Public Law Number 104-193, as authorized by Title VII of the 1997 Emergency Supplemental Appropriations Act, Public Law Number 105-18. The commissioner shall enter into a contract as necessary with the secretary to use the existing federal Food Stamp Program benefits delivery system for the purposes of administering the food portion of MFIP-S under this subdivision.

Sec. 15. Minnesota Statutes 1998, section 256J.11, subdivision 3, is amended to read:

Subd. 3. **BENEFITS FUNDED WITH STATE MONEY.** Legal adult noncitizens who have resided in the country for four years or more as a lawful permanent resident, whose benefits are funded entirely with state money, and who are under 70 years of age, must, as a condition of eligibility:

(1) be enrolled in a literacy class, English as a second language class, or a citizen class;

(2) be applying for admission to a literacy class, English as a second language class, and is on a waiting list;

(3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirements of the citizenship test;

(4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or

(5) have been denied citizenship due to a failure to pass the test after two attempts or because of an inability to understand the rights and responsibilities of becoming a United States citizen, as documented by the Immigration and Naturalization Service or the county.

If the county social service agency determines that a legal noncitizen subject to the requirements of this subdivision will require more than one year of English language training, then the requirements of clause (1) or (2) shall be imposed after the legal noncitizen has resided in the country for three years. Individuals who reside in a facility licensed under chapter 144A, 144D, 245A, or 256I are exempt from the requirements of this subdivision.

Sec. 16. Minnesota Statutes 1998, section 256J.12, subdivision 1a, is amended to read:

Subd. 1a. **30-DAY RESIDENCY REQUIREMENT.** An assistance unit is considered to have established residency in this state only when a child or caregiver has resided in this state for at least 30 consecutive days with the intention of making the person's home here and not for any temporary purpose. The birth of a child in Minnesota to a member of the assistance unit does not automatically establish the residency in this state under this subdivision of the other members of the assistance unit. Time spent in a shelter for battered women shall count toward satisfying the 30-day residency requirement.

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Sec. 17. Minnesota Statutes 1998, section 256J.12, subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** (a) A county shall waive the 30-day residency requirement where unusual hardship would result from denial of assistance.

(b) For purposes of this section, unusual hardship means an assistance unit:

- (1) is without alternative shelter; or
- (2) is without available resources for food.

(c) For purposes of this subdivision, the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the family is eligible, provided the assistance unit does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(d) Applicants are considered to meet the residency requirement under subdivision 1a if they once resided in Minnesota and:

(1) joined the United States armed services, returned to Minnesota within 30 days of leaving the armed services, and intend to remain in Minnesota; or

(2) left to attend school in another state, paid nonresident tuition or Minnesota tuition rates under a reciprocity agreement, and returned to Minnesota within 30 days of graduation with the intent to remain in Minnesota.

(e) The 30-day residence requirement is met when:

(1) a minor child or a minor caregiver moves from another state to the residence of a relative caregiver; and

(2) the minor caregiver applies for and receives family cash assistance;

(3) the relative caregiver chooses not to be part of the MFIP-S assistance unit; and

(4) the relative caregiver has resided in Minnesota for at least 30 days prior to the date the assistance unit applies for cash assistance.

(f) Ineligible mandatory unit members who have resided in Minnesota for 12 months immediately before the unit's date of application establish the other assistance unit members' eligibility for the MFIP-S transitional standard.

(2) the relative caregiver has resided in Minnesota for at least 30 consecutive days and:

(i) the minor caregiver applies for and receives MFIP; or

(ii) the relative caregiver applies for assistance for the minor child but does not choose to be a member of the MFIP assistance unit.

Sec. 18. Minnesota Statutes 1998, section 256J.14, is amended to read:

**256J.14 ELIGIBILITY FOR PARENTING OR PREGNANT MINORS.**

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(a) The definitions in this paragraph only apply to this subdivision.

(1) "Household of a parent, legal guardian, or other adult relative" means the place of residence of:

(i) a natural or adoptive parent;

(ii) a legal guardian according to appointment or acceptance under section 260.242, 525.615, or 525.6165, and related laws;

(iii) a caregiver as defined in section 256J.08, subdivision 11; or

(iv) an appropriate adult relative designated by a county agency.

(2) "Adult-supervised supportive living arrangement" means a private family setting which assumes responsibility for the care and control of the minor parent and minor child, or other living arrangement, not including a public institution, licensed by the commissioner of human services which ensures that the minor parent receives adult supervision and supportive services, such as counseling, guidance, independent living skills training, or supervision.

(b) A minor parent and the minor child who is in the care of the minor parent must reside in the household of a parent, legal guardian, other adult relative, or in an adult-supervised supportive living arrangement in order to receive ~~MFIP-S~~ MFIP unless:

(1) the minor parent has no living parent, other adult relative, or legal guardian whose whereabouts is known;

(2) no living parent, other adult relative, or legal guardian of the minor parent allows the minor parent to live in the parent's, other adult relative's, or legal guardian's home;

(3) the minor parent lived apart from the minor parent's own parent or legal guardian for a period of at least one year before either the birth of the minor child or the minor parent's application for ~~MFIP-S~~ MFIP;

(4) the physical or emotional health or safety of the minor parent or minor child would be jeopardized if the minor parent and the minor child resided in the same residence with the minor parent's parent, other adult relative, or legal guardian; or

(5) an adult supervised supportive living arrangement is not available for the minor parent and child in the county in which the minor parent and child currently reside. If an adult supervised supportive living arrangement becomes available within the county, the minor parent and child must reside in that arrangement.

(c) The county agency shall inform minor applicants must be informed both orally and in writing about the eligibility requirements and, their rights and obligations under the MFIP-S MFIP program, and any other applicable orientation information. The county must advise the minor of the possible exemptions and specifically ask whether one or more of these exemptions is applicable. If the minor alleges one or more of these exemptions, then the county must assist the minor in obtaining the necessary verifications to determine whether or not these exemptions apply.

(d) If the county worker has reason to suspect that the physical or emotional health or safety of the minor parent or minor child would be jeopardized if they resided with the minor parent's parent, other adult relative, or legal guardian, then the county worker must

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make a referral to child protective services to determine if paragraph (b), clause (4), applies. A new determination by the county worker is not necessary if one has been made within the last six months, unless there has been a significant change in circumstances which justifies a new referral and determination.

(e) If a minor parent is not living with a parent, legal guardian, or other adult relative due to paragraph (b), clause (1), (2), or (4), the minor parent must reside, when possible, in a living arrangement that meets the standards of paragraph (a), clause (2).

(f) ~~When a minor parent and minor child live with a parent, other adult relative, legal guardian, or in an adult-supervised supportive~~ Regardless of living arrangement, MFIP-S MFIP must be paid, when possible, in the form of a protective payment on behalf of the minor parent and minor child according to section 256J.39, subdivisions 2 to 4.

Sec. 19. Minnesota Statutes 1998, section 256J.20, subdivision 3, is amended to read:

Subd. 3. **OTHER PROPERTY LIMITATIONS.** To be eligible for MFIP-S MFIP, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing participants. The value of assets in clauses (1) to (20) must be excluded when determining the equity value of real and personal property:

(1) a licensed vehicle up to a loan value of less than or equal to \$7,500. The county agency shall apply any excess loan value as if it were equity value to the asset limit described in this section. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the vehicle with the highest loan value and count only the loan value over \$7,500, excluding: (i) the value of one vehicle per physically disabled person when the vehicle is needed to transport the disabled unit member; this exclusion does not apply to mentally disabled people; (ii) the value of special equipment for a handicapped member of the assistance unit; and (iii) any vehicle used for long-distance travel, other than daily commuting, for the employment of a unit member.

The county agency shall count the loan value of all other vehicles and apply this amount as if it were equity value to the asset limit described in this section. ~~The value of special equipment for a handicapped member of the assistance unit is excluded.~~ To establish the loan value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the loan value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant document the loan value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower loan value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used at least annually and used exclusively for the operation of a self-employment business, and any motor vehicles if at least 50 percent of the vehicle's use is to produce income and if the vehicles are essential for the self-employment business;

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(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Supplemental Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home or other vehicle used by an applicant or participant as the applicant's or participant's home;

(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance, emergency assistance, and diversionary payments for the current month's needs;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the payment month;

(15) savings from earned income of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the federal earned income credit, Minnesota working family credit, state and federal income tax refunds, state homeowners and renters credits under chapter 290A, property tax rebates under Laws 1997, chapter 231, article 1, section 16, and other federal or state tax rebates in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds;

(18) money received by a participant of the corps to career program under section 84.0887, subdivision 2, paragraph (b), as a postservice benefit under the federal Ameri-corps Act;

(19) the assets of children ineligible to receive ~~MFIP-S~~ MFIP benefits because foster care or adoption assistance payments are made on their behalf; and

(20) the assets of persons whose income is excluded under section 256J.21, subdivision 2, clause (43).

Sec. 20. Minnesota Statutes 1998, section 256J.21, subdivision 2, is amended to read:

Subd. 2. **INCOME EXCLUSIONS.** (a) The following must be excluded in determining a family's available income:

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(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9545.0010 to 9545.0260 and 9555.5050 to 9555.6265, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Job Training Partnership Act, United States Code, title 29, chapter 19, sections 1501 to 1792b;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, or employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) state income tax refunds; and

(ii) federal income tax refunds;

(8)(i) federal earned income credits;

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A; and

(iv) property tax rebates under Laws 1997, chapter 231, article 1, section 16; and

~~(v) other federal or state tax rebates;~~

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

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- (15) emergency assistance payments;
- (16) funeral and cemetery payments as provided by section 256.935;
- (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;
- (18) any form of energy assistance payment made through Public Law Number 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;
- (19) Supplemental Security Income, including retroactive payments;
- (20) Minnesota supplemental aid, including retroactive payments;
- (21) proceeds from the sale of real or personal property;
- (22) adoption assistance payments under section 259.67;
- (23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions;
- (24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;
- (25) rent rebates;
- (26) income earned by a minor caregiver ~~or~~ minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;
- (27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;
- (28) ~~MFIP-S MFIP~~ child care payments under section 119B.05;
- (29) all other payments made through ~~MFIP-S MFIP~~ to support a caregiver's pursuit of greater self-support;
- (30) income a participant receives related to shared living expenses;
- (31) reverse mortgages;
- (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;
- (33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;
- (34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;
- (35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

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(36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law Number 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from the MFIP-S program MFIP consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public Law Numbers 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parent parents and stepparent stepparents when determining the grant for the minor parent in households that include a minor parent living with a parent parents or stepparent stepparents on MFIP-S MFIP with other children; and

(43) income of the minor parent's parent parents and stepparent stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with a parent parents or stepparent stepparents not on MFIP-S MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

(44) payments made to children eligible for relative custody assistance under section 257.85;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash; and

(46) the principal portion of a contract for deed payment.

Sec. 21. Minnesota Statutes 1998, section 256J.21, subdivision 3, is amended to read:

Subd. 3. **INITIAL INCOME TEST.** The county agency shall determine initial eligibility by considering all earned and unearned income that is not excluded under subdivision 2. To be eligible for MFIP-S MFIP, the assistance unit's countable income minus the disregards in paragraphs (a) and (b) must be below the transitional standard of assistance according to section 256J.24 for that size assistance unit.

(a) The initial eligibility determination must disregard the following items:

(1) the employment disregard is 18 percent of the gross earned income whether or not the member is working full time or part time;

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(2) dependent care costs must be deducted from gross earned income for the actual amount paid for dependent care up to a maximum of \$200 per month for each child less than two years of age, and \$175 per month for each child two years of age and older under this chapter and chapter 119B;

(3) all payments made according to a court order for spousal support or the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order; and

(4) an allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver according to section 256J.36.

(b) Notwithstanding paragraph (a), when determining initial eligibility for applicant units when at least one member has received AFDC, ~~family general assistance, MFIP, MFIP-R, work first, or MFIP-S MFIP~~ in this state within four months of the most recent application for ~~MFIP-S MFIP~~, apply the employment disregard as defined in section 256J.08, subdivision 24, for all unit members is 36 percent of the gross earned income.

After initial eligibility is established, the assistance payment calculation is based on the monthly income test.

Sec. 22. Minnesota Statutes 1998, section 256J.21, subdivision 4, is amended to read:

Subd. 4. **MONTHLY INCOME TEST AND DETERMINATION OF ASSISTANCE PAYMENT.** The county agency shall determine ongoing eligibility and the assistance payment amount according to the monthly income test. To be eligible for ~~MFIP-S MFIP~~, the result of the computations in paragraphs (a) to (e) must be at least \$1.

(a) Apply a ~~36 percent~~ an income disregard as defined in section 256J.08, subdivision 24, to gross earnings and subtract this amount from the family wage level. ~~If the difference is equal to or greater than the transitional MFIP standard of need, the assistance payment is equal to the transitional MFIP standard of need. If the difference is less than the transitional MFIP standard of need, the assistance payment is equal to the difference.~~ The employment disregard in this paragraph must be deducted every month there is earned income.

(b) All payments made according to a court order for spousal support or the support of children not living in the assistance unit's household must be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the court order.

(c) An allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver must be made according to section 256J.36.

(d) Subtract unearned income dollar for dollar from the ~~transitional MFIP~~ standard of need to determine the assistance payment amount.

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(e) When income is both earned and unearned, the amount of the assistance payment must be determined by first treating gross earned income as specified in paragraph (a). After determining the amount of the assistance payment under paragraph (a), unearned income must be subtracted from that amount dollar for dollar to determine the assistance payment amount.

(f) When the monthly income is greater than the ~~transitional or family wage level~~ MFIP standard of need after applicable deductions and the income will only exceed the standard for one month, the county agency must suspend the assistance payment for the payment month.

Sec. 23. Minnesota Statutes 1998, section 256J.24, subdivision 2, is amended to read:

Subd. 2. **MANDATORY ASSISTANCE UNIT COMPOSITION.** Except for minor caregivers and their children who must be in a separate assistance unit from the other persons in the household, when the following individuals live together, they must be included in the assistance unit:

- (1) a minor child, including a pregnant minor;
- (2) the minor child's minor siblings, minor half-siblings, and minor step-siblings;
- (3) the minor child's natural parents, adoptive parents, and stepparents; and
- (4) the spouse of a pregnant woman.

Sec. 24. Minnesota Statutes 1998, section 256J.24, subdivision 3, is amended to read:

Subd. 3. **INDIVIDUALS WHO MUST BE EXCLUDED FROM AN ASSISTANCE UNIT.** (a) The following individuals who are part of the assistance unit determined under subdivision 2 are ineligible to receive ~~MFIP-S~~ MFIP:

- (1) individuals receiving Supplemental Security Income or Minnesota supplemental aid;
- (2) ~~individuals living at home while performing court-imposed, unpaid community service work due to a criminal conviction;~~
- (3) individuals disqualified from the food stamp program or ~~MFIP-S~~ MFIP, until the disqualification ends;
- (4) (3) children on whose behalf federal, state or local foster care payments are made, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and
- (5) (4) children receiving ongoing monthly adoption assistance payments under section ~~259.67~~.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

Sec. 25. Minnesota Statutes 1998, section 256J.24, subdivision 7, is amended to read:

Subd. 7. **FAMILY WAGE LEVEL STANDARD.** The family wage level standard is 110 percent of the transitional standard under subdivision 5 and is the standard used

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when there is earned income in the assistance unit. As specified in section 256J.21, earned income is subtracted from the family wage level to determine the amount of the assistance payment. Not including the family wage level standard, assistance payments may not exceed the shared household standard or the transitional MFIP standard of need for the assistance unit, whichever is less.

Sec. 26. Minnesota Statutes 1998, section 256J.24, subdivision 8, is amended to read:

Subd. 8. **ASSISTANCE PAID TO ELIGIBLE ASSISTANCE UNITS.** Except for assistance units where a nonparental caregiver is not included in the grant, payments for shelter up to the amount of the cash portion of ~~MFIP-S MFIP~~ benefits for which the assistance unit is eligible shall be vendor paid for as many months as the assistance unit is eligible or six months, whichever comes first. The residual amount of the grant after vendor payment, if any, must be paid to the ~~MFIP-S MFIP~~ caregiver.

Sec. 27. Minnesota Statutes 1998, section 256J.24, subdivision 9, is amended to read:

Subd. 9. **SHARED HOUSEHOLD STANDARD; ~~MFIP-S MFIP~~.** (a) Except as prohibited in paragraph (b), the county agency must use the shared household standard when the household includes one or more unrelated members, as that term is defined in section 256J.08, subdivision 86a. The county agency must use the shared household standard, unless a member of the assistance unit is a victim of domestic violence and has an approved safety plan, regardless of the number of unrelated members in the household.

(b) The county agency must not use the shared household standard when all unrelated members are one of the following:

(1) a recipient of public assistance benefits, including food stamps, Supplemental Security Income, adoption assistance, relative custody assistance, or foster care payments;

(2) a roomer or boarder, or a person to whom the assistance unit is paying room or board;

(3) a minor child under the age of 18;

(4) a minor caregiver living with the minor caregiver's parents or in an approved supervised living arrangement; or

(5) a caregiver who is not the parent of the minor child in the assistance unit; or

(6) an individual who provides child care to a child in the MFIP assistance unit.

(c) The shared household standard must be discontinued if it is not approved by the United States Department of Agriculture under the ~~MFIP-S MFIP~~ waiver.

Sec. 28. Minnesota Statutes 1998, section 256J.24, is amended by adding a subdivision to read:

Subd. 10. **MFIP EXIT LEVEL.** (a) In state fiscal years 2000 and 2001, the commissioner shall adjust the MFIP earned income disregard to ensure that most participants do not lose eligibility for MFIP until their income reaches at least 120 percent of the federal poverty guidelines in effect in October of each fiscal year. The adjustment to the dis-

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regard shall be based on a household size of three, and the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must be implemented at the same time as the October food stamp cost-of-living adjustment is reflected in the food portion of MFIP transitional standard as required under subdivision 5a.

(b) In state fiscal year 2002 and thereafter, the earned income disregard percentage must be the same as the percentage implemented in October 2000.

Sec. 29. Minnesota Statutes 1998, section 256J.26, subdivision 1, is amended to read:

Subdivision 1. **PERSON CONVICTED OF DRUG OFFENSES.** (a) Applicants or participants who have been convicted of a drug offense committed after July 1, 1997, may, if otherwise eligible, receive ~~AFDC or MFIP~~ MFIP benefits subject to the following conditions:

(1) Benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit.

(2) The convicted applicant or participant shall be subject to random drug testing as a condition of continued eligibility and following any positive test for an illegal controlled substance is subject to the following sanctions:

(i) for failing a drug test the first time, the participant's grant shall be reduced by ten percent of the ~~MFIP-S transitional MFIP standard of need, the shared household standard, or the interstate transitional standard, whichever is applicable~~ prior to making vendor payments for shelter and utility costs; or

(ii) for failing a drug test two or more times, the residual amount of the participant's grant after making vendor payments for shelter and utility costs, if any, must be reduced by an amount equal to 30 percent of the ~~MFIP-S transitional standard, the shared household standard, or the interstate transitional standard, whichever is applicable~~ MFIP standard of need.

(3) A participant who fails an initial drug test and is under a sanction due to other MFIP program requirements is subject to the sanction in clause (2)(ii).

(b) Applicants requesting only food stamps or participants receiving only food stamps, who have been convicted of a drug offense that occurred after July 1, 1997, may, if otherwise eligible, receive food stamps if the convicted applicant or participant is subject to random drug testing as a condition of continued eligibility. Following a positive test for an illegal controlled substance, the applicant is subject to the following sanctions:

(1) for failing a drug test the first time, food stamps shall be reduced by ten percent of the applicable food stamp allotment; and

(2) for failing a drug test two or more times, food stamps shall be reduced by an amount equal to 30 percent of the applicable food stamp allotment.

(c) For the purposes of this subdivision, "drug offense" means a ~~conviction an offense~~ that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these of-

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fenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Sec. 30. Minnesota Statutes 1998, section 256J.30, subdivision 2, is amended to read:

Subd. 2. **REQUIREMENT TO APPLY FOR OTHER BENEFITS.** An applicant or participant must apply for, accept if eligible, and follow through with appealing any denials of eligibility for benefits from other programs for which the applicant or participant is potentially eligible and which would, if received, offset assistance payments. An applicant's or participant's failure to complete application for these benefits without good cause results in denial or termination of assistance. Good cause for failure to apply for these benefits is allowed when circumstances beyond the control of the applicant or participant prevent the applicant or participant from making an application.

Sec. 31. Minnesota Statutes 1998, section 256J.30, subdivision 7, is amended to read:

Subd. 7. **DUE DATE OF ~~MFIP-S~~ MFIP HOUSEHOLD REPORT FORM.** An ~~MFIP-S~~ MFIP household report form must be received by the county agency by the eighth calendar day of the month following the reporting period covered by the form. When the eighth calendar day of the month falls on a weekend or holiday, the ~~MFIP-S~~ MFIP household report form must be received by the county agency the first working day that follows the eighth calendar day. The county agency must send a notice of termination because of a late or incomplete ~~MFIP-S~~ household report form.

Sec. 32. Minnesota Statutes 1998, section 256J.30, subdivision 8, is amended to read:

Subd. 8. **LATE ~~MFIP-S~~ MFIP HOUSEHOLD REPORT FORMS.** Paragraphs (a) to (d) apply to the reporting requirements in subdivision 7.

(a) When a caregiver submits the county agency receives an incomplete ~~MFIP-S~~ MFIP household report form before the last working day of the month on which a ten-day notice of termination can be issued, the county agency must immediately return the incomplete form on or before the ten-day notice deadline or any previously sent ten-day notice of termination is invalid and clearly state what the caregiver must do for the form to be complete.

(b) When a complete ~~MFIP-S~~ household report form is not received by a county agency before the last ten days of the month in which the form is due, the county agency must send The automated eligibility system must send a notice of proposed termination of assistance to the assistance unit if a complete MFIP household report form is not received by a county agency. The automated notice must be mailed to the caregiver by approximately the 16th of the month. When a caregiver submits an incomplete form on or after the date a notice of proposed termination has been sent, the termination is valid unless the caregiver submits a complete form before the end of the month.

(c) An assistance unit required to submit an ~~MFIP-S~~ MFIP household report form is considered to have continued its application for assistance if a complete ~~MFIP-S~~ MFIP household report form is received within a calendar month after the month in which assistance was received the form was due and assistance shall be paid for the period beginning with the first day of the month in which the report was due that calendar month.

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(d) A county agency must allow good cause exemptions from the reporting requirements under subdivisions 5 and 6 when any of the following factors cause a caregiver to fail to provide the county agency with a completed ~~MFIP-S~~ MFIP household report form before the end of the month in which the form is due:

- (1) an employer delays completion of employment verification;
- (2) a county agency does not help a caregiver complete the ~~MFIP-S~~ MFIP household report form when the caregiver asks for help;
- (3) a caregiver does not receive an ~~MFIP-S~~ MFIP household report form due to mistake on the part of the department or the county agency or due to a reported change in address;
- (4) a caregiver is ill, or physically or mentally incapacitated; or
- (5) some other circumstance occurs that a caregiver could not avoid with reasonable care which prevents the caregiver from providing a completed ~~MFIP-S~~ MFIP household report form before the end of the month in which the form is due.

Sec. 33. Minnesota Statutes 1998, section 256J.30, subdivision 9, is amended to read:

Subd. 9. **CHANGES THAT MUST BE REPORTED.** A caregiver must report the changes or anticipated changes specified in clauses (1) to ~~(16)~~ (17) within ten days of the date they occur, ~~within ten days of the date the caregiver learns that the change will occur,~~ at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or within eight calendar days of a reporting period as in subdivision 5 or 6, whichever occurs first. A caregiver must report other changes at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or at the end of a reporting period under subdivision 5 or 6, as applicable. A caregiver must make these reports in writing to the county agency. When a county agency could have reduced or terminated assistance for one or more payment months if a delay in reporting a change specified under clauses (1) to (16) had not occurred, the county agency must determine whether a timely notice under section 256J.31, subdivision 4, could have been issued on the day that the change occurred. When a timely notice could have been issued, each month's overpayment subsequent to that notice must be considered a client error overpayment under section 256J.38. Calculation of overpayments for late reporting under clause (17) is specified in section 256J.09, subdivision 9. Changes in circumstances which must be reported within ten days must also be reported on the ~~MFIP-S~~ MFIP household report form for the reporting period in which those changes occurred. Within ten days, a caregiver must report:

- (1) a change in initial employment;
- (2) a change in initial receipt of unearned income;
- (3) a recurring change in unearned income;
- (4) a nonrecurring change of unearned income that exceeds \$30;
- (5) the receipt of a lump sum;
- (6) an increase in assets that may cause the assistance unit to exceed asset limits;
- (7) a change in the physical or mental status of an incapacitated member of the assistance unit if the physical or mental status is the basis of exemption from an ~~MFIP-S~~ work and training MFIP employment services program;

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(8) a change in employment status;

(9) a change in household composition, including births, returns to and departures from the home of assistance unit members and financially responsible persons, or a change in the custody of a minor child information affecting an exception under section 256J.24, subdivision 9;

(10) a change in health insurance coverage;

(11) the marriage or divorce of an assistance unit member;

(12) the death of a parent, minor child, or financially responsible person;

(13) a change in address or living quarters of the assistance unit;

(14) the sale, purchase, or other transfer of property;

(15) a change in school attendance of a custodial parent or an employed child; and

(16) filing a lawsuit, a workers' compensation claim, or a monetary claim against a third party; and

(17) a change in household composition, including births, returns to and departures from the home of assistance unit members and financially responsible persons, or a change in the custody of a minor child.

Sec. 34. Minnesota Statutes 1998, section 256J.31, subdivision 5, is amended to read:

Subd. 5. **MAILING OF NOTICE.** The notice of adverse action shall be issued according to paragraphs (a) to ~~(e)~~ (d).

(a) A county agency shall mail a notice of adverse action must be mailed at least ten days before the effective date of the adverse action, except as provided in paragraphs (b) and ~~(e)~~ to (d).

(b) A county agency must mail a notice of adverse action at least five days before the effective date of the adverse action when the county agency has factual information that requires an action to reduce, suspend, or terminate assistance based on probable fraud.

(c) A county agency shall mail A notice of adverse action before or on the effective date of the adverse action must be mailed no later than four working days before the end of the month when the county agency:

(1) receives the caregiver's signed monthly MFIP-S household report form that includes information that requires payment reduction, suspension, or termination;

(2) is informed of the death of a participant the only caregiver or the payee in an assistance unit;

(3) (2) receives a signed statement from the caregiver that assistance is no longer wanted;

(4) receives a signed statement from the caregiver that provides information that requires the termination or reduction of assistance (3) has factual information to reduce, suspend, or terminate assistance based on the failure to timely report changes;

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(5) verifies that a member of the assistance unit is absent from the home and does not meet temporary absence provisions in section 256J.13;

(6) (4) verifies that a member of the assistance unit has entered a regional treatment center or a licensed residential facility for medical or psychological treatment or rehabilitation;

(7) (5) verifies that a member of an assistance unit has been removed from the home as a result of a judicial determination or placed in foster care, and the provisions of section 256J.13, subdivision 2, paragraph (c), clause (2), do not apply;

(8) verifies that a member of an assistance unit has been approved to receive assistance by another state; or

(9) (6) cannot locate a caregiver.

(c) A notice of adverse action must be mailed for a payment month when the caregiver makes a written request for closure before the first of that payment month.

(d) A notice of adverse action must be mailed before the effective date of the adverse action when the county agency receives the caregiver's signed and completed MFIP household report form or recertification form that includes information that requires payment reduction, suspension, or termination.

Sec. 35. Minnesota Statutes 1998, section 256J.31, subdivision 12, is amended to read:

Subd. 12. **RIGHT TO DISCONTINUE CASH ASSISTANCE.** A participant who is not in vendor payment status may discontinue receipt of the cash assistance portion of ~~MFIP~~ the MFIP assistance grant and retain eligibility for child care assistance under section 119B.05 and for medical assistance under sections 256B.055, subdivision 3a, and 256B.0635. For the months a participant chooses to discontinue the receipt of the cash portion of the MFIP grant, the assistance unit accrues months of eligibility to be applied toward eligibility for child care under section 119B.05 and for medical assistance under sections 256B.055, subdivision 3a, and 256B.0635.

Sec. 36. Minnesota Statutes 1998, section 256J.32, subdivision 4, is amended to read:

Subd. 4. **FACTORS TO BE VERIFIED.** The county agency shall verify the following at application:

- (1) identity of adults;
- (2) presence of the minor child in the home, if questionable;
- (3) relationship of a minor child to caregivers in the assistance unit;
- (4) age, if necessary to determine ~~MFIP~~ MFIP eligibility;
- (5) immigration status;
- (6) social security number according to the requirements of section 256J.30, subdivision 12;
- (7) income;

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- (8) self-employment expenses used as a deduction;
- (9) source and purpose of deposits and withdrawals from business accounts;
- (10) spousal support and child support payments made to persons outside the household;
- (11) real property;
- (12) vehicles;
- (13) checking and savings accounts;
- (14) savings certificates, savings bonds, stocks, and individual retirement accounts;
- (15) pregnancy, if related to eligibility;
- (16) inconsistent information, if related to eligibility;
- (17) medical insurance;
- (18) ~~anticipated graduation date of an 18-year-old;~~
- (19) burial accounts;
- (20) (19) school attendance, if related to eligibility;
- (21) (20) residence;
- (22) (21) a claim of domestic violence if used as a basis for a deferral or exemption from the 60-month time limit in section 256J.42 or employment and training services requirements in section 256J.56; and
- (23) (22) disability if used as an exemption from employment and training services requirements under section 256J.56; and
- (24) (23) information needed to establish an exception under section 256J.24, subdivision 9.

Sec. 37. Minnesota Statutes 1998, section 256J.32, subdivision 6, is amended to read:

Subd. 6. **RECERTIFICATION.** The county agency shall recertify eligibility in an annual face-to-face interview with the participant and verify the following:

- (1) presence of the minor child in the home, if questionable;
- (2) income, unless excluded, including self-employment expenses used as a deduction or deposits or withdrawals from business accounts;
- (3) assets when the value is within \$200 of the asset limit; and
- (4) information to establish an exception under section 256J.24, subdivision 9, if questionable; and
- (5) inconsistent information, if related to eligibility.

Sec. 38. Minnesota Statutes 1998, section 256J.33, is amended to read:

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

**256J.33 PROSPECTIVE AND RETROSPECTIVE DETERMINATION OF MFIP-S MFIP ELIGIBILITY.**

Subdivision 1. **DETERMINATION OF ELIGIBILITY.** A county agency must determine MFIP-S MFIP eligibility prospectively for a payment month based on retrospectively assessing income and the county agency's best estimate of the circumstances that will exist in the payment month.

Except as described in section 256J.34, subdivision 1, when prospective eligibility exists, a county agency must calculate the amount of the assistance payment using retrospective budgeting. To determine MFIP-S MFIP eligibility and the assistance payment amount, a county agency must apply countable income, described in section 256J.37, subdivisions 3 to 10, received by members of an assistance unit or by other persons whose income is counted for the assistance unit, described under sections 256J.21 and 256J.37, subdivisions 1 to 2.

This income must be applied to the ~~transitional MFIP standard, shared household standard, of need or family wage standard level~~ subject to this section and sections 256J.34 to 256J.36. Income received in a calendar month and not otherwise excluded under section 256J.21, subdivision 2, must be applied to the needs of an assistance unit.

Subd. 2. **PROSPECTIVE ELIGIBILITY.** A county agency must determine whether the eligibility requirements that pertain to an assistance unit, including those in sections 256J.11 to 256J.15 and 256J.20, will be met prospectively for the payment month. Except for the provisions in section 256J.34, subdivision 1, the income test will be applied retrospectively.

Subd. 3. **RETROSPECTIVE ELIGIBILITY.** After the first two months of MFIP-S MFIP eligibility, a county agency must continue to determine whether an assistance unit is prospectively eligible for the payment month by looking at all factors other than income and then determine whether the assistance unit is retrospectively income eligible by applying the monthly income test to the income from the budget month. When the monthly income test is not satisfied, the assistance payment must be suspended when ineligibility exists for one month or ended when ineligibility exists for more than one month.

Subd. 4. **MONTHLY INCOME TEST.** A county agency must apply the monthly income test retrospectively for each month of MFIP-S MFIP eligibility. An assistance unit is not eligible when the countable income equals or exceeds the ~~transitional MFIP standard, the shared household standard, of need or the family wage level~~ for the assistance unit. The income applied against the monthly income test must include:

(1) gross earned income from employment, prior to mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and after the disregards in section 256J.21, subdivision 4, and the allocations in section 256J.36, unless the employment income is specifically excluded under section 256J.21, subdivision 2;

(2) gross earned income from self-employment less deductions for self-employment expenses in section 256J.37, subdivision 5, but prior to any reductions for personal or business state and federal income taxes, personal FICA, personal health and life insurance, and after the disregards in section 256J.21, subdivision 4, and the allocations in section 256J.36;

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

(3) unearned income after deductions for allowable expenses in section 256J.37, subdivision 9, and allocations in section 256J.36, unless the income has been specifically excluded in section 256J.21, subdivision 2;

(4) gross earned income from employment as determined under clause (1) which is received by a member of an assistance unit who is a minor child or minor caregiver and less than a half-time student;

(5) child support and spousal support received or anticipated to be received by an assistance unit;

(6) the income of a parent when that parent is not included in the assistance unit;

(7) the income of an eligible relative and spouse who seek to be included in the assistance unit; and

(8) the unearned income of a minor child included in the assistance unit.

Subd. 5. **WHEN TO TERMINATE ASSISTANCE.** When an assistance unit is ineligible for ~~MFIP~~ MFIP assistance for two consecutive months, the county agency must terminate ~~MFIP~~ MFIP assistance.

Sec. 39. Minnesota Statutes 1998, section 256J.34, subdivision 1, is amended to read:

Subdivision 1. **PROSPECTIVE BUDGETING.** A county agency must use prospective budgeting to calculate the assistance payment amount for the first two months for an applicant who has not received assistance in this state for at least one payment month preceding the first month of payment under a current application. Notwithstanding subdivision 3, paragraph (a), clause (2), a county agency must use prospective budgeting for the first two months for a person who applies to be added to an assistance unit. Prospective budgeting is not subject to overpayments or underpayments unless fraud is determined under section 256.98.

(a) The county agency must apply the income received or anticipated in the first month of ~~MFIP~~ MFIP eligibility against the need of the first month. The county agency must apply the income received or anticipated in the second month against the need of the second month.

(b) When the assistance payment for any part of the first two months is based on anticipated income, the county agency must base the initial assistance payment amount on the information available at the time the initial assistance payment is made.

(c) The county agency must determine the assistance payment amount for the first two months of ~~MFIP~~ MFIP eligibility by budgeting both recurring and nonrecurring income for those two months.

(d) The county agency must budget the child support income received or anticipated to be received by an assistance unit to determine the assistance payment amount from the month of application through the date in which ~~MFIP~~ MFIP eligibility is determined and assistance is authorized. Child support income which has been budgeted to determine the assistance payment in the initial two months is considered nonrecurring income. An assistance unit must forward any payment of child support to the child support enforcement unit of the county agency following the date in which assistance is authorized.

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

Sec. 40. Minnesota Statutes 1998, section 256J.34, subdivision 3, is amended to read:

Subd. 3. **ADDITIONAL USES OF RETROSPECTIVE BUDGETING.** Notwithstanding subdivision 1, the county agency must use retrospective budgeting to calculate the monthly assistance payment amount for the first two months under paragraphs (a) and (b).

(a) The county agency must use retrospective budgeting to determine the amount of the assistance payment in the first two months of ~~MFIP~~ MFIP eligibility:

(1) when an assistance unit applies for assistance for the same month for which assistance has been interrupted, the interruption in eligibility is less than one payment month, the assistance payment for the preceding month was issued in this state, and the assistance payment for the immediately preceding month was determined retrospectively; or

(2) when a person applies in order to be added to an assistance unit, that assistance unit has received assistance in this state for at least the two preceding months, and that person has been living with and has been financially responsible for one or more members of that assistance unit for at least the two preceding months.

(b) Except as provided in clauses (1) to (4), the county agency must use retrospective budgeting and apply income received in the budget month by an assistance unit and by a financially responsible household member who is not included in the assistance unit against the ~~appropriate transitional or family wage level~~ MFIP standard of need or family wage level to determine the assistance payment to be issued for the payment month.

(1) When a source of income ends prior to the third payment month, that income is not considered in calculating the assistance payment for that month. When a source of income ends prior to the fourth payment month, that income is not considered when determining the assistance payment for that month.

(2) When a member of an assistance unit or a financially responsible household member leaves the household of the assistance unit, the income of that departed household member is not budgeted retrospectively for any full payment month in which that household member does not live with that household and is not included in the assistance unit.

(3) When an individual is removed from an assistance unit because the individual is no longer a minor child, the income of that individual is not budgeted retrospectively for payment months in which that individual is not a member of the assistance unit, except that income of an ineligible child in the household must continue to be budgeted retrospectively against the child's needs when the parent or parents of that child request allocation of their income against any unmet needs of that ineligible child.

(4) When a person ceases to have financial responsibility for one or more members of an assistance unit, the income of that person is not budgeted retrospectively for the payment months which follow the month in which financial responsibility ends.

Sec. 41. Minnesota Statutes 1998, section 256J.34, subdivision 4, is amended to read:

Subd. 4. **SIGNIFICANT CHANGE IN GROSS INCOME.** The county agency must recalculate the assistance payment when an assistance unit experiences a signifi-

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cant change, as defined in section 256J.08, resulting in a reduction in the gross income received in the payment month from the gross income received in the budget month. The county agency must issue a supplemental assistance payment based on the county agency's best estimate of the assistance unit's income and circumstances for the payment month. Budget adjustments Supplemental assistance payments that result from significant changes are limited to two in a 12-month period regardless of the reason for the change. Budget adjustments Notwithstanding any other statute or rule of law, supplementary assistance payments shall not be made when the significant change in income is the result of receipt of a lump sum, receipt of an extra paycheck, business fluctuation in self-employment income, or an assistance unit member's participation in a strike or other labor action. Supplementary assistance payments due to a significant change in the amount of direct support received must not be made after the date the assistance unit is required to forward support to the child support enforcement unit under subdivision 1, paragraph (d).

Sec. 42. Minnesota Statutes 1998, section 256J.35, is amended to read:

**256J.35 AMOUNT OF ASSISTANCE PAYMENT.**

Except as provided in paragraphs (a) to (d) ~~(c)~~, the amount of an assistance payment is equal to the difference between the transitional MFIP standard, shared household standard, of need or the Minnesota family wage level in section 256J.24, whichever is less, and countable income.

(a) When ~~MFIP-S~~ MFIP eligibility exists for the month of application, the amount of the assistance payment for the month of application must be prorated from the date of application or the date all other eligibility factors are met for that applicant, whichever is later. This provision applies when an applicant loses at least one day of ~~MFIP-S~~ MFIP eligibility.

(b) ~~MFIP-S~~ MFIP overpayments to an assistance unit must be recouped according to section 256J.38, subdivision 4.

(c) An initial assistance payment must not be made to an applicant who is not eligible on the date payment is made.

~~(d) An individual whose needs have been otherwise provided for in another state, in whole or in part by county, state, or federal dollars during a month, is ineligible to receive MFIP-S for the month.~~

Sec. 43. Minnesota Statutes 1998, section 256J.36, is amended to read:

**256J.36 ALLOCATION FOR UNMET NEED OF OTHER HOUSEHOLD MEMBERS.**

Except as prohibited in paragraphs (a) and (b), an allocation of income is allowed from the caregiver's income to meet the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible who also lives with the caregiver. That allocation is allowed in an amount up to the difference between the ~~MFIP-S~~ transitional MFIP standard of need for the assistance unit when that ineligible person is included in the assistance unit and the ~~MFIP-S~~ family allowance MFIP standard of need for the assistance unit when the ineligible person is not included in the assistance unit. These allocations must be deducted from the caregiver's counted earnings and from unearned income subject to paragraphs (a) and (b).

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(a) Income of a minor child in the assistance unit must not be allocated to meet the need of an ineligible person, including the child's parent, even when that parent is the payee of the child's income.

(b) Income of a caregiver must not be allocated to meet the needs of a disqualified person.

Sec. 44. Minnesota Statutes 1998, section 256J.37, subdivision 1, is amended to read:

Subdivision 1. **DEEMED INCOME FROM INELIGIBLE HOUSEHOLD MEMBERS.** Unless otherwise provided under subdivision 1a or 1b, the income of ineligible household members must be deemed after allowing the following disregards:

(1) the first 18 percent of the ineligible family member's gross earned income;

(2) amounts the ineligible person actually paid to individuals not living in the same household but whom the ineligible person claims or could claim as dependents for determining federal personal income tax liability;

(3) all payments made by the ineligible person according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the ineligible person since the support order was entered, the ineligible person has petitioned for a modification of the support order; and

(4) an amount for the needs of the ineligible person and other persons who live in the household but are not included in the assistance unit and are or could be claimed by an ineligible person as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP-S transitional MFIP standard of need when the ineligible person is included in the assistance unit and the MFIP-S transitional MFIP standard of need when the ineligible person is not included in the assistance unit.

Sec. 45. Minnesota Statutes 1998, section 256J.37, subdivision 1a, is amended to read:

Subd. 1a. **DEEMED INCOME FROM DISQUALIFIED MEMBERS.** The income of disqualified members must be deemed after allowing the following disregards:

(1) the first 18 percent of the disqualified member's gross earned income;

(2) amounts the disqualified member actually paid to individuals not living in the same household but whom the disqualified member claims or could claim as dependents for determining federal personal income tax liability;

(3) all payments made by the disqualified member according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the disqualified member's legal obligation to pay support since the support order was entered, the disqualified member has petitioned for a modification of the support order; and

(4) an amount for the needs of other persons who live in the household but are not included in the assistance unit and are or could be claimed by the disqualified member as

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dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP-S transitional MFIP standard of need when the ineligible person is included in the assistance unit and the MFIP-S transitional MFIP standard of need when the ineligible person is not included in the assistance unit. An amount shall not be allowed for the needs of a disqualified member.

Sec. 46. Minnesota Statutes 1998, section 256J.37, subdivision 2, is amended to read:

Subd. 2. **DEEMED INCOME AND ASSETS OF SPONSOR OF NONCITIZENS.** ~~If a noncitizen applies for or receives MFIP-S, the county must deem the income and assets of the noncitizen's sponsor and the sponsor's spouse who have signed an affidavit of support for the noncitizen as specified in Public Law Number 104-193, title IV, sections 421 and 422, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The income of a sponsor and the sponsor's spouse is considered unearned income of the noncitizen. The assets of a sponsor and the sponsor's spouse are considered available assets of the noncitizen. (a) If a noncitizen applies for or receives MFIP, the county must deem the income and assets of the noncitizen's sponsor and the sponsor's spouse as provided in this paragraph and paragraph (b) or (c), whichever is applicable. The deemed income of a sponsor and the sponsor's spouse is considered unearned income of the noncitizen. The deemed assets of a sponsor and the sponsor's spouse are considered available assets of the noncitizen.~~

(b) The income and assets of a sponsor who signed an affidavit of support under title IV, sections 421, 422, and 423, of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the income and assets of the sponsor's spouse, must be deemed to the noncitizen to the extent required by those sections of Public Law Number 104-193.

(c) The income and assets of a sponsor and the sponsor's spouse to whom the provisions of paragraph (b) do not apply must be deemed to the noncitizen to the full extent allowed under title V, section 5505, of Public Law Number 105-33, the Balanced Budget Act of 1997.

Sec. 47. Minnesota Statutes 1998, section 256J.37, subdivision 9, is amended to read:

Subd. 9. **UNEARNED INCOME.** (a) The county agency must apply unearned income to the ~~transitional MFIP~~ standard of need. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) ~~Effective July 1, 1999~~ January 1, 2001, the county agency shall count \$100 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$100.

(c) The provisions of paragraph (b) shall not apply to MFIP participants who are exempt from the employment and training services component because they are:

(i) individuals who are age 60 or older;

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(ii) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment; or

(iii) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household.

(d) The provisions of paragraph (b) shall not apply to an MFIP assistance unit where the parental caregiver receives supplemental security income.

Sec. 48. Minnesota Statutes 1998, section 256J.37, subdivision 10, is amended to read:

Subd. 10. **TREATMENT OF LUMP SUMS.** (a) The county agency must treat lump-sum payments as earned or unearned income. If the lump-sum payment is included in the category of income identified in subdivision 9, it must be treated as unearned income. A lump sum is counted as income in the month received and budgeted either prospectively or retrospectively depending on the budget cycle at the time of receipt. When an individual receives a lump-sum payment, that lump sum must be combined with all other earned and unearned income received in the same budget month, and it must be applied according to paragraphs (a) to (c). A lump sum may not be carried over into subsequent months. Any funds that remain in the third month after the month of receipt are counted in the asset limit.

(b) For a lump sum received by an applicant during the first two months, prospective budgeting is used to determine the payment and the lump sum must be combined with other earned or unearned income received and budgeted in that prospective month.

(c) For a lump sum received by a participant after the first two months of MFIP-S MFIP eligibility, the lump sum must be combined with other income received in that budget month, and the combined amount must be applied retrospectively against the applicable payment month.

(d) When a lump sum, combined with other income under paragraphs (b) and (c), is less than the transitional MFIP standard of need for the applicable appropriate payment month, the assistance payment must be reduced according to the amount of the countable income. When the countable income is greater than the transitional MFIP standard of the family wage standard or family wage level, the assistance payment must be suspended for the payment month.

Sec. 49. Minnesota Statutes 1998, section 256J.38, subdivision 4, is amended to read:

Subd. 4. **RECOUPING OVERPAYMENTS FROM PARTICIPANTS.** A participant may voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this subdivision, until the total amount of the overpayment is repaid. When an overpayment occurs due to fraud, the county agency must recover ten percent of the transitional applicable standard or the amount of the monthly assistance payment, whichever is less. When a nonfraud overpayment occurs, the county agency must recover three percent of the transitional MFIP standard of need or the amount of the monthly assistance payment, whichever is less.

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Sec. 50. Minnesota Statutes 1998, section 256J.42, subdivision 1, is amended to read:

Subdivision 1. **TIME LIMIT.** (a) Except for the exemptions in this section and in section 256J.11, subdivision 2, an assistance unit in which any adult caregiver has received 60 months of cash assistance funded in whole or in part by the TANF block grant in this or any other state or United States territory, ~~MFIP-S~~ or from a tribal TANF program, MFIP, AFDC, or family general assistance, funded in whole or in part by state appropriations, is ineligible to receive ~~MFIP-S~~ MFIP. Any cash assistance funded with TANF dollars in this or any other state or United States territory, or from a tribal TANF program, or ~~MFIP-S~~ MFIP assistance funded in whole or in part by state appropriations, that was received by the unit on or after the date TANF was implemented, including any assistance received in states or United States territories of prior residence, counts toward the 60-month limitation. The 60-month limit applies to a minor who is the head of a household or who is married to the head of a household except under subdivision 5. The 60-month time period does not need to be consecutive months for this provision to apply.

(b) The months before July 1998 in which individuals ~~receive~~ received assistance as part of the field trials as an MFIP, MFIP-R, or MFIP or MFIP-R comparison group family under sections 256.031 to 256.0361 or sections 256.047 to 256.048 are not included in the 60-month time limit.

Sec. 51. Minnesota Statutes 1998, section 256J.42, subdivision 5, is amended to read:

Subd. 5. **EXEMPTION FOR CERTAIN FAMILIES.** (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the caregiver is in the category in section 256J.56, paragraph (a), clause (1). The exemption applies for the period of time the caregiver belongs to one of the categories specified in this subdivision.

(b) From July 1, 1997, until the date ~~MFIP-S~~ MFIP is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with sections 256.73, subdivision 5a, and 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a minor caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

(c) Any diversionary assistance or emergency assistance received does not count toward the 60-month limit.

(d) Any cash assistance received by an 18- or 19-year-old caregiver who is complying with the requirements of section 256J.54 does not count toward the 60-month limit.

Sec. 52. Minnesota Statutes 1998, section 256J.43, is amended to read:

**256J.43 INTERSTATE PAYMENT TRANSITIONAL STANDARDS.**

Subdivision 1. **PAYMENT.** (a) Effective July 1, 1997, the amount of assistance paid to an eligible unit in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be the lesser of either the interstate transitional standard that would have been received by the assis-

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tance unit from the state of immediate prior residence, or the amount calculated in accordance with AFDC or MFIP-S MFIP standards. The lesser payment must continue until the assistance unit meets the 12-month requirement. An assistance unit that has not resided in Minnesota for 12 months from the date of application is not exempt from the interstate payment transitional standards provisions solely because a child is born in Minnesota to a member of the assistance unit. Payment must be calculated by applying this state's MFIP's budgeting policies, and the unit's net income must be deducted from the payment standard in the other state or the MFIP transitional or shared household standard in this state, whichever is lower. Payment shall be made in vendor form for shelter and utilities, up to the limit of the grant amount, and residual amounts, if any, shall be paid directly to the assistance unit.

(b) During the first 12 months an assistance unit resides in this state, the number of months that a unit is eligible to receive AFDC or MFIP-S MFIP benefits is limited to the number of months the assistance unit would have been eligible to receive similar benefits in the state of immediate prior residence.

(c) This policy applies whether or not the assistance unit received similar benefits while residing in the state of previous residence.

(d) When an assistance unit moves to this state from another state where the assistance unit has exhausted that state's time limit for receiving benefits under that state's TANF program, the unit will not be eligible to receive any AFDC or MFIP-S MFIP benefits in this state for 12 months from the date the assistance unit moves here.

(e) For the purposes of this section, "state of immediate prior residence" means:

(1) the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to this state; or

(2) the state in which an applicant who is a migrant worker maintains a home.

(f) The commissioner shall annually verify and update all other states' payment standards as they are to be in effect in July of each year.

(g) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

(h) Migrant workers, as defined in section 256J.08, and their immediate families are exempt from this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

**Subd. 2. TEMPORARY ABSENCE FROM MINNESOTA.** (a) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate payment transitional standards in this section is not affected by an absence from Minnesota for fewer than 30 consecutive days.

(b) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate payment transitional standards in this section is not affected by an absence from Minnesota for more than 30 consecutive days but fewer than 90 consecutive days, provided the assistance unit continues to maintain a residence in Minnesota during the period of absence.

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Subd. 3. **EXCEPTIONS TO THE INTERSTATE PAYMENT POLICY.** Applicants who lived in another state in the 12 months prior to applying for assistance are exempt from the interstate payment policy for the months that a member of the unit:

(1) served in the United States armed services, provided the person returned to Minnesota within 30 days of leaving the armed forces, and intends to remain in Minnesota;

(2) attended school in another state, paid nonresident tuition or Minnesota tuition rates under a reciprocity agreement, provided the person left Minnesota specifically to attend school and returned to Minnesota within 30 days of graduation with the intent to remain in Minnesota; or

(3) meets the following criteria:

(i) a minor child or a minor caregiver moves from another state to the residence of a relative caregiver;

(ii) the minor caregiver applies for and receives family cash assistance;

(iii) the relative caregiver chooses not to be part of the MFIP-S MFIP assistance unit; and

(iv) the relative caregiver has resided in Minnesota for at least 12 months from the date the assistance unit applies for cash assistance.

Subd. 4. **INELIGIBLE MANDATORY UNIT MEMBERS.** Ineligible mandatory unit members who have resided in Minnesota for 12 months immediately before the unit's date of application establish the other assistance unit members' eligibility for the MFIP-S MFIP transitional standard, shared household or family wage level, whichever is applicable.

Sec. 53. Minnesota Statutes 1998, section 256J.45, subdivision 1, is amended to read:

Subdivision 1. **COUNTY AGENCY TO PROVIDE ORIENTATION.** A county agency must provide each MFIP-S MFIP caregiver who is not exempt under section 256J.56, paragraph (a), clause (6) or (8), with a face-to-face orientation. The caregiver must attend the orientation. The county agency must inform the caregiver caregivers who are not exempt under section 256J.56, paragraph (a), clause (6) or (8), that failure to attend the orientation is considered an occurrence of noncompliance with program requirements, and will result in the imposition of a sanction under section 256J.46. If the client complies with the orientation requirement prior to the first day of the month in which the grant reduction is proposed to occur, the orientation sanction shall be lifted.

Sec. 54. Minnesota Statutes 1998, section 256J.45, is amended by adding a subdivision to read:

Subd. 1a. **PREGNANT AND PARENTING MINORS.** Pregnant and parenting minors who are complying with the provisions of section 256J.54 are exempt from the requirement under subdivision 1, however, the county agency must provide information to the minor as required under section 256J.14.

Sec. 55. Minnesota Statutes 1998, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. **SANCTIONS FOR PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS.** (a) A participant who fails without good

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cause to comply with the requirements of this chapter, and who is not subject to a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision.

A sanction under this subdivision becomes effective the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 or third-party liability for medical services under section 256J.30, subdivision 10, prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections 256J.49 to 256J.72 ten days prior to the effective date of the sanction. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. A participant who has had one or more sanctions imposed must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence.

(b) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in a single-parent household or by one participant in a two-parent household, the assistance unit's grant shall be reduced by ten percent of the ~~MFIP-S transitional MFIP standard, the shared household standard, or the interstate transitional standard of need~~ MFIP-S transitional MFIP standard, with the residual grant paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second or subsequent occurrence of noncompliance, or when both participants in a two-parent household are out of compliance at the same time, the assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the ~~MFIP-S MFIP grant~~ MFIP-S MFIP grant for which the participant's assistance unit is eligible. At county option, the assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the ~~MFIP-S MFIP grant~~ MFIP-S MFIP grant remaining after vendor payment of the assistance unit's shelter costs. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the ~~MFIP-S transitional MFIP standard, the shared household standard, or the interstate transitional standard of need~~ MFIP-S transitional MFIP standard for an assistance unit of the same size, ~~whichever is applicable~~, before the residual grant is paid to the assistance unit. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that a participant in a one-parent household returns to compliance. In a two-parent household, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of shelter costs and, if applicable, utilities shall be removed six months after the month in which the participant or participants return to compliance.

(c) No later than during the second month that a sanction under paragraph (b), clause (2), is in effect due to noncompliance with employment services, the participant's case file must be reviewed to determine if:

(i) the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (16);

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- (ii) the participant qualifies for a good cause exception under section 256J.57; or
- (iii) the participant qualifies for an exemption under section 256J.56.

If the lack of an identified activity can explain the noncompliance, the county must work with the participant to provide the identified activity, and the county must restore the participant's grant amount to the full amount for which the assistance unit is eligible. The grant must be restored retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption or good cause exception.

If the participant is found to qualify for a good cause exception or an exemption, the county must restore the participant's grant to the full amount for which the assistance unit is eligible.

Sec. 56. Minnesota Statutes 1998, section 256J.46, subdivision 2, is amended to read:

Subd. 2. **SANCTIONS FOR REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS.** The grant of an ~~MFIP~~ MFIP caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, shall be subject to sanction as specified in this subdivision. The assistance unit's grant must be reduced by 25 percent of the applicable ~~transitional MFIP~~ MFIP standard of need. The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective the first month following the month in which a required notice is given. A sanction must not be imposed when a caregiver comes into compliance with the requirements under section 256.741 prior to the effective date of the sanction. The sanction shall be removed in the month following the month that the caregiver cooperates with the support requirements. Each month that an ~~MFIP~~ MFIP caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance. An ~~MFIP~~ MFIP caregiver who has had one or more sanctions imposed must remain in compliance with the requirements of section 256.741 for six months in order for a subsequent sanction to be considered a first occurrence.

Sec. 57. Minnesota Statutes 1998, section 256J.46, subdivision 2a, is amended to read:

Subd. 2a. **DUAL SANCTIONS.** (a) Notwithstanding the provisions of subdivisions 1 and 2, for a participant subject to a sanction for refusal to comply with child support requirements under subdivision 2 and subject to a concurrent sanction for refusal to cooperate with other program requirements under subdivision 1, sanctions shall be imposed in the manner prescribed in this subdivision.

A participant who has had one or more sanctions imposed under this subdivision must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence. Any vendor payment of shelter costs or utilities under this subdivision must remain in effect for six months after the month in which the participant is no longer subject to sanction under subdivision 1.

- (b) If the participant was subject to sanction for:

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(i) noncompliance under subdivision 1 before being subject to sanction for non-cooperation under subdivision 2; or

(ii) noncooperation under subdivision 2 before being subject to sanction for non-compliance under subdivision 1;

the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2), and the requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(c) A participant who first becomes subject to sanction under both subdivisions 1 and 2 in the same month is subject to sanction as follows:

(i) in the first month of noncompliance and noncooperation, the participant's grant must be reduced by 25 percent of the applicable ~~transitional~~ MFIP standard of need, with any residual amount paid to the participant;

(ii) in the second and subsequent months of noncompliance and noncooperation, the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2).

The requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(d) A participant remains subject to sanction under subdivision 2 if the participant:

(i) returns to compliance and is no longer subject to sanction under subdivision 1; or

(ii) has the sanction under subdivision 1, paragraph (b), removed upon completion of the review under subdivision 1, paragraph (c).

A participant remains subject to sanction under subdivision 1, paragraph (b), if the participant cooperates and is no longer subject to sanction under subdivision 2.

Sec. 58. Minnesota Statutes 1998, section 256J.47, subdivision 4, is amended to read:

Subd. 4. **INELIGIBILITY FOR ~~MFIP-S~~ MFIP; EMERGENCY ASSISTANCE; AND EMERGENCY GENERAL ASSISTANCE.** Upon receipt of diversionary assistance, the family is ineligible for ~~MFIP-S~~ MFIP, emergency assistance, and emergency general assistance for a period of time. To determine the period of ineligibility, the county shall use the following formula: regardless of household changes, the county agency must calculate the number of days of ineligibility by dividing the diversionary assistance issued by the ~~transitional~~ MFIP standard of need a family of the same size and composition would have received under ~~MFIP-S~~, or if applicable the interstate transitional standard, MFIP multiplied by 30, truncating the result. The ineligibility period begins the date the diversionary assistance is issued.

Sec. 59. Minnesota Statutes 1998, section 256J.48, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY.** Notwithstanding other eligibility provisions of this chapter, any family without resources immediately available to meet emergency needs identified in subdivision 3 shall be eligible for an emergency grant under the following conditions:

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- (1) a family member has resided in this state for at least 30 days;
- (2) the family is without resources immediately available to meet emergency needs;
- (3) assistance is necessary to avoid destitution or provide emergency shelter arrangements;

(4) the family's destitution or need for shelter or utilities did not arise because the assistance unit is under sanction, the caregiver is disqualified, or the child or relative caregiver refused without good cause under section 256J.57 to accept employment or training for employment in this state or another state; and

(5) at least one child or pregnant woman in the emergency assistance unit meets ~~MFIP-S MFIP~~ citizenship requirements in section 256J.11.

Sec. 60. Minnesota Statutes 1998, section 256J.48, subdivision 3, is amended to read:

Subd. 3. **EMERGENCY NEEDS.** Emergency needs are limited to the following:

(a) **RENT.** A county agency may deny assistance to prevent eviction from rented or leased shelter of an otherwise eligible applicant when the county agency determines that an applicant's anticipated income will not cover continued payment for shelter, subject to conditions in clauses (1) to (3):

(1) a county agency must not deny assistance when an applicant can document that the applicant is unable to locate habitable shelter, unless the county agency can document that one or more habitable shelters are available in the community that will result in at least a 20 percent reduction in monthly expense for shelter and that this shelter will be cost-effective for the applicant;

(2) when no alternative shelter can be identified by either the applicant or the county agency, the county agency shall not deny assistance because anticipated income will not cover rental obligation; and

(3) when cost-effective alternative shelter is identified, the county agency shall issue assistance for moving expenses as provided in paragraph (e).

(b) **DEFINITIONS.** For purposes of paragraph (a), the following definitions apply (1) "metropolitan statistical area" is as defined by the United States Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the applicant is eligible, provided the applicant does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

(c) **MORTGAGE AND CONTRACT FOR DEED ARREARAGES.** A county agency shall issue assistance for mortgage or contract for deed arrearages on behalf of an otherwise eligible applicant according to clauses (1) to (4):

(1) assistance for arrearages must be issued only when a home is owned, occupied, and maintained by the applicant;

(2) assistance for arrearages must be issued only when no subsequent foreclosure action is expected within the 12 months following the issuance;

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(3) assistance for arrearages must be issued only when an applicant has been refused refinancing through a bank or other lending institution and the amount payable, when combined with any payments made by the applicant, will be accepted by the creditor as full payment of the arrearage;

(4) costs paid by a family which are counted toward the payment requirements in this clause are: principal and interest payments on mortgages or contracts for deed, balloon payments, homeowner's insurance payments, manufactured home lot rental payments, and tax or special assessment payments related to the homestead. Costs which are not counted include closing costs related to the sale or purchase of real property.

To be eligible for assistance for costs specified in clause (4) which are outstanding at the time of foreclosure, an applicant must have paid at least 40 percent of the family's gross income toward these costs in the month of application and the 11-month period immediately preceding the month of application.

When an applicant is eligible under clause (4), a county agency shall issue assistance up to a maximum of four times the ~~MFIP-S~~ transitional MFIP standard of need for a comparable assistance unit.

(d) **DAMAGE OR UTILITY DEPOSITS.** A county agency shall issue assistance for damage or utility deposits when necessary to alleviate the emergency. The county may require that assistance paid in the form of a damage deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord under a rental agreement, or to restore the premises to the condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or be paid to the recipient's new landlord as a vendor payment. The county may require that assistance paid in the form of a utility deposit less any amount retained to satisfy outstanding utility costs be returned to the county when the person vacates the premises, or be paid for the person's new housing unit as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

(e) **MOVING EXPENSES.** A county agency shall issue assistance for expenses incurred when a family must move to a different shelter according to clauses (1) to (4):

(1) moving expenses include the cost to transport personal property belonging to a family, the cost for utility connection, and the cost for securing different shelter;

(2) moving expenses must be paid only when the county agency determines that a move is cost-effective;

(3) moving expenses must be paid at the request of an applicant, but only when destitution or threatened destitution exists; and

(4) moving expenses must be paid when a county agency denies assistance to prevent an eviction because the county agency has determined that an applicant's anticipated income will not cover continued shelter obligation in paragraph (a).

(f) **HOME REPAIRS.** A county agency shall pay for repairs to the roof, foundation, wiring, heating system, chimney, and water and sewer system of a home that is owned and lived in by an applicant.

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The applicant shall document, and the county agency shall verify the need for and method of repair.

The payment must be cost-effective in relation to the overall condition of the home and in relation to the cost and availability of alternative housing.

(g) **UTILITY COSTS.** Assistance for utility costs must be made when an otherwise eligible family has had a termination or is threatened with a termination of municipal water and sewer service, electric, gas or heating fuel service, refuse removal service, or lacks wood when that is the heating source, subject to the conditions in clauses (1) and (2):

(1) a county agency must not issue assistance unless the county agency receives confirmation from the utility provider that assistance combined with payment by the applicant will continue or restore the utility; and

(2) a county agency shall not issue assistance for utility costs unless a family paid at least eight percent of the family's gross income toward utility costs due during the preceding 12 months.

Clauses (1) and (2) must not be construed to prevent the issuance of assistance when a county agency must take immediate and temporary action necessary to protect the life or health of a child.

(h) **SPECIAL DIETS.** Effective January 1, 1998, a county shall pay for special diets or dietary items for ~~MFIP-S MFIP~~ participants. Persons receiving emergency assistance funds for special diets or dietary items are also eligible to receive emergency assistance for shelter and utility emergencies, if otherwise eligible. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the Thrifty Food Plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the Thrifty Food Plan that are covered are as follows:

- (1) high protein diet, at least 80 grams daily, 25 percent of Thrifty Food Plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of Thrifty Food Plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of Thrifty Food Plan;
- (4) low cholesterol diet, 25 percent of Thrifty Food Plan;
- (5) high residue diet, 20 percent of Thrifty Food Plan;
- (6) pregnancy and lactation diet, 35 percent of Thrifty Food Plan;
- (7) gluten-free diet, 25 percent of Thrifty Food Plan;
- (8) lactose-free diet, 25 percent of Thrifty Food Plan;
- (9) antidumping diet, 15 percent of Thrifty Food Plan;
- (10) hypoglycemic diet, 15 percent of Thrifty Food Plan; or
- (11) ketogenic diet, 25 percent of Thrifty Food Plan.

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Sec. 61. Minnesota Statutes 1998, section 256J.50, subdivision 1, is amended to read:

Subdivision 1. **EMPLOYMENT AND TRAINING SERVICES COMPONENT OF ~~MFIP-S MFIP~~**. (a) By January 1, 1998, each county must develop and implement an employment and training services component of ~~MFIP-S MFIP~~ which is designed to put participants on the most direct path to unsubsidized employment. Participation in these services is mandatory for all ~~MFIP-S MFIP~~ caregivers, unless the caregiver is exempt under section 256J.56.

(b) ~~A county may provide employment and training services to MFIP-S caregivers who are exempt from the employment and training services component but volunteer for the services. A county must provide employment and training services under sections 256J.515 to 256J.74 within 30 days after the caregiver's participation becomes mandatory under subdivision 5.~~

Sec. 62. Minnesota Statutes 1998, section 256J.515, is amended to read:

**256J.515 OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.**

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that:

- (1) stresses the necessity and opportunity of immediate employment;
- (2) outlines the job search resources offered;
- (3) outlines education or training opportunities available;
- (4) describes the range of work activities, including activities under section 256J.49, subdivision 13, clause (18), that are allowable under ~~MFIP-S MFIP~~ to meet the individual needs of participants;
- (5) explains the requirements to comply with an employment plan;
- (6) explains the consequences for failing to comply; and
- (7) explains the services that are available to support job search and work and education.

Failure to attend the overview of employment and training services without good cause results in the imposition of a sanction under section 256J.46.

Sec. 63. Minnesota Statutes 1998, section 256J.52, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION LIMITED TO CERTAIN PARTICIPANTS.** This section applies to participants receiving ~~MFIP-S MFIP~~ assistance who are not exempt under section 256J.56, and to caregivers who volunteer for employment and training services under section 256J.50.

Sec. 64. Minnesota Statutes 1998, section 256J.52, subdivision 3, is amended to read:

Subd. 3. **JOB SEARCH; JOB SEARCH SUPPORT PLAN.** (a) If, after the initial assessment, the job counselor determines that the participant possesses sufficient skills

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that the participant is likely to succeed in obtaining suitable employment, the participant must conduct job search for a period of up to eight weeks, for at least 30 hours per week. The participant must accept any offer of suitable employment. Upon agreement by the job counselor and the participant, a job search support plan may limit a job search to jobs that are consistent with the participant's employment goal. The job counselor and participant must develop a job search support plan which specifies, at a minimum: whether the job search is to be supervised or unsupervised; support services that will be provided while the participant conducts job search activities; the courses necessary to obtain certification or licensure, if applicable, and after obtaining the license or certificate, the client must comply with subdivision 5; and how frequently the participant must report to the job counselor on the status of the participant's job search activities. The job search support plan may also specify that the participant fulfill a specified portion of the required hours of job search through attending adult basic education or English as a second language classes.

(b) During the eight-week job search period, either the job counselor or the participant may request a review of the participant's job search plan and progress towards obtaining suitable employment. If a review is requested by the participant, the job counselor must concur that the review is appropriate for the participant at that time. If a review is conducted, the job counselor may make a determination to conduct a secondary assessment prior to the conclusion of the job search.

(c) Failure to conduct the required job search, to accept any offer of suitable employment, to develop or comply with a job search support plan, or voluntarily quitting suitable employment without good cause results in the imposition of a sanction under section 256J.46. If at the end of eight weeks the participant has not obtained suitable employment, the job counselor must conduct a secondary assessment of the participant under subdivision 3.

Sec. 65. Minnesota Statutes 1998, section 256J.52, subdivision 4, is amended to read:

Subd. 4. **SECONDARY ASSESSMENT.** (a) The job counselor must conduct a secondary assessment for those participants who:

(1) in the judgment of the job counselor, have barriers to obtaining employment that will not be overcome with a job search support plan under subdivision 3;

(2) have completed eight weeks of job search under subdivision 3 without obtaining suitable employment;

(3) have not received a secondary assessment, are working at least 20 hours per week, and the participant, job counselor, or county agency requests a secondary assessment; or

(4) have an existing job search plan or employment plan developed for another program or are already involved in training or education activities under section 256J.55, subdivision 5.

(b) In the secondary assessment the job counselor must evaluate the participant's skills and prior work experience, family circumstances, interests and abilities, need for preemployment activities, supportive or educational services, and the extent of any barriers to employment. Failure to complete a secondary assessment shall result in the imposi-

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tion of a sanction as specified in sections 256J.46 and 256J.57. The job counselor must use the information gathered through the secondary assessment to develop an employment plan under subdivision 5.

(c) The job counselor may require the participant to complete a professional chemical use assessment to be performed according to the rules adopted under section 254A.03, subdivision 3, including provisions in the administrative rules which recognize the cultural background of the participant, or a professional psychological assessment as a component of the secondary assessment, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor may ensure that appropriate services, including child care assistance and transportation, are available to the participant to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions in section 13.46.

(d) The provider shall make available to participants information regarding additional vendors or resources which provide employment and training services that may be available to the participant under a plan developed under this section. At a minimum, the provider must make available information on the following resources: business and higher education partnerships operated under the Minnesota job skills partnership, community and technical colleges, adult basic education programs, and services offered by vocational rehabilitation programs. The information must include a brief summary of services provided and related performance indicators. Performance indicators must include, but are not limited to, the average time to complete program offerings, placement rates, entry and average wages, and retention rates. To be included in the information given to participants, a vendor or resource must provide counties with relevant information in the format required by the county.

Sec. 66. Minnesota Statutes 1998, section 256J.52, subdivision 5, is amended to read:

**Subd. 5. EMPLOYMENT PLAN; CONTENTS.** Based on the secondary assessment under subdivision 4, the job counselor and the participant must develop an employment plan for the participant that includes specific activities that are tied to an employment goal and a plan for long-term self-sufficiency, and that is designed to move the participant along the most direct path to unsubsidized employment. The employment plan must list the specific steps that will be taken to obtain employment and a timetable for completion of each of the steps. Upon agreement by the job counselor and the participant, the employment plan may limit a job search to jobs that are consistent with the participant's employment goal. As part of the development of the participant's employment plan, the participant shall have the option of selecting from among the vendors or resources that the job counselor determines will be effective in supplying one or more of the services necessary to meet the employment goals specified in the participant's plan. In compiling the list of vendors and resources that the job counselor determines would be effective in meeting the participant's employment goals, the job counselor must determine that adequate financial resources are available for the vendors or resources ultimately selected by the participant. The job counselor and the participant must sign the developed plan to indicate agreement between the job counselor and the participant on the contents of the plan.

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Sec. 67. Minnesota Statutes 1998, section 256J.52, is amended by adding a subdivision to read:

Subd. 5a. BASIC EDUCATION ACTIVITIES IN PLAN. Participants with low skills in reading or mathematics who are proficient only at or below an eighth-grade level must be allowed to include basic education activities in a job search support plan or an employment plan, whichever is applicable.

Sec. 68. Minnesota Statutes 1998, section 256J.54, subdivision 2, is amended to read:

**Subd. 2. RESPONSIBILITY FOR ASSESSMENT AND EMPLOYMENT PLAN.** For caregivers who are under age 18 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who are age 18 or 19 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor or, at county option, by the social services agency under section 257.33. Upon reaching age 18 or 19 a caregiver who received social services under section 257.33 and is without a high school diploma or its equivalent has the option to choose whether to continue receiving services under the caregiver's plan from the social services agency or to utilize an MFIP employment and training service provider. The social services agency or the job counselor shall consult with representatives of educational agencies that are required to assist in developing educational plans under section 124D.331.

Sec. 69. Minnesota Statutes 1998, section 256J.55, subdivision 4, is amended to read:

**Subd. 4. CHOICE OF PROVIDER.** ~~A participant MFIP caregivers~~ must be able to choose from at least two employment and training service providers, unless the county has demonstrated to the commissioner that the provision of multiple employment and training service providers would result in financial hardship for the county, or the county is utilizing a workforce center as specified in section 256J.50, subdivision 8. Both parents in a two-parent family must choose the same employment and training service provider unless a special need, such as bilingual services, is identified but not available through one service provider.

Sec. 70. Minnesota Statutes 1998, section 256J.56, is amended to read:

**256J.56 EMPLOYMENT AND TRAINING SERVICES COMPONENT; EXEMPTIONS.**

(a) An ~~MFIP~~ MFIP caregiver is exempt from the requirements of sections 256J.52 to 256J.55 if the caregiver belongs to any of the following groups:

- (1) individuals who are age 60 or older;
- (2) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;

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(3) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household;

(4) women who are pregnant, if the pregnancy has resulted in a professionally certified incapacity that prevents the woman from obtaining or retaining employment;

(5) caregivers of a child under the age of one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;

(6) individuals who are single parents, or one parent in a two-parent family, employed at least 35 hours per week;

(7) individuals experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek professional certification, as defined in section 256J.08, that the participant is incapable of participating in the program.

Persons in this exemption category must be reevaluated every 60 days; or

(8) second parents in two-parent families employed for 20 or more hours per week, provided the first parent is employed at least 35 hours per week.

A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

(b) The county agency must provide employment and training services to ~~MFIP-S~~ MFIP caregivers who are exempt under this section, but who volunteer to participate. Exempt volunteers may request approval for any work activity under section 256J.49, subdivision 13. The hourly participation requirements for nonexempt caregivers under section 256J.50, subdivision 5, do not apply to exempt caregivers who volunteer to participate.

Sec. 71. Minnesota Statutes 1998, section 256J.57, subdivision 1, is amended to read:

Subdivision 1. **GOOD CAUSE FOR FAILURE TO COMPLY.** The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of sections 256J.52 to 256J.55. Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;
- (4) a member of the assistance unit, a relative in the household, or a foster child in the household is ill and needs care by the participant that prevents the participant from complying with the job search support plan or employment plan;

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(5) the parental caregiver is unable to secure necessary transportation;

(6) the parental caregiver is in an emergency situation that prevents compliance with the job search support plan or employment plan;

(7) the schedule of compliance with the job search support plan or employment plan conflicts with judicial proceedings;

(8) a mandatory MFIP meeting is scheduled during a time that conflicts with a judicial proceeding or a meeting related to a juvenile court matter, or a participant's work schedule;

(9) the parental caregiver is already participating in acceptable work activities;

(9) (10) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;

(10) (11) activities identified in the job search support plan or employment plan are not available;

(11) (12) the parental caregiver is willing to accept suitable employment, but suitable employment is not available; or

(12) (13) the parental caregiver documents other verifiable impediments to compliance with the job search support plan or employment plan beyond the parental caregiver's control.

The job counselor shall work with the participant to reschedule mandatory meetings for individuals who fall under clauses (1), (3), (4), (5), (6), (7), and (8).

Sec. 72. Minnesota Statutes 1998, section 256J.62, subdivision 1, is amended to read:

Subdivision 1. **ALLOCATION.** Money appropriated for MFIP-S MFIP employment and training services must be allocated to counties and eligible tribal providers as specified in this section.

Sec. 73. Minnesota Statutes 1998, section 256J.62, is amended by adding a subdivision to read:

Subd. 2a. **CASELOAD-BASED FUNDS ALLOCATION.** Effective for state fiscal year 2000, and for all subsequent years, money shall be allocated to counties and eligible tribal providers based on their average number of MFIP cases as a proportion of the statewide total number of MFIP cases:

(1) the average number of cases must be based upon counts of MFIP or tribal TANF cases as of March 31, June 30, September 30, and December 31 of the previous calendar year, less the number of child only cases and cases where all the caregivers are age 60 or over. Two-parent cases, with the exception of those with a caregiver age 60 or over, will be multiplied by a factor of two;

(2) the MFIP or tribal TANF case count for each eligible tribal provider shall be based upon the number of MFIP or tribal TANF cases who are enrolled in, or are eligible for enrollment in the tribe; and the case must be an active MFIP case; and the case members must reside within the tribal program's service delivery area;

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(3) MFIP or tribal TANF cases counted for determining allocations to tribal providers shall be removed from the case counts of the respective counties where they reside to prevent duplicate counts;

(4) prior to allocating funds to counties and tribal providers, \$1,000,000 shall be set aside to allow the commissioner to use these set-aside funds to provide funding to county or tribal providers who experience an unforeseen influx of participants or other emergent situations beyond their control; and

(5) the commissioner shall use a portion of the funds in clause (4) to offset a reduction in funds allocated to any county between state fiscal year 1999 and state fiscal year 2000 that results from the adjustment in clause (3). The funding provided under this clause must reduce by half the reduction for state fiscal year 2000 that any county would otherwise experience in the absence of this clause.

Any funds specified in this clause that remain unspent by March 31 of each year shall be reallocated out to county and tribal providers using the funding formula detailed in clauses (1) to (5).

Sec. 74. Minnesota Statutes 1998, section 256J.62, subdivision 6, is amended to read:

**Subd. 6. BILINGUAL EMPLOYMENT AND TRAINING SERVICES TO REFUGEES.** Funds appropriated to cover the costs of bilingual employment and training services to refugees shall be allocated to county agencies as follows:

(1) for state fiscal year 1998, the allocation shall be based on the county's proportion of the total statewide number of AFDC refugee cases in the previous fiscal year. Counties with less than one percent of the statewide number of AFDC, MFIP-R, or MFIP refugee cases shall not receive an allocation of bilingual employment and training services funds; and

(2) for each subsequent fiscal year, the allocation shall be based on the county's proportion of the total statewide number of ~~MFIP-S~~ MFIP refugee cases in the previous fiscal year. Counties with less than one percent of the statewide number of ~~MFIP-S~~ MFIP refugee cases shall not receive an allocation of bilingual employment and training services funds.

Sec. 75. Minnesota Statutes 1998, section 256J.62, subdivision 7, is amended to read:

**Subd. 7. WORK LITERACY LANGUAGE PROGRAMS.** Funds appropriated to cover the costs of work literacy language programs to non-English-speaking recipients shall be allocated to county agencies as follows:

(1) for state fiscal year 1998, the allocation shall be based on the county's proportion of the total statewide number of AFDC or MFIP cases in the previous fiscal year where the lack of English is a barrier to employment. Counties with less than two percent of the statewide number of AFDC or MFIP cases where the lack of English is a barrier to employment shall not receive an allocation of the work literacy language program funds; and

(2) for each subsequent fiscal year, the allocation shall be based on the county's proportion of the total statewide number of ~~MFIP-S~~ MFIP cases in the previous fiscal year

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where the lack of English is a barrier to employment. Counties with less than two percent of the statewide number of ~~MFIP-S MFIP~~ cases where the lack of English is a barrier to employment shall not receive an allocation of the work literacy language program funds.

Sec. 76. Minnesota Statutes 1998, section 256J.62, subdivision 8, is amended to read:

Subd. 8. **REALLOCATION.** The commissioner of human services shall review county agency expenditures of ~~MFIP-S MFIP~~ employment and training services funds at the end of the third quarter of the first year of the biennium and each quarter after that and may reallocate unencumbered or unexpended money appropriated under this section to those county agencies that can demonstrate a need for additional money.

Sec. 77. Minnesota Statutes 1998, section 256J.62, subdivision 9, is amended to read:

Subd. 9. **CONTINUATION OF CERTAIN SERVICES.** At the request of the caregiver, the county may continue to provide case management, counseling or other support services to a participant following the participant's achievement of the employment goal, for up to ~~six~~ 12 months following termination of the participant's eligibility for ~~MFIP-S MFIP~~.

A county may expend funds for a specific employment and training service for the duration of that service to a participant if the funds are obligated or expended prior to the participant losing ~~MFIP-S MFIP~~ eligibility.

Sec. 78. Minnesota Statutes 1998, section 256J.67, subdivision 4, is amended to read:

Subd. 4. **EMPLOYMENT PLAN.** (a) The caretaker's employment plan must include the length of time needed in the work experience program, the need to continue job-seeking activities while participating in work experience, and the caregiver's employment goals.

(b) After each six months of a caregiver's participation in a work experience job placement, and at the conclusion of each work experience assignment under this section, the county agency shall reassess and revise, as appropriate, the caregiver's employment plan.

(c) A caregiver may claim good cause under section 256J.57, subdivision 1, for failure to cooperate with a work experience job placement.

(d) The county agency shall limit the maximum number of hours any participant may work under this section to the amount of the ~~transitional MFIP~~ standard of need divided by the federal or applicable state minimum wage, whichever is higher. After a participant has been assigned to a position for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the ~~transitional MFIP~~ standard of need divided by the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site. This limit does not apply if it would prevent a participant from counting toward the federal work participation rate.

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Sec. 79. Minnesota Statutes 1998, section 256J.74, subdivision 2, is amended to read:

Subd. 2. **CONCURRENT ELIGIBILITY, LIMITATIONS.** (a) An individual whose needs have been otherwise provided for in another state, in whole or in part by county, state, or federal dollars during a month, is ineligible to receive MFIP for the month.

(b) A county agency must not count an applicant or participant as a member of more than one assistance unit in this state in a given payment month, except as provided in clauses (1) and (2).

(1) A participant who is a member of an assistance unit in this state is eligible to be included in a second assistance unit the first full month after the month the participant joins the second unit.

(2) An applicant whose needs are met through federal, state, or local foster care that is reimbursed under title IV-E of the Social Security Act payments for the first part of an application month is eligible to receive assistance for the remaining part of the month in which the applicant returns home. Title IV-E Foster care payments and adoption assistance payments must be considered prorated payments rather than a duplication of MFIP-S MFIP need.

Sec. 80. **[256J.751] COUNTY PERFORMANCE MANAGEMENT.**

(a) The commissioner shall report quarterly to all counties each county's performance on the following measures:

(1) percent of MFIP caseload working in paid employment;

(2) percent of MFIP caseload receiving only the food portion of assistance;

(3) number of MFIP cases that have left assistance;

(4) federal participation requirements as specified in title 1 of Public Law Number 104-193; and

(5) median placement wage rate.

(b) The commissioner shall, in consultation with counties, develop measures for county performance in addition to those in paragraph (a). In developing these measures, the commissioner must consider:

(1) a measure for MFIP cases that leave assistance due to employment;

(2) job retention after participants leave MFIP; and

(3) participant's earnings at a follow-up point after the participant has left MFIP.

(c) If sanctions occur for failure to meet the performance standards specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996, the state shall pay 88 percent of the sanction. The remaining 12 percent of the sanction will be paid by the counties. The county portion of the sanction will be distributed across all counties in proportion to each county's percentage of the MFIP average monthly caseload during the period for which the sanction was applied.

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(d) If a county fails to meet the performance standards specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996 for any year, the commissioner shall work with counties to organize a joint state-county technical assistance team to work with the county. The commissioner shall coordinate any technical assistance with other departments and agencies including the departments of economic security and children, families, and learning as necessary to achieve the purpose of this paragraph.

Sec. 81. Minnesota Statutes 1998, section 256J.76, subdivision 1, is amended to read:

Subdivision 1. **ADMINISTRATIVE FUNCTIONS.** Beginning July 1, 1997, counties will receive federal funds from the TANF block grant for use in supporting eligibility, fraud control, and other related administrative functions. The federal funds available for distribution, as determined by the commissioner, must be an amount equal to federal administrative aid distributed for fiscal year 1996 under titles IV-A and IV-F of the Social Security Act in effect prior to October 1, 1996. This amount must include the amount paid for local collaboratives under sections 245.4932 and 256F.13, but must not include administrative aid associated with child care under section 119B.05, with emergency assistance intensive family preservation services under section 256.8711, with administrative activities as part of the employment and training services under section 256.736, or with fraud prevention investigation activities under section 256.983. Before July 15, 1999, a county may ask for a review of the commissioner's determination when the county believes fiscal year 1996 information was inaccurate or incomplete. By August 15, 1999, the commissioner must adjust that county's base when the commissioner has determined that inaccurate or incomplete information was used to develop that base. The commissioner shall adjust the county's 1999 allocation amount to reflect the base change.

Sec. 82. Minnesota Statutes 1998, section 256J.76, subdivision 2, is amended to read:

Subd. 2. **ALLOCATION OF COUNTY FUNDS.** (a) The commissioner shall determine and allocate the funds available to each county, on a calendar year basis, proportional to the amount paid to each county for fiscal year 1996, excluding the amount paid for local collaboratives under sections 245.4932 and 256F.13. For the period beginning July 1, 1997, and ending December 31, 1998, each county shall receive 150 percent of its base year allocation.

(b) Beginning January 1, 2000, the commissioner shall allocate funds made available under this section on a calendar year basis to each county first, in amounts equal to each county's guaranteed floor as described in clause (1), second, to provide an allocation of up to \$2,000 to each county as provided for in clause (2), and third, any remaining funds shall be allocated in proportion to the sum of each county's average monthly MFIP cases plus ten percent of each county's average monthly MFIP recipients with budgeted earnings as determined by the most recent calendar year data available.

(1) Each county's guaranteed floor shall be calculated as follows:

(i) 90 percent of that county's allocation in the preceding calendar year; or

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(ii) when the amount of funds available is less than the guaranteed floor, each county's allocation shall be equal to the previous calendar year allocation reduced by the same percentage that the statewide allocation was reduced.

(2) Each county shall be allocated up to \$2,000. If, after application of the guaranteed floor, funds are insufficient to provide \$2,000 per county, each county's allocation under this clause shall be an equal share of remaining funds available.

Sec. 83. Minnesota Statutes 1998, section 256J.76, subdivision 4, is amended to read:

Subd. 4. **REPORTING REQUIREMENT AND REIMBURSEMENT.** The commissioner shall specify requirements for reporting according to section 256.01, subdivision 2, paragraph (17). Each county shall be reimbursed at a rate of 50 percent of eligible expenditures up to the limit of its allocation. The commissioner shall regularly review each county's eligible expenditures compared to its allocation. The commissioner may reallocate funds at any time, from counties which have not or will not have expended their allocations, to counties that have eligible expenditures in excess of their allocation.

Sec. 84. **RECOMMENDATIONS TO 60-MONTH LIMIT.**

By January 15, 2000, the commissioner of human services shall submit to the legislature recommendations regarding MFIP families that include an adult caregiver who has received 60 months of cash assistance funded in whole or in part by the TANF block grant.

Sec. 85. **REVIEW OF MINNESOTA SUPPLEMENTAL AID SPECIAL DIET ALLOWANCE; REPORT.**

The commissioner of human services shall review the Minnesota supplemental aid special diet allowance under Minnesota Statutes, section 256D.44, subdivision 5, and provide a report to the appropriate senate and house committee chairs by December 1, 1999, which contains updated special diet allowance rates.

Sec. 86. **PROPOSAL REQUIRED.**

By January 15, 2000, the commissioner shall submit to the legislature a proposal for creating an MFIP incentive bonus program for high-performing counties. The proposal must include recommendations on how to implement a system that would provide an incentive bonus to a county that demonstrates high performance with respect to the county's MFIP participants.

Sec. 87. **ASSESSMENT PROTOCOLS.**

The commissioner of human services shall consult with county agencies, employment and training service providers, the commissioners of human rights, economic security, and children, families, and learning, and advocates to develop protocols to guide the implementation of Minnesota Statutes, section 256J.52, subdivision 4, paragraph (c), as amended.

Sec. 88. **FATHER PROJECT; TIME-LIMITED WAIVER OF EXISTING STATUTORY PROVISIONS.**

The commissioner of human services shall waive the enforcement of any existing specific statutory program requirements, administrative rules, and standards, including the relevant provisions of the following sections of Minnesota Statutes:

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- (1) 256J.30, subdivision 11;
- (2) 256J.33, subdivision 4, clause (5); and
- (3) 256J.34, subdivision 1, paragraph (d).

The waivers permitted under this section are for the limited purposes of allowing an amount equal to the entire amount of current child support payments made by child support obligors participating in the FATHER project to be disbursed to the child support obligees for the children of child support obligors participating in the FATHER project and excluding any such disbursements as income under the MFIP program for child support obligees receiving such disbursements who also receive MFIP assistance. The waiver authority granted by this section sunsets on July 1, 2002.

Sec. 89. **REPEALER.**

Minnesota Statutes 1998, sections 256D.051, subdivisions 6 and 19; 256D.053, subdivision 4; 256J.30, subdivision 6; and 256J.62, subdivisions 2, 3, and 5; and Laws 1997, chapter 85, article 1, section 63, are repealed.

Sec. 90. **EFFECTIVE DATE.**

Section 34 is effective October 1, 1999.

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**ARTICLE 7**

**CHILD SUPPORT**

Section 1. Minnesota Statutes 1998, 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) according to section 13.05;
- (2) according to court order;
- (3) according 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 or prosecution of a 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;

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(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, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;

(9) between the department of human services and the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for re-employment insurance, for any employment or training program administered, supervised, or certified by that agency, for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, or to monitor and evaluate the statewide Minnesota family investment program by exchanging data on recipients and former recipients of food stamps, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(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;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related 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;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children or Minnesota family investment program—statewide may be disclosed to law enforcement officers who provide the name of the recipient and notify the agency that:

(i) the recipient:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

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(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, social security number, and, if available, photograph of any member of a household receiving food stamps shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) certain information regarding child support obligors who are in arrears may be made public according to section 518.575;

(20) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(21) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(22) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and

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free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children or Minnesota family investment program—statewide as required by section 126C.06; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(23) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(24) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(25) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs; or

(26) to monitor and evaluate the statewide Minnesota family investment program by exchanging data between the departments of human services and children, families, and learning, on recipients and former recipients of food stamps, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; or

(27) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the department of human services, department of revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), department of health, department of economic security, and other state agencies as is reasonably necessary to perform these functions.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) 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 1998, 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. The order shall be effective for the period of time during which

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the recipient receives public assistance from any county or state agency and thereafter. The order shall require support according to chapter 518 and include the names and social security numbers of the father, mother, and the child or children. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that public assistance, as defined in section 256.741, is again being provided for the child of the parent. 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. 3. Minnesota Statutes 1998, section 256.978, subdivision 1, is amended to read:

Subdivision 1. **REQUEST FOR INFORMATION.** (a) The public authority responsible for child support in this state or any other state, in order to locate a person or to obtain information necessary to establish paternity and child support or to modify or enforce child support or distribute collections, may request information reasonably necessary to the inquiry from the records of (1) all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.19 or any other law to the contrary, provide the information necessary for this purpose; and (2) employers, utility companies, insurance companies, financial institutions, credit grantors, and labor associations doing business in this state. They shall provide information as provided under subdivision 2 a response upon written or electronic request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support within 30 days of service of the request made by the public authority. Information requested and used or transmitted by the commissioner according to the authority conferred by this section may be made available to other agencies, statewide systems, and political subdivisions of this state, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program.

(b) For purposes of this section, "state" includes the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Sec. 4. Minnesota Statutes 1998, section 257.62, subdivision 5, is amended to read:

Subd. 5. **POSITIVE TEST RESULTS.** (a) If the results of blood or genetic 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 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 to the public authority if the public authority is a party and is providing services to the parties or, if not, into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

(b) If the results of blood or genetic 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 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.

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Sec. 5. Minnesota Statutes 1998, section 257.66, subdivision 3, is amended to read:

Subd. 3. **JUDGMENT; ORDER.** The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, the social security number of the mother, father, and child, if known at the time of adjudication, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Custody and visitation and all subsequent motions related to them shall proceed and be determined under section 257.541. The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, including the mother's lost wages due to medical necessity, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement. Pregnancy and confinement expenses and genetic testing costs, submitted by the public authority, are admissible as evidence without third-party foundation testimony and constitute prima facie evidence of the amounts incurred for those services or for the genetic testing. Remedies available for the collection and enforcement of child support apply to confinement costs and are considered additional child support.

Sec. 6. Minnesota Statutes 1998, section 257.75, subdivision 2, is amended to read:

Subd. 2. **REVOCAION OF RECOGNITION.** A recognition may be revoked in a writing signed by the mother or father before a notary public and filed with the state registrar of vital statistics within the earlier of ~~30~~ 60 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action. A joinder in a recognition may be revoked in a writing signed by the man who executed the joinder and filed with the state registrar of vital statistics within ~~30~~ 60 days after the joinder is executed. Upon receipt of a revocation of the recognition of parentage or joinder in a recognition, the state registrar of vital statistics shall forward a copy of the revocation to the nonrevoking parent, or, in the case of a joinder in a recognition, to the mother and father who executed the recognition.

Sec. 7. Minnesota Statutes 1998, section 518.10, is amended to read:

#### 518.10 REQUISITES OF PETITION.

The petition for dissolution of marriage or legal separation shall state and allege:

(a) the name, address, and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the petitioner and any prior or other name used by the petitioner;

(b) the name and, if known, the address and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the respondent and any prior or other name used by the respondent and known to the petitioner;

(c) the place and date of the marriage of the parties;

(d) in the case of a petition for dissolution, that either the petitioner or the respondent or both:

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(1) has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(2) has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(3) has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;

(e) the name at the time of the petition and any prior or other name, social security number, age, and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

(f) whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

(g) in the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

(h) in the case of a petition for legal separation, that there is a need for a decree of legal separation;

(i) any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts; and

(j) whether an order for protection under chapter 518B or a similar law of another state that governs the parties or a party and a minor child of the parties is in effect and, if so, the district court or similar jurisdiction in which it was entered.

The petition shall be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 8. Minnesota Statutes 1998, section 518.551, is amended by adding a subdivision to read:

Subd. 15. **LICENSE SUSPENSION.** (a) Upon motion of an obligee or the public authority, which has been properly served on the obligor by first class mail at the last known address or in person, and if at a hearing, the court finds that (1) the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than six times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages, or (2) has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding, the court may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses. Prior to utilizing this subdivision, the court must find that other substantial enforcement mechanisms have been attempted but have not resulted in compliance.

(b) For purposes of this subdivision, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

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(c) An obligor whose recreational license or licenses have been suspended or barred may provide proof to the court that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of receipt of that proof, the court shall notify the commissioner of natural resources that the obligor's recreational license or licenses should no longer be suspended nor should receipt be barred.

Sec. 9. Minnesota Statutes 1998, section 518.5851, is amended by adding a subdivision to read:

Subd. 6. CREDITOR COLLECTIONS. The central collections unit under this section is not a third party under chapters 550, 552, and 571 for purposes of creditor collection efforts against child support and maintenance order obligors or obligees, and shall not be subject to creditor levy, attachment, or garnishment.

Sec. 10. Minnesota Statutes 1998, section 518.5853, is amended by adding a subdivision to read:

Subd. 11. COLLECTIONS UNIT RECOUPMENT ACCOUNT. The commissioner of human services may establish a revolving account to cover funds issued in error due to insufficient funds or other reasons. Appropriations for this purpose and all recoupments against payments from the account shall be deposited in the collections unit's recoupment account and are appropriated to the commissioner. Any unexpended balance in the account does not cancel, but is available until expended.

Sec. 11. Minnesota Statutes 1998, section 518.64, subdivision 2, is amended to read:

**Subd. 2. MODIFICATION.** (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

On a motion to modify support, the needs of any child the obligor has after the entry of the support order that is the subject of a modification motion shall be considered as provided by section 518.551, subdivision 5f.

(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

(1) the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order;

(2) the medical support provisions of the order established under section 518.171 are not enforceable by the public authority or the custodial parent;

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(3) health coverage ordered under section 518.171 is not available to the child for whom the order is established by the parent ordered to provide; or

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

(c) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(d) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that:

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought; or

(3) the order for which the party seeks amendment was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence regarding the individual obligor's ability to pay.

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The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

(e) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(f) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(g) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 12. Minnesota Statutes 1998, section 548.09, subdivision 1, is amended to read:

Subdivision 1. **ENTRY AND DOCKETING; SURVIVAL OF JUDGMENT.** Except as provided in section 548.091, every judgment requiring the payment of money shall be ~~docketed~~ entered by the court administrator upon its entry when ordered by the court and will be docketed by the court administrator upon the filing of an affidavit as provided in subdivision 2. Upon a transcript of the docket being filed with the court administrator in any other county, the court administrator shall also docket it. From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor, but it is not a lien upon registered land unless it is also filed pursuant to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten years after its entry. Child support judgments may be renewed by ~~service of notice upon the debtor. Service shall be by certified mail at the last known address of the debtor or in the manner provided for the service of civil process. Upon the filing of the notice and proof of service the court administrator shall renew the judgment for child support without any additional filing fee pursuant to section 548.091.~~

Sec. 13. Minnesota Statutes 1998, section 548.091, subdivision 1, is amended to read:

Subdivision 1. **ENTRY AND DOCKETING OF MAINTENANCE JUDGMENT.** (a) A judgment for unpaid amounts under a judgment or decree of dissolution or legal separation that provides for installment or periodic payments of maintenance shall be entered and ~~docketed~~ entered and docketed by the court administrator only when ordered by the court or shall be entered and docketed by the court administrator when the following conditions are met:

(a) (1) the obligee determines that the obligor is at least 30 days in arrears;

(b) (2) the obligee serves a copy of an affidavit of default and notice of intent to enter and docket judgment on the obligor by first class mail at the obligor's last known post office address. Service shall be deemed complete upon mailing in the manner designated. The affidavit shall state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid;

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(e) (3) the obligor fails within 20 days after mailing of the notice either to pay all unpaid amounts or to request a hearing on the issue of whether arrears claimed owing have been paid and to seek, ex parte, a stay of entry of judgment; and

(d) (4) not less than 20 days after service on the obligor in the manner provided, the obligee files with the court administrator the affidavit of default together with proof of service and, if payments have been received by the obligee since execution of the affidavit of default, a supplemental affidavit setting forth the amount of payment received and the amount for which judgment is to be entered and docketed.

(b) A judgment entered and docketed under this subdivision has the same effect and is subject to the same procedures, defenses, and proceedings as any other judgment in district court, and may be enforced or satisfied in the same manner as judgments under section 548.09.

(c) An obligor whose property is subject to the lien of a judgment for installment of periodic payments of maintenance under section 548.09, and who claims that no amount of maintenance is in arrears, may move the court ex parte for an order directing the court administrator to vacate the lien of the judgment on the docket and register of the action where it was entered. The obligor shall file with the motion an affidavit stating:

(1) the lien attached upon the docketing of a judgment or decree of dissolution or separate maintenance;

(2) the docket was made while no installment or periodic payment of maintenance was unpaid or overdue; and

(3) no installment or periodic payment of maintenance that was due prior to the filing of the motion remains unpaid or overdue.

The court shall grant the obligor's motion as soon as possible if the pleadings and affidavit show that there is and has been no default.

Sec. 14. Minnesota Statutes 1998, section 548.091, subdivision 1a, is amended to read:

Subd. 1a. **CHILD SUPPORT JUDGMENT BY OPERATION OF LAW.** (a) Any payment or installment of support required by a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, an order under section 256.87, or an order under section 260.251, that is not paid or withheld from the obligor's income as required under section 518.6111, or which is ordered as child support by judgment, decree, or order by a court in any other state, is a judgment by operation of law on and after the date it is due and, is entitled to full faith and credit in this state and any other state, and shall be entered and docketed by the court administrator on the filing of affidavits as provided in subdivision 2a. Except as otherwise provided by paragraph (b), interest accrues from the date the unpaid amount due is greater than the current support due at the annual rate provided in section 549.09, subdivision 1, plus two percent, not to exceed an annual rate of 18 percent. A payment or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518.64, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

(b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon proof by the obligor of 36 consecutive months of complete and timely payments of

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both current support and court-ordered paybacks of a child support debt or arrearage, the court may order interest on the remaining debt or arrearage to stop accruing. Timely payments are those made in the month in which they are due. If, after that time, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority or the obligee may move the court for the reinstatement of interest as of the month in which the obligor ceased making complete and timely payments.

The court shall provide copies of all orders issued under this section to the public authority. The commissioner of human services shall prepare and make available to the court and the parties forms to be submitted by the parties in support of a motion under this paragraph.

(c) Notwithstanding the provisions of section 549.09, upon motion to the court, the court may order interest on a child support debt to stop accruing where the court finds that the obligor is:

(1) unable to pay support because of a significant physical or mental disability; or

(2) a recipient of Supplemental Security Income (SSI), Title II Older Americans Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need.

Sec. 15. Minnesota Statutes 1998, section 548.091, subdivision 2a, is amended to read:

Subd. 2a. **ENTRY AND DOCKETING OF CHILD SUPPORT JUDGMENT.**

(a) On or after the date an unpaid amount becomes a judgment by operation of law under subdivision 1a, the obligee or the public authority may file with the court administrator, either electronically or by other means:

(1) a statement identifying, or a copy of, the judgment or decree of dissolution or legal separation, determination of parentage, order under chapter 518B or 518C, an order under section 256.87, an order under section 260.251, or judgment, decree, or order for child support by a court in any other state, which provides for periodic installments of child support, or a judgment or notice of attorney fees and collection costs under section 518.14, subdivision 2;

(2) an affidavit of default. The affidavit of default must state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, the total amount of the judgments to the date of filing, and the amount and frequency of the periodic installments of child support that will continue to become due and payable subsequent to the date of filing be entered and docketed; and

(3) an affidavit of service of a notice of intent to enter and docket judgment and to recover attorney fees and collection costs on the obligor, in person or by first class mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated. Where applicable, a notice of interstate lien in the form promulgated under United States Code, title 42, section 652(a), is sufficient to satisfy the requirements of clauses (1) and (2).

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(b) A judgment entered and docketed under this subdivision has the same effect and is subject to the same procedures, defenses, and proceedings as any other judgment in district court, and may be enforced or satisfied in the same manner as judgments under section 548.09, except as otherwise provided.

Sec. 16. Minnesota Statutes 1998, section 548.091, subdivision 3a, is amended to read:

Subd. 3a. **ENTRY, DOCKETING, AND SURVIVAL OF CHILD SUPPORT JUDGMENT.** Upon receipt of the documents filed under subdivision 2a, the court administrator shall enter and docket the judgment in the amount of the unpaid obligation identified in the affidavit of default, ~~and note the amount and frequency of the periodic installments of child support that will continue to become due and payable after the date of docketing. From the time of docketing, the judgment is a lien upon all the real property in the county owned by the judgment debtor, but it is not a lien on registered land unless the obligee or the public authority causes a notice of judgment lien or certified copy of the judgment to be memorialized on the certificate of title or certificate of possessory title under section 508.63 or 508A.63. The judgment survives and the lien continues for ten years after the date the judgment was docketed.~~

Subd. 3b. **CHILD SUPPORT JUDGMENT ADMINISTRATIVE RENEWALS.** Child support judgments may be renewed by service of notice upon the debtor. Service shall must be by certified first class mail at the last known address of the debtor, with service deemed complete upon mailing in the manner designated, or in the manner provided for the service of civil process. Upon the filing of the notice and proof of service, the court administrator shall administratively renew the judgment for child support without any additional filing fee in the same court file as the original child support judgment. The judgment must be renewed in an amount equal to the unpaid principle plus the accrued unpaid interest. Child support judgments may be renewed multiple times until paid.

Sec. 17. Minnesota Statutes 1998, section 548.091, subdivision 4, is amended to read:

Subd. 4. **CHILD SUPPORT HEARING.** A child support obligor may request a hearing under the rules of civil procedure on the issue of whether the judgment amount or amounts have been paid and may move the court for an order directing the court administrator to vacate or modify the judgment or judgments on the docket and register in any county or other jurisdiction in which judgment or judgments were entered pursuant to this action.

The court shall grant the obligor's motion if it determines that there is no default.

Sec. 18. Minnesota Statutes 1998, section 548.091, is amended by adding a subdivision to read:

Subd. 5a. **ADDITIONAL CHILD SUPPORT JUDGMENTS.** As child support payments continue to become due and are unpaid, additional judgments may be entered and docketed by following the procedures in subdivision 1a. Each judgment entered and docketed for unpaid child support payments must be treated as a distinct judgment for purposes of enforcement and satisfaction.

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Sec. 19. Minnesota Statutes 1998, section 548.091, subdivision 10, is amended to read:

Subd. 10. **RELEASE OF LIEN.** Upon payment of the amount due under subdivision 5, the public authority shall execute and deliver a satisfaction of the judgment lien within five business days.

Sec. 20. Minnesota Statutes 1998, section 548.091, subdivision 11, is amended to read:

Subd. 11. **SPECIAL PROCEDURES.** The public authority shall negotiate a release of lien on specific property for less than the full amount due where the proceeds of a sale or financing, less reasonable and necessary closing expenses, are not sufficient to satisfy all encumbrances on the lien property. Partial releases do not release the obligor's personal liability for the amount unpaid. A partial satisfaction for the amount received must be filed with the court administrator.

Sec. 21. Minnesota Statutes 1998, section 548.091, subdivision 12, is amended to read:

Subd. 12. **CORRECTING ERRORS.** The public authority shall maintain a process to review the identity of the obligor and to issue releases of lien in cases of misidentification. The public authority shall maintain a process to review the amount of child support determined to be delinquent and to issue amended notices of judgment lien in cases of incorrectly docketed judgments arising by operation of law. The public authority may move the court for an order to amend the judgment when the amount of judgment entered and docketed is incorrect.

Sec. 22. Laws 1995, chapter 257, article 1, section 35, subdivision 1, is amended to read:

Subdivision 1. **CHILD SUPPORT ASSURANCE.** ~~The commissioner of human services shall seek a waiver from the secretary of the United States Department of Health and Human Services to enable the department of human services to operate a demonstration project of child support assurance. The commissioner shall seek authority from the legislature to implement a demonstration project of child support assurance when enhanced federal funds become available for this purpose. The department of human services shall continue to plan a demonstration project of child support assurance by administering the grant awarded under the federal program entitled "Developing a Plan for a Child Support Assurance Program.~~

Sec. 23. **CHILD SUPPORT ARREARAGE FORGIVENESS REPORT.**

The commissioner of human services shall examine the feasibility of forgiving child support arrears in a fair and consistent manner and shall develop child support arrearage forgiveness policies to be used throughout the state. Also, the commissioner shall explore the possibility of forwarding a portion of, or the entire amount of, the current child support payment to the custodial parent in order to bridge the child support with the family. The information must be in a report to the chairs of the appropriate senate and house committees and their members by December 1, 1999.

Sec. 24. **REPEALER.**

Minnesota Statutes 1998, section 548.091, subdivisions 3, 5, and 6, are repealed.

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## ARTICLE 8

**CHILD PROTECTION AND  
RELATED MAXIMIZATION OF FEDERAL FUNDS**

Section 1. Minnesota Statutes 1998, section 144.1761, subdivision 1, is amended to read:

Subdivision 1. **REQUEST.** (a) Whenever an adopted person requests the state registrar to disclose the information on the adopted person's original birth certificate, the state registrar shall act in accordance with the provisions of section 259.89.

(b) The state registrar shall provide a copy of an adopted person's original birth certificate to an authorized representative of a federally recognized American Indian tribe for the sole purpose of determining the adopted person's eligibility for enrollment or membership. Information contained on the birth certificate may not be used to provide the adopted person information about the person's birth parents except as provided in this section or section 259.83.

Sec. 2. Minnesota Statutes 1998, section 245A.30, is amended to read:

**245A.30 LICENSING PROHIBITION FOR CERTAIN JUVENILE FACILITIES.**

The commissioner may not:

(1) issue any license under Minnesota Rules, parts 9545.0905 to 9545.1125, for the residential placement of juveniles at a facility if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational and medical expenses of the juvenile; or

(2) renew a license under Minnesota Rules, parts 9545.0905 to 9545.1125, for the residential placement of juveniles if the facility accepts juveniles who reside outside of Minnesota without an agreement with the entity placing the juvenile at the facility that obligates the entity to pay the educational and medical expenses of the juvenile.

**Sec. 3. [254A.175] CHEMICAL DEPENDENCY TREATMENT MODELS FOR FAMILIES WITH POTENTIAL CHILD PROTECTION PROBLEMS.**

The commissioner shall explore and experiment with different chemical dependency service models for parents with children who are found to be in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 257.071 or 260.191, subdivision 1e. The commissioner shall tailor services to better serve this high-risk population, which may include long-term treatment that allows the children to stay with the parent at the treatment facility.

Sec. 4. Minnesota Statutes 1998, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, persons eligible for medical assistance benefits under sections 256B.055, 256B.056, and 256B.057, subdivisions 1, 2, 5, and 6, or who meet the

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income standards of section 256B.056, subdivision 4, and persons eligible for general assistance medical care under section 256D.03, subdivision 3, are entitled to chemical dependency fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

Persons with dependent children who are determined to be in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 257.071 or 260.191, subdivision 1e, shall be assisted by the local agency to access needed treatment services. Treatment services must be appropriate for the individual or family, which may include long-term care treatment or treatment in a facility that allows the dependent children to stay in the treatment facility. The county shall pay for out-of-home placement costs, if applicable.

(b) A person not entitled to services under paragraph (a), but with family income that is less than 60 percent of the state median income for a family of like size and composition, shall be eligible to receive chemical dependency fund services within the limit of funds available after persons entitled to services under paragraph (a) have been served. If notified by the state agency of limited funds, a county must give preferential treatment to persons with dependent children who are in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 257.071 or 260.191, subdivision 1e. A county may spend money from its own sources to serve persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(c) Persons whose income is between 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

Sec. 5. Minnesota Statutes 1998, section 256B.0625, is amended by adding a subdivision to read:

**Subd. 41. RESIDENTIAL SERVICES FOR CHILDREN WITH SEVERE EMOTIONAL DISTURBANCE.** Medical assistance covers rehabilitative services in accordance with section 256B.0945 that are provided by a county through a residential facility, for children who have been diagnosed with severe emotional disturbance and have been determined to require the level of care provided in a residential facility.

Sec. 6. Minnesota Statutes 1998, section 256B.094, subdivision 3, is amended to read:

**Subd. 3. COORDINATION AND PROVISION OF SERVICES.** (a) In a county or reservation where a prepaid medical assistance provider has contracted under section 256B.031 or 256B.69 to provide mental health services, the case management provider shall coordinate with the prepaid provider to ensure that all necessary mental health services required under the contract are provided to recipients of case management services.

(b) When the case management provider determines that a prepaid provider is not providing mental health services as required under the contract, the case management

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provider shall assist the recipient to appeal the prepaid provider's denial pursuant to section 256.045, and may make other arrangements for provision of the covered services.

(c) The case management provider may bill the provider of prepaid health care services for any mental health services provided to a recipient of case management services which the county or tribal social services arranges for or provides and which are included in the prepaid provider's contract, and which were determined to be medically necessary as a result of an appeal pursuant to section 256.045. The prepaid provider must reimburse the mental health provider, at the prepaid provider's standard rate for that service, for any services delivered under this subdivision.

(d) If the county or tribal social services has not obtained prior authorization for this service, or an appeal results in a determination that the services were not medically necessary, the county or tribal social services may not seek reimbursement from the prepaid provider.

Sec. 7. Minnesota Statutes 1998, section 256B.094, subdivision 5, is amended to read:

Subd. 5. **CASE MANAGER.** To provide case management services, a case manager must be employed or contracted by and authorized by the case management provider to provide case management services and meet all requirements under section 256F.10.

Sec. 8. Minnesota Statutes 1998, section 256B.094, subdivision 6, is amended to read:

Subd. 6. **MEDICAL ASSISTANCE REIMBURSEMENT OF CASE MANAGEMENT SERVICES.** (a) Medical assistance reimbursement for services under this section shall be made on a monthly basis. Payment is based on face-to-face or telephone contacts between the case manager and the client, client's family, primary caregiver, legal representative, or other relevant person identified as necessary to the development or implementation of the goals of the individual service plan regarding the status of the client, the individual service plan, or the goals for the client. These contacts must meet the minimum standards in clauses (1) and (2):

(1) there must be a face-to-face contact at least once a month except as provided in clause (2); and

(2) for a client placed outside of the county of financial responsibility in an excluded time facility under section 256G.02, subdivision 6, or through the Interstate Compact on the Placement of Children, section 257.40, and the placement in either case is more than 60 miles beyond the county boundaries, there must be at least one contact per month and not more than two consecutive months without a face-to-face contact.

(b) Except as provided under paragraph (c), the payment rate is established using time study data on activities of provider service staff and reports required under sections 245.482, 256.01, subdivision 2, paragraph (17), and 256E.08, subdivision 8.

(c) Payments for tribes may be made according to section 256B.0625 for child welfare targeted case management provided by Indian health services and facilities operated by a tribe or tribal organization.

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(d) Payment for case management provided by county or tribal social services contracted vendors shall be based on a monthly rate negotiated by the host county or tribal social services. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribal social services may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribal social services, except to reimburse the county or tribal social services for advance funding provided by the county or tribal social services to the vendor.

(e) If the service is provided by a team that includes contracted vendors and county or tribal social services staff, the costs for county or tribal social services staff participation in the team shall be included in the rate for county or tribal social services provided services. In this case, the contracted vendor and the county or tribal social services may each receive separate payment for services provided by each entity in the same month. To prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles and services of the team members.

Separate payment rates may be established for different groups of providers to maximize reimbursement as determined by the commissioner. The payment rate will be reviewed annually and revised periodically to be consistent with the most recent time study and other data. Payment for services will be made upon submission of a valid claim and verification of proper documentation described in subdivision 7. Federal administrative revenue earned through the time study, or under paragraph (c), shall be distributed according to earnings, to counties, reservations, or groups of counties or reservations which have the same payment rate under this subdivision, and to the group of counties or reservations which are not certified providers under section 256F.10. The commissioner shall modify the requirements set out in Minnesota Rules, parts 9550.0300 to 9550.0370, as necessary to accomplish this.

**Sec. 9. [256B.0945] RESIDENTIAL SERVICES FOR CHILDREN WITH SEVERE EMOTIONAL DISTURBANCE.**

Subdivision 1. PROVIDER QUALIFICATIONS. Counties must arrange to provide residential services for children with severe emotional disturbance according to section 245.4882 and this section. Services must be provided by a facility that is licensed according to section 245.4882 and administrative rules promulgated thereunder, and under contract with the county. Facilities providing services under subdivision 2, paragraph (a), must be accredited as a psychiatric facility by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation. Accreditation is not required for facilities providing services under subdivision 2, paragraph (b).

Subd. 2. COVERED SERVICES. All services must be included in a child's individualized treatment or collaborative family service plan as defined in chapter 245.

(a) For facilities that are institutions for mental diseases according to statute and regulation or are not institutions for mental diseases but choose to provide services under this paragraph, medical assistance covers the full contract rate, including room and board if

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the services meet the requirements of Code of Federal Regulations, title 42, section 440.160.

(b) For facilities that are not institutions for mental diseases according to federal statute and regulation and are not providing services under paragraph (a), medical assistance covers mental health related services that are required to be provided by a residential facility under section 245.4882 and administrative rules promulgated thereunder, except for room and board.

**Subd. 3. CENTRALIZED DISBURSEMENT OF MEDICAL ASSISTANCE PAYMENTS.** Notwithstanding section 256B.041, county payments for the cost of residential services provided under this section shall not be made to the state treasurer.

**Subd. 4. PAYMENT RATES.** (a) Notwithstanding sections 256.025, subdivision 2; 256B.19; and 256B.041, payments to counties for residential services provided by a residential facility shall only be made of federal earnings for services provided under this section, and the nonfederal share of costs for services provided under this section shall be paid by the county from sources other than federal funds or funds used to match other federal funds. Total annual payments for federal earnings shall not exceed the federal medical assistance percentage matching rate multiplied by the total county expenditures for services provided under section 245.4882 for either (1) the calendar year 1999 or (2) the average annual expenditures for the calendar years 1995 to 1999, whichever is greater. Payment to counties for services provided according to subdivision 2, paragraph (a), shall be the federal share of the contract rate. Payment to counties for services provided according to subdivision 2, paragraph (b), shall be a proportion of the per day contract rate that relates to rehabilitative mental health services and shall not include payment for costs or services that are billed to the IV-E program as room and board.

(b) Annual earnings that exceed a county's limit as established under paragraph (a) shall be retained by the commissioner and managed as grants for community-based children's mental health services under section 245.4886. The commissioner may target these grant funds as necessary to reduce reliance on residential treatment of children with severe emotional disturbance.

(c) The commissioner shall set aside a portion of the federal funds earned under this section to cover the state costs of two staff positions and support costs necessary in administering this section. Any unexpended funds from the set-aside shall be distributed to the counties in proportion to their earnings under this section.

**Subd. 5. QUALITY MEASURES.** Counties must collect and report to the commissioner information on outcomes for services provided under this section using standardized tools that measure functioning, living stability, and parent and child satisfaction consistent with the goals of sections 245.4876, subdivision 1, and 256F.01. The commissioner shall designate standardized tools to be used and shall collect and analyze individualized outcome data on a statewide basis and report to the legislature by December 1, 2003. The commissioner shall provide standardized tools that measure child and adolescent functional assessment for intake and discharge, child behavior, residential living environment and placement stability, and satisfaction for youth and family members.

**Subd. 6. FEDERAL EARNINGS.** Use of new federal funding earned from services provided under this section is limited to:

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(1) increasing prevention and early intervention and supportive services to meet the mental health and child welfare needs of the children and families in the system of care;

(2) replacing reductions in federal IV-E reimbursement resulting from new medical assistance coverage; and

(3) paying the nonfederal share of additional provider costs due to accreditation and new program standards necessary for Medicaid reimbursement.

For purposes of this section, early intervention and supportive services include alternative responses to child maltreatment reports under chapter 626 and services outlined in sections 245.4875, subdivision 2, children's mental health, and 256F.05, subdivision 8, family preservation services.

Subd. 7. MAINTENANCE OF EFFORT. (a) Counties that receive payment under this section must maintain a level of expenditures such that each year's county expenditures for early intervention and supportive services is at least equal to that county's average expenditures for those services for calendar years 1998 and 1999. For purposes of this section, "county expenditures" are the total expenditures for those services minus the state and federal revenues specifically designated for these services.

(b) The commissioner may waive the requirements in paragraph (a) if any of the conditions specified in section 256F.13, subdivision 1, paragraph (a), clause (4), items (i) to (iv), are met.

Subd. 8. REPORTS. The commissioner shall review county expenditures annually using reports required under sections 245.482; 256.01, subdivision 2, clause (17); and 256E.08, subdivision 8, to ensure that counties meet their obligation under subdivision 7, and that the base level of expenditures for mental health and child welfare early intervention and family support services and children's mental health residential treatment is continued from sources other than federal funds earned under this section.

Subd. 9. SANCTIONS. The commissioner may suspend, reduce, or terminate the federal reimbursement to a county that does not meet one or all of the requirements of this section.

Subd. 10. RECOMMENDATIONS. The commissioner shall provide recommendations to the legislature by January 15, 2000, regarding any amendments to this section that may be necessary or advisable prior to implementation.

Sec. 10. Minnesota Statutes 1998, section 256F.03, subdivision 5, is amended to read:

**Subd. 5. FAMILY-BASED SERVICES.** "Family-based services" means one or more of the services described in paragraphs (a) to ~~(f)~~ (e) provided to families primarily in their own home for a limited time.

(a) **CRISIS SERVICES.** "Crisis services" means professional services provided within 24 hours of referral to alleviate a family crisis and to offer an alternative to placing a child outside the family home. The services are intensive and time limited. The service may offer transition to other appropriate community-based services.

(b) **COUNSELING SERVICES.** "Counseling services" means professional family counseling provided to alleviate individual and family dysfunction; provide an alter-

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native to placing a child outside the family home; or permit a child to return home. The duration, frequency, and intensity of the service is determined in the individual or family service plan.

(c) **LIFE MANAGEMENT SKILLS SERVICES.** "Life management skills services" means paraprofessional services that teach family members skills in such areas as parenting, budgeting, home management, and communication. The goal is to strengthen family skills as an alternative to placing a child outside the family home or to permit a child to return home. A social worker shall coordinate these services within the family case plan.

(d) **CASE COORDINATION SERVICES.** "Case coordination services" means professional services provided to an individual, family, or caretaker as an alternative to placing a child outside the family home, to permit a child to return home, or to stabilize the long-term or permanent placement of a child. Coordinated services are provided directly, are arranged, or are monitored to meet the needs of a child and family. The duration, frequency, and intensity of services is determined in the individual or family service plan.

(e) **MENTAL HEALTH SERVICES.** "Mental health services" means the professional services defined in section 245.4871, subdivision 31.

(f) (e) **EARLY INTERVENTION SERVICES.** "Early intervention services" means family-based intervention services designed to help at-risk families avoid crisis situations.

Sec. 11. Minnesota Statutes 1998, section 256F.05, subdivision 8, is amended to read:

Subd. 8. **USES OF FAMILY PRESERVATION FUND GRANTS.** (a) A county which has not demonstrated that year that its family preservation core services are developed as provided in subdivision 1a, must use its family preservation fund grant exclusively for family preservation services defined in section 256F.03, subdivision 5, paragraphs (a), (b), (c), and (e) (d).

(b) A county which has demonstrated that year that its family preservation core services are developed becomes eligible either to continue using its family preservation fund grant as provided in paragraph (a), or to exercise the expanded service option under paragraph (c).

(c) The expanded service option permits an eligible county to use its family preservation fund grant for child welfare preventive services. For purposes of this section, child welfare preventive services are those services directed toward a specific child or family that further the goals of section 256F.01 and include assessments, family preservation services, service coordination, community-based treatment, crisis nursery services when the parents retain custody and there is no voluntary placement agreement with a child-placing agency, respite care except when it is provided under a medical assistance waiver, home-based services, and other related services. For purposes of this section, child welfare preventive services shall not include shelter care or other placement services under the authority of the court or public agency to address an emergency. To exercise this option, an eligible county must notify the commissioner in writing of its intention to do so no later than 30 days into the quarter during which it intends to begin or

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select this option in its county plan, as provided in section 256F.04, subdivision 2. Effective with the first day of ~~that quarter~~ the grant period in which this option is selected, the county must maintain its base level of expenditures for child welfare preventive services and use the family preservation fund to expand them. The base level of expenditures for a county shall be that established under section 256F.10, subdivision 7. For counties which have no such base established, a comparable base shall be established with the base year being the calendar year ending at least two calendar quarters before the first calendar quarter in which the county exercises its expanded service option. The commissioner shall, at the request of the counties, reduce, suspend, or eliminate either or both of a county's obligations to continue the base level of expenditures and to expand child welfare preventive services under extraordinary circumstances.

(d) Notwithstanding paragraph (a), a county that is participating in the child protection assessments or investigations community collaboration pilot program under section 626.5560, or in the concurrent permanency planning pilot program under section 257.0711, may use its family preservation fund grant for those programs.

Sec. 12. Minnesota Statutes 1998, section 256F.10, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** Persons under 21 years of age who are eligible to receive medical assistance are eligible for child welfare targeted case management services under section 256B.094 and this section if they have received an assessment and have been determined by the local county or tribal social services agency to be:

- (1) at risk of placement or in placement as described in section 257.071, subdivision 1;
- (2) at risk of maltreatment or experiencing maltreatment as defined in section 626.556, subdivision 10e; or
- (3) in need of protection or services as defined in section 260.015, subdivision 2a.

Sec. 13. Minnesota Statutes 1998, section 256F.10, subdivision 4, is amended to read:

Subd. 4. **PROVIDER QUALIFICATIONS AND CERTIFICATION STANDARDS.** The commissioner must certify each provider before enrolling it as a child welfare targeted case management provider of services under section 256B.094 and this section. The certification process shall examine the provider's ability to meet the qualification requirements and certification standards in this subdivision and other federal and state requirements of this service. A certified child welfare targeted case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following:

- (1) the legal authority to provide public welfare under sections 393.01, subdivision 7, and 393.07 or a federally recognized Indian tribe;
- (2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;
- (3) administrative capacity and experience in serving the target population for whom it will provide services and in ensuring quality of services under state and federal requirements;

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(4) the legal authority to provide complete investigative and protective services under section 626.556, subdivision 10, and child welfare and foster care services under section 393.07, subdivisions 1 and 2, or a federally recognized Indian tribe;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; and

(6) the capacity to document and maintain individual case records under state and federal requirements.

Sec. 14. Minnesota Statutes 1998, section 256F.10, subdivision 6, is amended to read:

Subd. 6. **DISTRIBUTION OF NEW FEDERAL REVENUE.** (a) Except for portion set aside in paragraph (b), the federal funds earned under this section and section 256B.094 by counties providers shall be paid to each county provider based on its earnings, and must be used by each county provider to expand preventive child welfare services.

If a county or tribal social services agency chooses to be a provider of child welfare targeted case management and if that county or tribal social services agency also joins a local children's mental health collaborative as authorized by the 1993 legislature, then the federal reimbursement received by the county or tribal social services agency for providing child welfare targeted case management services to children served by the local collaborative shall be transferred by the county or tribal social services agency to the integrated fund. The federal reimbursement transferred to the integrated fund by the county or tribal social services agency must not be used for residential care other than respite care described under subdivision 7, paragraph (d).

(b) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

(1) the costs of developing and implementing this section and sections 256.8711 and 256B.094;

(2) programming the information systems; and

(3) the lost federal revenue for the central office claim directly caused by the implementation of these sections.

Any unexpended funds from the set aside under this paragraph shall be distributed to counties providers according to paragraph (a).

Sec. 15. Minnesota Statutes 1998, section 256F.10, subdivision 7, is amended to read:

Subd. 7. **EXPANSION OF SERVICES AND BASE LEVEL OF EXPENDITURES.** (a) Counties and tribal social services must continue the base level of expenditures for preventive child welfare services from either or both of any state, county, or federal funding source, which, in the absence of federal funds earned under this section, would have been available for these services. The commissioner shall review the county or tribal social services expenditures annually using reports required under sections

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245.482, 256.01, subdivision 2, paragraph 17, and 256E.08, subdivision 8, to ensure that the base level of expenditures for preventive child welfare services is continued from sources other than the federal funds earned under this section.

(b) The commissioner may reduce, suspend, or eliminate either or both of a county's or tribal social services' obligations to continue the base level of expenditures and to expand child welfare preventive services if the commissioner determines that one or more of the following conditions apply to that county or reservation:

- (1) imposition of levy limits that significantly reduce available social service funds;
- (2) reduction in the net tax capacity of the taxable property within a county or reservation that significantly reduces available social service funds;
- (3) reduction in the number of children under age 19 in the county or reservation by 25 percent when compared with the number in the base year using the most recent data provided by the state demographer's office; or
- (4) termination of the federal revenue earned under this section.

(c) The commissioner may suspend for one year either or both of a county's or tribal social services' obligations to continue the base level of expenditures and to expand child welfare preventive services if the commissioner determines that in the previous year one or more of the following conditions applied to that county or reservation:

- (1) the total number of children in placement under sections 257.071 and 393.07, subdivisions 1 and 2, has been reduced by 50 percent from the total number in the base year; or
- (2) the average number of children in placement under sections 257.071 and 393.07, subdivisions 1 and 2, on the last day of each month is equal to or less than one child per 1,000 children in the county or reservation.

(d) For the purposes of this section, child welfare preventive services are those services directed toward a specific child or family that further the goals of section 256F.01 and include assessments, family preservation services, service coordination, community-based treatment, crisis nursery services when the parents retain custody and there is no voluntary placement agreement with a child-placing agency, respite care except when it is provided under a medical assistance waiver, home-based services, and other related services. For the purposes of this section, child welfare preventive services shall not include shelter care placements under the authority of the court or public agency to address an emergency, residential services except for respite care, child care for the purposes of employment and training, adult services, services other than child welfare targeted case management when they are provided under medical assistance, placement services, or activities not directed toward a specific child or family. Respite care must be planned, routine care to support the continuing residence of the child with its family or long-term primary caretaker and must not be provided to address an emergency.

(e) For the counties and tribal social services beginning to claim federal reimbursement for services under this section and section 256B.094, the base year is the calendar year ending at least two calendar quarters before the first calendar quarter in which the county provider begins claiming reimbursement. For the purposes of this section, the base level of expenditures is the level of county or tribal social services expenditures in the base year for eligible child welfare preventive services described in this subdivision.

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Sec. 16. Minnesota Statutes 1998, section 256F.10, subdivision 8, is amended to read:

Subd. 8. **PROVIDER RESPONSIBILITIES.** (a) Notwithstanding section 256B.19, subdivision 1, for the purposes of child welfare targeted case management under section 256B.094 and this section, the nonfederal share of costs shall be provided by the provider of child welfare targeted case management from sources other than federal funds or funds used to match other federal funds, except when allowed by federal law or agreement.

(b) Provider expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds, except when allowed by federal law or agreement.

(c) The commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the reporting or other requirements of section 256B.094 and this section. The county or reservation is responsible for any federal disallowances. The county or reservation may share this responsibility with its contracted vendors.

Sec. 17. Minnesota Statutes 1998, section 256F.10, subdivision 9, is amended to read:

Subd. 9. **PAYMENTS.** Notwithstanding section 256.025, subdivision 2, payments to certified providers for child welfare targeted case management expenditures under section 256B.094 and this section shall only be made of federal earnings from services provided under section 256B.094 and this section. Payments to contracted vendors shall include both the federal earnings and the nonfederal share.

Sec. 18. Minnesota Statutes 1998, section 256F.10, subdivision 10, is amended to read:

Subd. 10. **CENTRALIZED DISBURSEMENT OF MEDICAL ASSISTANCE PAYMENTS.** Notwithstanding section 256B.041, ~~county provider~~ payments for the cost of child welfare targeted case management services shall not be made to the state treasurer. For the purposes of child welfare targeted case management services under section 256B.094 and this section, the centralized disbursement of payments to providers under section 256B.041 consists only of federal earnings from services provided under section 256B.094 and this section.

Sec. 19. Minnesota Statutes 1998, section 257.071, subdivision 1, is amended to read:

Subdivision 1. **PLACEMENT; PLAN.** (a) A case plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260.015, subdivision 7.

(b) When a child is in placement, the responsible local social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both

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parents of the child. If a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child, the local social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the local social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(c) If, after assessment, the local social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall prepare a case plan addressing the conditions that each parent must mitigate before the child could be in that parent's day-to-day care.

(d) If, after the provision of services following a case plan under this section and ordered by the juvenile court, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260.191, subdivision 3b. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under this chapter.

The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260.131.

(e) For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service services agency responsible for the residential facility placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service services agency responsible for the residential facility placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

(1) the specific reasons for the placement of the child in a residential facility, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;

(2) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(3) the financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;

(4) the visitation rights and obligations of the parent or parents or other relatives as defined in section 260.181, if such visitation is consistent with the best interest of the child, during the period the child is in the residential facility;

(5) the social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;

(6) the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

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(7) the nature of the effort to be made by the social service services agency responsible for the placement to reunite the family; and

(8) notice to the parent or parents:

(i) that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260; and

(ii) in cases where the agency has determined that both reasonable efforts to reunify the child with the parents, and reasonable efforts to place the child in a permanent home away from the parent that may become legally permanent are appropriate, notice of:

(A) time limits on the length of placement and of reunification services;

(B) the nature of the services available to the parent;

(C) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(D) the first consideration for relative placement; and

(E) the benefit to the child in getting the child out of residential care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(9) a permanency hearing under section 260.191, subdivision 3b, or a termination of parental rights hearing under sections 260.221 to 260.245, where the agency asks the court to find that the child should be permanently placed away from the parent and includes documentation of the steps taken by the responsible social services agency to find an adoptive family or other permanent legal placement for the child, to place the child with an adoptive family, a fit and willing relative through an award of permanent legal and physical custody, or in another planned and permanent legal placement. The documentation must include child specific recruitment efforts; and

(10) if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child, documentation of steps to finalize the adoption or legal guardianship of the child.

(f) The parent or parents and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social service services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

(g) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination

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within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years.

Sec. 20. Minnesota Statutes 1998, section 257.071, subdivision 1a, is amended to read:

Subd. 1a. **PLACEMENT DECISIONS BASED ON BEST INTEREST OF THE CHILD.** (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends consistent with section 260.181, subdivision 3.

(b) Among the factors the agency shall consider in determining the needs of the child are those specified under section 260.181, subdivision 3, paragraph (b).

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child. Whenever possible, Siblings should be placed together for foster care and adoption at the earliest possible time unless it is determined not to be in the best interests of a sibling or unless it is not possible after appropriate efforts by the responsible social services agency.

Sec. 21. Minnesota Statutes 1998, section 257.071, subdivision 1c, is amended to read:

Subd. 1c. **NOTICE BEFORE VOLUNTARY PLACEMENT.** The local social service services agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally handicapped of the following:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the local social service services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

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(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260.191, subdivision 3b.

Sec. 22. Minnesota Statutes 1998, section 257.071, subdivision 1d, is amended to read:

Subd. 1d. **RELATIVE SEARCH; NATURE.** (a) As soon as possible, but in any event within six months after a child is initially placed in a residential facility, the local social services agency shall identify any relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. Relatives should also be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later. The relatives must be notified that they must keep the local social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the local social services agency forfeits the right to notice of the possibility of permanent placement. If the child's parent refuses to give the responsible social services agency information sufficient to identify relatives of the child, the agency shall determine whether the parent's refusal is in the child's best interests. If the agency determines the parent's refusal is not in the child's best interests, the agency shall file a petition under section 260.131, and shall ask the juvenile court to order the parent to provide the necessary information.

(b) Unless required under the Indian Child Welfare Act or relieved of this duty by the court because the child is placed with an appropriate relative who wishes to provide a permanent home for the child or the child is placed with a foster home that has committed to being the permanent legal placement for the child and the responsible social services agency approves of that foster home for permanent placement of the child, when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement. This notice need not be sent if the child is placed with an appropriate relative who wishes to provide a permanent home for the child.

Sec. 23. Minnesota Statutes 1998, section 257.071, subdivision 1e, is amended to read:

Subd. 1e. **CHANGE IN PLACEMENT.** If a child is removed from a permanent placement disposition authorized under section 260.191, subdivision 3b, within one year after the placement was made:

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(1) the child must be returned to the residential facility where the child was placed immediately preceding the permanent placement; or

(2) the court shall hold a hearing within ten days after the child is taken into custody removed from the permanent placement to determine where the child is to be placed. A guardian ad litem must be appointed for the child for this hearing.

Sec. 24. Minnesota Statutes 1998, section 257.071, subdivision 3, is amended to read:

Subd. 3. **REVIEW OF VOLUNTARY PLACEMENTS.** Except as provided in subdivision 4, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within 90 days after initial placement in the residential facility, the social service ~~services~~ agency responsible for the placement shall:

(1) return the child to the home of the parent or parents; or

(2) file a petition according to section 260.131, subdivision 1, which may:

(i) ask the court to review the placement and approve it for up to extend the placement for an additional 90 days;

(ii) ask the court to order continued out-of-home placement according to sections 260.172 and 260.191; or

(iii) ask the court to terminate parental rights under section 260.221.

The case plan must be updated when a petition is filed and must include a specific plan for permanency, which may include a time line for returning the child home or a plan for permanent placement of the child away from the parent, or both.

If the court approves ~~the extension~~ continued out-of-home placement for up to 90 more days, at the end of the second court-approved 90-day period, the child must be returned to the parent's home, unless a petition is. If the child is not returned home, the responsible social services agency must proceed on the petition filed for a alleging the child in need of protection or services or the petition for termination of parental rights. The court must find a statutory basis to order the placement of the child under section 260.172; 260.191; or 260.241.

Sec. 25. Minnesota Statutes 1998, section 257.071, subdivision 4, is amended to read:

Subd. 4. **REVIEW OF DEVELOPMENTALLY DISABLED AND EMOTIONALLY HANDICAPPED CHILD PLACEMENTS.** If a developmentally disabled child, as that term is defined in United States Code, title 42, section 6001 (7), as amended through December 31, 1979, or a child diagnosed with an emotional handicap as defined in section 252.27, subdivision 1a, has been placed in a residential facility pursuant to a voluntary release by the child's parent or parents because of the child's handicapping conditions or need for long-term residential treatment or supervision, the social service ~~services~~ agency responsible for the placement shall bring a petition for review of the child's foster care status, pursuant to section 260.131, subdivision 1a, ~~rather than a~~ after the child has been in placement for six months. If a child is in placement due solely to the child's handicapping condition and custody of the child is not transferred to the responsi-

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ble social services agency under section 260.191, subdivision 1, paragraph (a), clause (2), no petition as is required by section 260.191, subdivision 3b, after the child has been in foster care for six months or, in the case of a child with an emotional handicap, after the child has been in a residential facility for six months. Whenever a petition for review is brought pursuant to this subdivision, a guardian ad litem shall be appointed for the child.

Sec. 26. Minnesota Statutes 1998, section 257.85, subdivision 2, is amended to read:

Subd. 2. **SCOPE.** The provisions of this section apply to those situations in which the legal and physical custody of a child is established with a relative or important friend with whom the child has resided or had significant contact according to section 260.191, subdivision 3b, by a court order issued on or after July 1, 1997.

Sec. 27. Minnesota Statutes 1998, section 257.85, subdivision 3, is amended to read:

Subd. 3. **DEFINITIONS.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "~~AFDC or MFIP standard~~" means the monthly standard of need used to calculate assistance under the AFDC program; the transitional standard used to calculate assistance under the MFIP-S program, or, if neither of these is applicable permanent legal and physical custody of the child is given to a relative custodian residing outside of Minnesota, the analogous transitional standard or standard of need used to calculate assistance under the MFIP or MFIP-R programs TANF program of the state where the relative custodian lives.

(b) "Local agency" means the local social service services agency with legal custody of a child prior to the transfer of permanent legal and physical custody to a relative.

(c) "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota juvenile court under section 260.191, subdivision 3b.

(d) "Relative" means an individual, other than a parent, who is related to a child by blood, marriage, or adoption has the meaning given in section 260.015, subdivision 13.

(e) "Relative custodian" means a relative of a child for whom the relative person who has permanent legal and physical custody of a child. When siblings, including half-siblings and step-siblings, are placed together in the permanent legal and physical custody of a relative of one of the siblings, the person receiving permanent legal and physical custody of the siblings is considered a relative custodian of all of the siblings for purposes of this section.

(f) "Relative custody assistance agreement" means an agreement entered into between a local agency and the relative of a child person who has been or will be awarded permanent legal and physical custody of the a child.

(g) "Relative custody assistance payment" means a monthly cash grant made to a relative custodian pursuant to a relative custody assistance agreement and in an amount calculated under subdivision 7.

(h) "Remains in the physical custody of the relative custodian" means that the relative custodian is providing day-to-day care for the child and that the child lives with the relative custodian; absence from the relative custodian's home for a period of more than 120 days raises a presumption that the child no longer remains in the physical custody of the relative custodian.

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Sec. 28. Minnesota Statutes 1998, section 257.85, subdivision 4, is amended to read:

Subd. 4. **DUTIES OF LOCAL AGENCY.** (a) When a local agency seeks a court order under section 260.191, subdivision 3b, to establish permanent legal and physical custody of a child with a relative or important friend with whom the child has resided or had significant contact, or if such an order is issued by the court, the local agency shall perform the duties in this subdivision.

(b) As soon as possible after the local agency determines that it will seek to establish permanent legal and physical custody of the child with a ~~relative~~ or, if the agency did not seek to establish custody, as soon as possible after the issuance of the court order establishing custody, the local agency shall inform the relative custodian about the relative custody assistance program, including eligibility criteria and payment levels. Anytime prior to, but not later than seven days after, the date the court issues the order establishing permanent legal and physical custody of the child with a ~~relative~~, the local agency shall determine whether the eligibility criteria in subdivision 6 are met to allow the relative custodian to receive relative custody assistance. Not later than seven days after determining whether the eligibility criteria are met, the local agency shall inform the relative custodian of its determination and of the process for appealing that determination under subdivision 9.

(c) If the local agency determines that the relative custodian is eligible to receive relative custody assistance, the local agency shall prepare the relative custody assistance agreement and ensure that it meets the criteria of subdivision 6.

(d) The local agency shall make monthly payments to the relative custodian as set forth in the relative custody assistance agreement. On a quarterly basis and on a form to be provided by the commissioner, the local agency shall make claims for reimbursement from the commissioner for relative custody assistance payments made.

(e) For a relative custody assistance agreement that is in place for longer than one year, and as long as the agreement remains in effect, the local agency shall send an annual affidavit form to the relative custodian of the eligible child within the month before the anniversary date of the agreement. The local agency shall monitor whether the annual affidavit is returned by the relative custodian within 30 days following the anniversary date of the agreement. The local agency shall review the affidavit and any other information in its possession to ensure continuing eligibility for relative custody assistance and that the amount of payment made according to the agreement is correct.

(f) When the local agency determines that a relative custody assistance agreement should be terminated or modified, it shall provide notice of the proposed termination or modification to the relative custodian at least ten days before the proposed action along with information about the process for appealing the proposed action.

Sec. 29. Minnesota Statutes 1998, section 257.85, subdivision 5, is amended to read:

Subd. 5. **RELATIVE CUSTODY ASSISTANCE AGREEMENT.** (a) A relative custody assistance agreement will not be effective, unless it is signed by the local agency and the relative custodian no later than 30 days after the date of the order establishing permanent legal and physical custody with the relative, except that a local agency may enter into a relative custody assistance agreement with a relative custodian more than 30 days after the date of the order if it certifies that the delay in entering the agreement was

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through no fault of the relative custodian. There must be a separate agreement for each child for whom the relative custodian is receiving relative custody assistance.

(b) Regardless of when the relative custody assistance agreement is signed by the local agency and relative custodian, the effective date of the agreement shall be the date of the order establishing permanent legal and physical custody.

(c) If MFIP-S is not the applicable program for a child at the time that a relative custody assistance agreement is entered on behalf of the child, when MFIP-S becomes the applicable program, if the relative custodian had been receiving custody assistance payments calculated based upon a different program, the amount of relative custody assistance payment under subdivision 7 shall be recalculated under the MFIP-S program.

(d) The relative custody assistance agreement shall be in a form specified by the commissioner and shall include provisions relating to the following:

(1) the responsibilities of all parties to the agreement;

(2) the payment terms, including the financial circumstances of the relative custodian, the needs of the child, the amount and calculation of the relative custody assistance payments, and that the amount of the payments shall be reevaluated annually;

(3) the effective date of the agreement, which shall also be the anniversary date for the purpose of submitting the annual affidavit under subdivision 8;

(4) that failure to submit the affidavit as required by subdivision 8 will be grounds for terminating the agreement;

(5) the agreement's expected duration, which shall not extend beyond the child's eighteenth birthday;

(6) any specific known circumstances that could cause the agreement or payments to be modified, reduced, or terminated and the relative custodian's appeal rights under subdivision 9;

(7) that the relative custodian must notify the local agency within 30 days of any of the following:

(i) a change in the child's status;

(ii) a change in the relationship between the relative custodian and the child;

(iii) a change in composition or level of income of the relative custodian's family;

(iv) a change in eligibility or receipt of benefits under AFDC, MFIP-S, or other assistance program; and

(v) any other change that could affect eligibility for or amount of relative custody assistance;

(8) that failure to provide notice of a change as required by clause (7) will be grounds for terminating the agreement;

(9) that the amount of relative custody assistance is subject to the availability of state funds to reimburse the local agency making the payments;

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(10) that the relative custodian may choose to temporarily stop receiving payments under the agreement at any time by providing 30 days' notice to the local agency and may choose to begin receiving payments again by providing the same notice but any payments the relative custodian chooses not to receive are forfeit; and

(11) that the local agency will continue to be responsible for making relative custody assistance payments under the agreement regardless of the relative custodian's place of residence.

Sec. 30. Minnesota Statutes 1998, section 257.85, subdivision 6, is amended to read:

Subd. 6. **ELIGIBILITY CRITERIA.** A local agency shall enter into a relative custody assistance agreement under subdivision 5 if it certifies that the following criteria are met:

(1) the juvenile court has determined or is expected to determine that the child, under the former or current custody of the local agency, cannot return to the home of the child's parents;

(2) the court, upon determining that it is in the child's best interests, has issued or is expected to issue an order transferring permanent legal and physical custody of the child to the relative; and

(3) the child either:

(i) is a member of a sibling group to be placed together; or

(ii) has a physical, mental, emotional, or behavioral disability that will require financial support.

When the local agency bases its certification that the criteria in clause (1) or (2) are met upon the expectation that the juvenile court will take a certain action, the relative custody assistance agreement does not become effective until and unless the court acts as expected.

Sec. 31. Minnesota Statutes 1998, section 257.85, subdivision 7, is amended to read:

Subd. 7. **AMOUNT OF RELATIVE CUSTODY ASSISTANCE PAYMENTS.**

(a) The amount of a monthly relative custody assistance payment shall be determined according to the provisions of this paragraph.

(1) The total maximum assistance rate is equal to the base assistance rate plus, if applicable, the supplemental assistance rate.

(i) The base assistance rate is equal to the maximum amount that could be received as basic maintenance for a child of the same age under the adoption assistance program.

(ii) The local agency shall determine whether the child has physical, mental, emotional, or behavioral disabilities that require care, supervision, or structure beyond that ordinarily provided in a family setting to children of the same age such that the child would be eligible for supplemental maintenance payments under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. If the local agency determines that the child has such a disability, the supplemental assistance rate shall be the maximum amount of monthly supplemental maintenance payment that could be received on behalf of a child of the same age, disabilities, and circumstances under the adoption assistance program.

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(2) The net maximum assistance rate is equal to the total maximum assistance rate from clause (1) less the following offsets:

(i) if the child is or will be part of an assistance unit receiving an AFDC, MFIP-S, or other MFIP grant or a grant from a similar program of another state, the portion of the AFDC or MFIP standard relating to the child as calculated under paragraph (b), clause (2);

(ii) Supplemental Security Income payments received by or on behalf of the child;

(iii) veteran's benefits received by or on behalf of the child; and

(iv) any other income of the child, including child support payments made on behalf of the child.

(3) The relative custody assistance payment to be made to the relative custodian shall be a percentage of the net maximum assistance rate calculated in clause (2) based upon the gross income of the relative custodian's family, including the child for whom the relative custodian has permanent legal and physical custody. In no case shall the amount of the relative custody assistance payment exceed that which the child could qualify for under the adoption assistance program if an adoption assistance agreement were entered on the child's behalf. The relative custody assistance payment shall be calculated as follows:

(i) if the relative custodian's gross family income is less than or equal to 200 percent of federal poverty guidelines, the relative custody assistance payment shall be the full amount of the net maximum assistance rate;

(ii) if the relative custodian's gross family income is greater than 200 percent and less than or equal to 225 percent of federal poverty guidelines, the relative custody assistance payment shall be 80 percent of the net maximum assistance rate;

(iii) if the relative custodian's gross family income is greater than 225 percent and less than or equal to 250 percent of federal poverty guidelines, the relative custody assistance payment shall be 60 percent of the net maximum assistance rate;

(iv) if the relative custodian's gross family income is greater than 250 percent and less than or equal to 275 percent of federal poverty guidelines, the relative custody assistance payment shall be 40 percent of the net maximum assistance rate;

(v) if the relative custodian's gross family income is greater than 275 percent and less than or equal to 300 percent of federal poverty guidelines, the relative custody assistance payment shall be 20 percent of the net maximum assistance rate; or

(vi) if the relative custodian's gross family income is greater than 300 percent of federal poverty guidelines, no relative custody assistance payment shall be made.

(b) This paragraph specifies the provisions pertaining to the relationship between relative custody assistance and AFDC, MFIP-S, or other MFIP programs. The following provisions cover the relationship between relative custody assistance and assistance programs:

(1) The relative custodian of a child for whom the relative custodian is receiving relative custody assistance is expected to seek whatever assistance is available for the child

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through the AFDC, MFIP-S, or other MFIP, if the relative custodian resides in a state other than Minnesota, similar programs of that state. If a relative custodian fails to apply for assistance through AFDC, MFIP-S, or other MFIP program for which the child is eligible, the child's portion of the AFDC or MFIP standard will be calculated as if application had been made and assistance received;

(2) The portion of the AFDC or MFIP standard relating to each child for whom relative custody assistance is being received shall be calculated as follows:

- (i) determine the total AFDC or MFIP standard for the assistance unit;
- (ii) determine the amount that the AFDC or MFIP standard would have been if the assistance unit had not included the children for whom relative custody assistance is being received;
- (iii) subtract the amount determined in item (ii) from the amount determined in item (i); and
- (iv) divide the result in item (iii) by the number of children for whom relative custody assistance is being received that are part of the assistance unit; or

(3) If a child for whom relative custody assistance is being received is not eligible for assistance through the AFDC, MFIP-S, or other MFIP similar programs of another state, the portion of AFDC or MFIP standard relating to that child shall be equal to zero.

Sec. 32. Minnesota Statutes 1998, section 257.85, subdivision 9, is amended to read:

Subd. 9. **RIGHT OF APPEAL.** A relative custodian who enters or seeks to enter into a relative custody assistance agreement with a local agency has the right to appeal to the commissioner according to section 256.045 when the local agency establishes, denies, terminates, or modifies the agreement. Upon appeal, the commissioner may review only:

- (1) whether the local agency has met the legal requirements imposed by this chapter for establishing, denying, terminating, or modifying the agreement;
- (2) whether the amount of the relative custody assistance payment was correctly calculated under the method in subdivision 7;
- (3) whether the local agency paid for correct time periods under the relative custody assistance agreement;
- (4) whether the child remains in the physical custody of the relative custodian;
- (5) whether the local agency correctly ~~calculated~~ modified the amount of the supplemental assistance rate based on a change in the child's physical, mental, emotional, or behavioral needs, or based on the relative custodian's failure to document provide documentation, after the local agency has requested such documentation, that the continuing need for the supplemental assistance rate after the local agency has requested such documentation child continues to have physical, mental, emotional, or behavioral needs that support the current amount of relative custody assistance; and
- (6) whether the local agency correctly ~~calculated~~ modified or terminated the amount of relative custody assistance based on a change in the gross income of the relative custodian's family or based on the relative custodian's failure to provide documentation of the

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gross income of the relative custodian's family after the local agency has requested such documentation.

Sec. 33. Minnesota Statutes 1998, section 257.85, subdivision 11, is amended to read:

Subd. 11. **FINANCIAL CONSIDERATIONS.** (a) Payment of relative custody assistance under a relative custody assistance agreement is subject to the availability of state funds and payments may be reduced or suspended on order of the commissioner if insufficient funds are available.

(b) Upon receipt from a local agency of a claim for reimbursement, the commissioner shall reimburse the local agency in an amount equal to 100 percent of the relative custody assistance payments provided to relative custodians. The local agency may not seek and the commissioner shall not provide reimbursement for the administrative costs associated with performing the duties described in subdivision 4.

(c) For the purposes of determining eligibility or payment amounts under the AFDC, MFIP-S, and other MFIP programs, relative custody assistance payments shall be considered excluded in determining the family's available income.

Sec. 34. Minnesota Statutes 1998, section 259.67, subdivision 6, is amended to read:

Subd. 6. **RIGHT OF APPEAL.** (a) The adoptive parents have the right to appeal to the commissioner pursuant to section 256.045, when the commissioner denies, discontinues, or modifies the agreement.

(b) Adoptive parents who believe that their adopted child was incorrectly denied adoption assistance, or who did not seek adoption assistance on the child's behalf because of being provided with inaccurate or insufficient information about the child or the adoption assistance program, may request a hearing under section 256.045. Notwithstanding subdivision 2, the purpose of the hearing shall be to determine whether, under standards established by the federal Department of Health and Human Services, the circumstances surrounding the child's adoption warrant making an adoption assistance agreement on behalf of the child after the final decree of adoption has been issued. The commissioner shall enter into an adoption assistance agreement on the child's behalf if it is determined that:

(1) at the time of the adoption and at the time the request for a hearing was submitted the child was eligible for adoption assistance under United States Code, title 42, chapter 7, subchapter IV, part B, sections 670 to 679a, at the time of the adoption and at the time the request for a hearing was submitted but, because of extenuating circumstances, did not receive or for state funded adoption assistance under subdivision 4; and

(2) an adoption assistance agreement was not entered into on behalf of the child before the final decree of adoption because of extenuating circumstances as the term is used in the standards established by the federal Department of Health and Human Services. An adoption assistance agreement made under this paragraph shall be effective the date the request for a hearing was received by the commissioner or the local agency.

Sec. 35. Minnesota Statutes 1998, section 259.67, subdivision 7, is amended to read:

Subd. 7. **REIMBURSEMENT OF COSTS.** (a) Subject to rules of the commissioner, and the provisions of this subdivision a ~~Minnesota-licensed child-placing agency~~

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licensed in Minnesota or any other state, or local social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing adoption services for a child certified as eligible for adoption assistance under subdivision 4. Such assistance may include adoptive family recruitment, counseling, and special training when needed. A ~~Minnesota-licensed~~ child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive such reimbursement only for adoption services it purchases for an eligible child.

(b) A ~~Minnesota-licensed~~ child-placing agency licensed in Minnesota or any other state or local social services agency seeking reimbursement under this subdivision shall enter into a reimbursement agreement with the commissioner before providing adoption services for which reimbursement is sought. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(c) When a local social services agency uses a purchase of service agreement to provide services reimbursable under a reimbursement agreement, the commissioner may make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local social services agency along with a verification that the service was provided.

Sec. 36. Minnesota Statutes 1998, section 259.73, is amended to read:

**259.73 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. To be reimbursed, costs must be reasonable, necessary, and directly related to the legal adoption of the child.

Sec. 37. Minnesota Statutes 1998, section 259.85, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY CRITERIA.** A child may be certified by the local social service services agency as eligible for a postadoption service grant after a final decree of adoption ~~and before the child's 18th birthday~~ if:

(a) (1) the child was a ward of the commissioner or a Minnesota licensed child-placing agency before adoption;

(b) (2) 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

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(e) (3) 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; and

(4) the child is under 18 years of age, or if the child is under 22 years of age and remains dependent on the adoptive parent or parents for care and financial support and is enrolled in a secondary education program as a full-time student.

Sec. 38. Minnesota Statutes 1998, section 259.85, subdivision 3, is amended to read:

Subd. 3. **CERTIFICATION STATEMENT.** The local social service services 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) separate certification for each of the eligibility criteria under subdivision 2, that the criteria are met; and
- (3) 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.

Sec. 39. Minnesota Statutes 1998, section 259.85, subdivision 5, is amended to read:

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. Adoptive parents are eligible for grant payments until their child's 18th birthday, or if the child is under 22 years of age and remains dependent on the adoptive parent or parents for care and financial support and is enrolled in a secondary education program as a full-time student.

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. 40. Minnesota Statutes 1998, section 259.89, is amended by adding a subdivision to read:

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**Subd. 6. DETERMINATION OF ELIGIBILITY FOR ENROLLMENT OR MEMBERSHIP IN A FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBE.** The state registrar shall provide a copy of an adopted person's original birth certificate to an authorized representative of a federally recognized American Indian tribe for the sole purpose of determining the adopted person's eligibility for enrollment or membership in the tribe.

Sec. 41. Minnesota Statutes 1998, section 260.011, subdivision 2, is amended to read:

Subd. 2. (a) The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the health, safety, and best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923. The purpose of the laws relating to juvenile courts is to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child; to provide judicial procedures which protect the welfare of the child; to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal; and, when removal from the child's own family is necessary and in the child's best interests, to secure for the child custody, care and discipline as nearly as possible equivalent to that which should have been given by the parents.

(b) The purpose of the laws relating to termination of parental rights is to ensure that:

(1) when required and appropriate, reasonable efforts have been made by the social service services agency to reunite the child with the child's parents in a placement home that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement, preferably with adoptive parents or a fit and willing relative through transfer of permanent legal and physical custody to that relative.

Nothing in this section requires reasonable efforts to be made in circumstances where the court has determined that the child has been subjected to egregious harm or the parental rights of the parent to a sibling have been involuntarily terminated.

The paramount consideration in all proceedings for the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901; et seq.

(c) The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law prohibiting certain behavior and by developing individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just, that recognize the unique characteristics and needs of children, and that give children access to opportunities for personal and social growth.

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(d) The laws relating to juvenile courts shall be liberally construed to carry out these purposes.

Sec. 42, Minnesota Statutes 1998, section 260.012, is amended to read:

**260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.**

(a) ~~If~~ Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social service services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. The court may, upon motion and hearing, order the cessation of reasonable efforts if the court finds that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances. In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's health and safety must be of paramount concern. Reasonable efforts for rehabilitation and reunification are not required if upon a determination by the court determines that:

(1) a termination of parental rights petition has been filed stating a prima facie case that:

(i) the parent has subjected ~~the~~ a child to egregious harm as defined in section 260.015, subdivision 29, or;

(ii) the parental rights of the parent to a sibling another child have been terminated involuntarily; or

(iii) the child is an abandoned infant under section 260.221, subdivision 1a, paragraph (a), clause (2);

(2) the county attorney has filed a determination not to proceed with a termination of parental rights petition on these grounds was made under section 260.221, subdivision 1b, paragraph (b), and a permanency hearing is held within 30 days of the determination;  
or

(3) a termination of parental rights petition or other petition according to section 260.191, subdivision 3b, has been filed alleging a prima facie case that the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

In the case of an Indian child, in proceedings under sections 260.172, 260.191, and 260.221 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social service services agency to use appropriate and available services to meet the needs of

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the child and the child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family.

(1) Services may include those listed under section 256F.07, subdivision 3, and other appropriate services available in the community.

(2) At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts, the social service agency has the burden of demonstrating that it has made reasonable efforts, or that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances, or that reasonable efforts aimed at reunification are not required under this section. The agency may meet this burden by stating facts in a sworn petition filed under section 260.131, or by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child.

(3) No reasonable efforts for reunification are required when the court makes a determination under paragraph (a) unless, after a hearing according to section 260.155, the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case, the court may proceed under section 260.235. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

~~(1)~~ (i) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

~~(2)~~ (ii) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

~~(3)~~ (iii) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(c) The juvenile court, in proceedings under sections 260.172, 260.191, and 260.221 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- (1) relevant to the safety and protection of the child;
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

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(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

(e) If continuation of reasonable efforts described in paragraph (b) is determined by the court to be inconsistent with the ~~permanency~~ permanent plan for the child, or upon a determination under paragraph (a), reasonable efforts must be made to place the child in a timely manner in accordance with the ~~permanency~~ permanent plan ordered by the court and to complete whatever steps are necessary to finalize the ~~permanency~~ permanent plan for the child.

(f) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts as described in paragraphs (a) and (b). When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraphs (a) and (b), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under paragraphs (a) and (b).

Sec. 43. Minnesota Statutes 1998, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. **CHILD IN NEED OF PROTECTION OR SERVICES.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

- (1) is abandoned or without parent, guardian, or custodian;
- (2)(i) has been a victim of physical or sexual abuse, (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 28, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;
- (3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;
- (4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care, including a child in voluntary placement according to release of the parent under section 257.071, subdivision 4;
- (5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

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(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child in placement according to voluntary release by the parent under section 257.071, subdivision 3;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is an habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense;

(16) ~~is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years; or~~

(17) has been found by the court to have committed domestic abuse perpetrated by a minor under Laws 1997, chapter 239, article 10, sections 2 to 26, has been ordered excluded from the child's parent's home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child.

Sec. 44. Minnesota Statutes 1998, section 260.015, subdivision 13, is amended to read:

Subd. 13. **RELATIVE.** "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States

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Code, title 25, section 1903. For purposes of dispositions, relative has the meaning given in section 260.181, subdivision 3, child in need of protection or services proceedings, termination of parental rights proceedings, and permanency proceedings under section 260.191, subdivision 3b, relative means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact.

Sec. 45. Minnesota Statutes 1998, section 260.015, subdivision 29, is amended to read:

Subd. 29. **EGREGIOUS HARM.** "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

(1) conduct towards a child that constitutes a violation of sections 609.185 to 609.21, 609.222, subdivision 2, 609.223, or any other similar law of any other state;

(2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02, subdivision 7a;

(3) conduct towards a child that constitutes felony malicious punishment of a child under section 609.377;

(4) conduct towards a child that constitutes felony unreasonable restraint of a child under section 609.255, subdivision 3;

(5) conduct towards a child that constitutes felony neglect or endangerment of a child under section 609.378;

(6) conduct towards a child that constitutes assault under section 609.221, 609.222, or 609.223;

(7) conduct towards a child that constitutes solicitation, inducement, or promotion of, or receiving profit derived from prostitution under section 609.322;

(8) conduct toward a child that constitutes murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a); or

(9) conduct toward a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a); or

(10) conduct toward a child that constitutes criminal sexual conduct under sections 609.342 to 609.345.

Sec. 46. Minnesota Statutes 1998, section 260.131, subdivision 1a, is amended to read:

Subd. 1a. **REVIEW OF FOSTER CARE STATUS.** The social service services agency responsible for the placement of a child in a residential facility, as defined in section 257.071, subdivision 1, pursuant to a voluntary release by the child's parent or parents may bring a petition in juvenile court to review the foster care status of the child in the manner provided in this section. The responsible social services agency shall file either a

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petition alleging the child to be in need of protection or services or a petition to terminate parental rights or other permanency petition under section 260.191, subdivision 3b.

(a) In the case of a child in voluntary placement according to section 257.071, subdivision 3, the petition shall be filed within 90 days of the date of the voluntary placement agreement and shall state the reasons why the child is in placement, the progress on the case plan required under section 257.071, subdivision 1, and the statutory basis for the petition under section 260.015, subdivision 2a, 260.191, subdivision 3b, or 260.221.

(1) In the case of a petition filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

- (i) the child's needs are being met;
- (ii) the placement of the child in foster care is in the best interests of the child; and
- (iii) the child will be returned home in the next six months.

(2) If the court makes findings under paragraph (1), the court shall approve the voluntary arrangement and continue the matter for up to six more months to ensure the child returns to the parents' home. The responsible social services agency shall:

(i) report to the court when the child returns home and the progress made by the parent on the case plan required under section 257.071, in which case the court shall dismiss jurisdiction;

(ii) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260.155; or

(iii) if any party does not agree to continue the matter under paragraph (1) and this paragraph, the matter shall proceed under section 260.155.

(b) In the case of a child in voluntary placement according to section 257.071, subdivision 4, the petition shall be filed within six months of the date of the voluntary placement agreement and shall state the date of the voluntary placement agreement, the nature of the child's developmental delay or emotional handicap, the plan for the ongoing care of the child, the parents' participation in the plan, and the statutory basis for the petition.

(1) In the case of petitions filed under this paragraph, the court may find, based on the contents of the sworn petition, and the agreement of all parties, including the child, where appropriate, that the voluntary arrangement is in the best interests of the child, approve the voluntary arrangement, and dismiss the matter from further jurisdiction. The court shall give notice to the responsible social services agency that the matter must be returned to the court for further review if the child remains in placement after 12 months.

(2) If any party, including the child, disagrees with the voluntary arrangement, the court shall proceed under section 260.155.

Sec. 47. Minnesota Statutes 1998, section 260.133, subdivision 1, is amended to read:

Subdivision 1. **PETITION.** The local welfare agency may bring an emergency petition on behalf of minor family or household members seeking relief from acts of domestic child abuse. The petition shall be brought according to section 260.131 and shall al-

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lege the existence of or immediate and present danger of domestic child abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court has jurisdiction over the parties to a domestic child abuse matter notwithstanding that there is a parent in the child's household who is willing to enforce the court's order and accept services on behalf of the family.

Sec. 48. Minnesota Statutes 1998, section 260.133, subdivision 2, is amended to read:

Subd. 2. **TEMPORARY ORDER.** (a) If it appears from the notarized petition or by sworn affidavit that there are reasonable grounds to believe the child is in immediate and present danger of domestic child abuse, the court may grant an ex parte temporary order for protection, pending a full hearing pursuant to section 260.135, which must be held not later than 14 days after service of the ex parte order on the respondent. The court may grant relief as it deems proper, including an order:

(1) restraining any party from committing acts of domestic child abuse; or

(2) excluding the alleged abusing party from the dwelling which the family or household members share or from the residence of the child.

However, (b) No order excluding the alleged abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling; and

(2) a parent remaining adult family or in the child's household member is able to care adequately for the child or children in the absence of the excluded party and to seek appropriate assistance in enforcing the provisions of the order.

(c) Before the temporary order is issued, the local welfare agency shall advise the court and the other parties who are present that appropriate social services will be provided to the family or household members during the effective period of the order. The petition shall identify the parent remaining in the child's household under paragraph (b), clause (2).

An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days. Within five days of the issuance of the temporary order, the petitioner shall file a petition with the court pursuant to section 260.131, alleging that the child is in need of protection or services and the court shall give docket priority to the petition.

The court may renew the temporary order for protection one time for a fixed period not to exceed 14 days if a petition alleging that the child is in need of protection or services has been filed with the court and if the court determines, upon informal review of the case file, that the renewal is appropriate. If the court determines that the petition states a prima facie case that there are reasonable grounds to believe that the child is in immediate danger of domestic child abuse or child abuse without the court's order, at the hearing pursuant to section 260.135, the court may continue its order issued under this subdivision pending trial under section 260.155.

Sec. 49. Minnesota Statutes 1998, section 260.135, is amended by adding a subdivision to read:

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Subd. 1a. NOTICE. After a petition has been filed alleging a child to be in need of protection or services and unless the persons named in clauses (1) to (4) voluntarily appear or are summoned according to subdivision 1, the court shall issue a notice to:

- (1) an adjudicated or presumed father of the child;
- (2) an alleged father of the child;
- (3) a noncustodial mother; and
- (4) a grandparent with the right to participate under section 260.155, subdivision 1a.

Sec. 50. Minnesota Statutes 1998, section 260.155, subdivision 4, is amended to read:

Subd. 4. **GUARDIAN AD LITEM.** (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260.015, subdivision 2a. In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court. The court may appoint separate counsel for the guardian ad litem if necessary.

(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) Except in cases where the child is alleged to have been abused or neglected, the court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

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(e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

Sec. 51. Minnesota Statutes 1998, section 260.155, subdivision 8, is amended to read:

Subd. 8. **WAIVER.** (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. ~~If a child is not represented by counsel, any waiver must be given or any objection must be offered by the child's guardian ad litem.~~

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver.

Sec. 52. Minnesota Statutes 1998, section 260.172, subdivision 1, is amended to read:

Subdivision 1. **HEARING AND RELEASE REQUIREMENTS.** (a) If a child was taken into custody under section 260.165, subdivision 1, clause (a) or (c)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) In all other cases, the court shall hold a detention hearing:

(1) within 36 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at a juvenile secure detention facility or shelter care facility; or

(2) within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at an adult jail or municipal lockup.

(c) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260.151,

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subdivision 1. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. In a proceeding regarding a child in need of protection or services, the court, before determining whether a child should continue in custody, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts, or in the case of an Indian child, active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement or to reunite the child with the child's family, or that reasonable efforts were not possible. The court shall also determine whether there are available services that would prevent the need for further detention. .

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

~~The court may determine (d) At the detention hearing, or at any time prior to an adjudicatory hearing, that reasonable efforts are not required because the facts, if proved, will demonstrate that the parent has subjected the child to egregious harm as defined in section 260.015, subdivision 29, or the parental rights of the parent to a sibling of the child have been terminated involuntarily, and upon notice and request of the county attorney, the court shall make the following determinations:~~

(1) whether a termination of parental rights petition has been filed stating a prima facie case that:

(i) the parent has subjected a child to egregious harm as defined in section 260.015, subdivision 29;

(ii) the parental rights of the parent to another child have been involuntarily terminated; or

(iii) the child is an abandoned infant under section 260.221, subdivision 1a, paragraph (a), clause (2);

(2) that the county attorney has determined not to proceed with a termination of parental rights petition under section 260.221, subdivision 1b; or

(3) whether a termination of parental rights petition or other petition according to section 260.191, subdivision 3b, has been filed alleging a prima facie case that the provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances.

If the court determines that the county attorney is not proceeding with a termination of parental rights petition under section 260.221, subdivision 1b, but is proceeding with a petition under section 260.191, subdivision 3b, the court shall schedule a permanency hearing within 30 days. If the county attorney has filed a petition under section 260.221, subdivision 1b, the court shall schedule a trial under section 260.155 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260.191, subdivision 1b.

(e) If the court determines the child should be ordered into out-of-home placement and the child's parent refuses to give information to the responsible social services

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agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the local social services agency for the purpose of complying with the requirements of sections 257.071, 257.072, and 260.135.

Sec. 53. Minnesota Statutes 1998, section 260.172, is amended by adding a subdivision to read:

Subd. 5. CASE PLAN. (a) A case plan required under section 257.071 shall be filed with the court within 30 days of the filing of a petition alleging the child to be in need of protection or services under section 260.131.

(b) Upon the filing of the case plan, the court may approve the case plan based on the allegations contained in the petition. A parent may agree to comply with the terms of the case plan filed with the court.

(c) Upon notice and motion by a parent who agrees to comply with the terms of a case plan, the court may modify the case and order the responsible social services agency to provide other or additional services for reunification, if reunification efforts are required, and the court determines the agency's case plan inadequate under section 260.012.

(d) Unless the parent agrees to comply with the terms of the case plan, the court may not order a parent to comply with the provisions of the case plan until the court makes a determination under section 260.191, subdivision 1.

Sec. 54. Minnesota Statutes 1998, section 260.191, subdivision 1, is amended to read:

Subdivision 1. **DISPOSITIONS.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the local social services agency or child-placing agency in the ~~child's own~~ home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services; or

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, he must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in his home;

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 1a;

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

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(ii) the local social services agency.

In placing a child whose custody has been transferred under this paragraph, the agencies shall follow the order of preference stated in requirements of section 260.181, subdivision 3;

(3) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. The court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

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(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

Sec. 55. Minnesota Statutes 1998, section 260.191, subdivision 1a, is amended to read:

Subd. 1a. **WRITTEN FINDINGS.** Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered, and shall also set forth in writing the following information:

(a) Why the best interests and safety of the child are served by the disposition and case plan ordered;

(b) What alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(c) How the court's disposition complies with the requirements of section 260.181, subdivision 3; and

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(d) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260.172, subdivision 1.

If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

Sec. 56. Minnesota Statutes 1998, section 260.191, subdivision 1b, is amended to read:

Subd. 1b. **DOMESTIC CHILD ABUSE.** (a) If the court finds that the child is a victim of domestic child abuse, as defined in section 260.015, subdivision 24, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

- (1) restrain any party from committing acts of domestic child abuse;
- (2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;
- (3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;
- (4) on the same basis as is provided in chapter 518, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;
- (5) provide counseling or other social services for the family or household members; or
- (6) order the abusing party to participate in treatment or counseling services.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

However, (b) No order excluding the abusing party from the dwelling may be issued unless the court finds that:

- (1) the order is in the best interests of the child or children remaining in the dwelling;
- (2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and
- (3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

(c) Upon a finding that the remaining parent is able to care adequately for the child and enforce an order excluding the abusing party from the home and that the provision of supportive services by the responsible social services agency is no longer necessary, the responsible social services agency may be dismissed as a party to the proceedings. Orders entered regarding the abusing party remain in full force and effect and may be renewed by

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the remaining parent as necessary for the continued protection of the child for specified periods of time, not to exceed one year.

Sec. 57. Minnesota Statutes 1998, section 260.191, subdivision 3b, is amended to read:

Subd. 3b. **REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.** (a) Except for cases where the child is in placement due solely to the child's status as developmentally delayed under United States Code, title 42, section 6001(7), or emotionally handicapped under section 252.27 and where custody has not been transferred to the responsible social services agency, the court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed out of the home of the parent, except that if the child was under eight years of age at the time the petition was filed, the hearing must be conducted no later than six months after the child is placed out of the home of the parent.

For purposes of this subdivision, the date of the child's placement out of the home of the parent is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed out of the home.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed out of the home of the parent are cumulated;

(2) if a child has been placed out of the home of the parent within the previous five years in connection with one or more prior petitions for a child in need of protection or services, the lengths of all prior time periods when the child was placed out of the home within the previous five years and under the current petition, are cumulated. If a child under this clause has been out of the home for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than ten 30 days prior to this hearing, the responsible social service services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement determination of the child according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination and there is a trial under section 260.155 scheduled on that petition within 90 days of the filing of the petition, no hearing need be conducted under this subdivision.

(c) At the conclusion of the hearing, the court shall determine whether order the child is to be returned home or, if not, what order a permanent placement is consistent with in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

(e) (d) At a hearing under this subdivision, if the child was under eight years of age at the time the petition was filed alleging the child in need of protection or services, the court shall review the progress of the case and the case plan, including the provision of ser-

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vices. The court may order the local social ~~service~~ services agency to show cause why it should not file a termination of parental rights petition. Cause may include, but is not limited to, the following conditions:

(1) the parents or guardians have maintained regular contact with the child, the parents are complying with the court-ordered case plan, and the child would benefit from continuing this relationship;

(2) grounds for termination under section 260.221 do not exist; or

(3) the permanent plan for the child is transfer of permanent legal and physical custody to a relative. When the permanent plan for the child is transfer of permanent legal and physical custody to a relative, a petition supporting the plan shall be filed in juvenile court within 30 days of the hearing required under this subdivision and a hearing on the petition held within 30 days of the filing of the pleadings.

(d) (e) If the child is not returned to the home, the court must order one of the following dispositions available for permanent placement determination are:

(1) permanent legal and physical custody to a relative in the best interests of the child. In transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards and procedures applicable under chapter 257 or 518. An order establishing permanent legal or physical custody under this subdivision must be filed with the family court. A transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child. The social ~~service~~ services agency may petition on behalf of the proposed custodian;

(2) ~~termination of parental rights and adoption; unless the social service services agency shall file~~ has already filed a petition for termination of parental rights under section 260.231, the court may order such a petition filed and all the requirements of sections 260.221 to 260.245 remain applicable. An adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58; or

(3) long-term foster care; transfer of legal custody and adoption are preferred permanency options for a child who cannot return home. The court may order a child into long-term foster care only if it finds that neither an award of legal and physical custody to a relative, nor termination of parental rights nor adoption is in the child's best interests. Further, the court may only order long-term foster care for the child under this section if it finds the following:

(i) the child has reached age 12 and reasonable efforts by the responsible social service services agency have failed to locate an adoptive family for the child; or

(ii) the child is a sibling of a child described in clause (i) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; or

(4) foster care for a specified period of time may be ordered only if:

(i) the sole basis for an adjudication that a the child is in need of protection or services is that the child is a runaway, is an habitual truant, or committed a delinquent act before age ten the child's behavior; and

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(ii) the court finds that foster care for a specified period of time is in the best interests of the child.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews and dispositional hearings are only necessary if the placement is made under paragraph (d), clause (4), review is otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent or long-term placement.

(g) An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service services agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

(h) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social service services agency is a party to the proceeding and must receive notice. An order for long-term foster care is reviewable upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

(i) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

Sec. 58. Minnesota Statutes 1998, section 260.192, is amended to read:

**260.192 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.**

Unless the court disposes of the petition under section 260.131, subdivision 1a, upon a petition for review of the foster care status of a child, the court may:

(a) In the case of a petition required to be filed under section 257.071, subdivision 3, find that the child's needs are being met, that the child's placement in foster care is in the best interests of the child, and that the child will be returned home in the next six months, in which case the court shall approve the voluntary arrangement and continue the matter for six months to assure the child returns to the parent's home.

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~~(b) In the case of a petition required to be filed under section 257.071, subdivision 4, find that the child's needs are being met and that the child's placement in foster care is in the best interests of the child, in which case the court shall approve the voluntary arrangement. The court shall order the social service agency responsible for the placement to bring a petition under section 260.131, subdivision 1 or 1a, as appropriate, within 12 months.~~

(e) Find that the child's needs are not being met, in which case the court shall order the social service agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social service agency of services to the parents which would enable the child to live at home, and order a disposition under section 260.191.

~~(d)~~ (b) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social service agency to file an appropriate petition pursuant to sections 260.131, subdivision 1, or 260.231.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260.131, subdivision 1 or 2, sooner than required by court order pursuant to this section.

Sec. 59. Minnesota Statutes 1998, section 260.221, subdivision 1, is amended to read:

Subdivision 1. **VOLUNTARY AND INVOLUNTARY.** The juvenile court may upon petition, terminate all rights of a parent to a child:

(a) with the written consent of a parent who for good cause desires to terminate parental rights; or

(b) if it finds that one or more of the following conditions exist:

(1) that the parent has abandoned the child;

(2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and either reasonable efforts by the social service agency have failed to correct the conditions that formed the basis of the petition or reasonable efforts would be futile and therefore unreasonable;

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a non-custodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;

(4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific condi-

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tions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:

(i) ~~the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and~~

~~(ii) the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7), or under clause (5) if the child was initially determined to be in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8);~~

(5) ~~that following upon a determination of neglect or dependency, or of a child's need for protection or services the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination child's placement. It is presumed that reasonable efforts under this clause have failed upon a showing that:~~

~~(i) a child has resided out of the parental home under court order for a cumulative period of more than one year within a five-year period following an adjudication of dependency, neglect, need for protection or services under section 260.015, subdivision 2a, clause (1), (2), (3), (6), (8), or (9), or neglected and in foster care, and an order for disposition under section 260.191, including adoption of the case plan required by section 257.071; 12 months within the preceding 22 months. In the case of a child under age eight at the time the petition was filed alleging the child to be in need of protection or services, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the case plan;~~

~~(ii) the court has approved a case plan required under section 257.071 and filed with the court under section 260.172;~~

~~(iii) conditions leading to the determination will out-of-home placement have not been corrected within the reasonably foreseeable future. It is presumed that conditions leading to a child's out-of-home placement will have not been corrected in the reasonably foreseeable future upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan, and the conditions which led to the out-of-home placement have not been corrected; and~~

~~(iv) reasonable efforts have been made by the social service services agency to rehabilitate the parent and reunite the family.~~

~~This clause does not prohibit the termination of parental rights prior to one year, or in the case of a child under age eight, within six months after a child has been placed out of the home.~~

~~It is also presumed that reasonable efforts have failed under this clause upon a showing that:~~

~~(i) (A) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;~~

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(ii) (B) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(iii) (C) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(iv) (D) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(v) (E) the parent continues to abuse chemicals.

~~Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after July 1, 1990;~~

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and the person has not registered with the fathers' adoption registry under section 259.52;

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3).

In an action involving an American Indian child, sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Sec. 60. Minnesota Statutes 1998, section 260.221, subdivision 1a, is amended to read:

Subd. 1a. **EVIDENCE OF ABANDONMENT.** For purposes of subdivision 1, paragraph (b), clause (1):

(a) Abandonment is presumed when:

(1) the parent has had no contact with the child on a regular basis and not demonstrated consistent interest in the child's well-being for six months and the social service agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518; or

(2) the child is an infant under two years of age and has been deserted by the parent under circumstances that show an intent not to return to care for the child.

The court is not prohibited from finding abandonment in the absence of the presumptions in clauses (1) and (2).

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(b) The following are prima facie evidence of abandonment where ~~adoption proceedings are pending and there has been a showing that the person was not entitled to notice of an adoption proceeding under section 259.49:~~

(1) failure to register with the fathers' adoption registry under section 259.52; or

(2) if the person registered with the fathers' adoption registry under section 259.52:

(i) filing a denial of paternity within 30 days of receipt of notice under section 259.52, subdivision 8;

(ii) failing to timely file an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10; or

(iii) timely filing an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10, but failing to initiate a paternity action within 30 days of receiving the fathers' adoption registry notice where there has been no showing of good cause for the delay.

Sec. 61. Minnesota Statutes 1998, section 260.221, subdivision 1b, is amended to read:

Subd. 1b. **REQUIRED TERMINATION OF PARENTAL RIGHTS.** (a) The county attorney shall file a termination of parental rights petition within 30 days of the responsible social services agency determining that a child's placement in out-of-home care if the child has been subjected to egregious harm as defined in section 260.015, subdivision 29, is determined to be the sibling of another child of the parent who was subjected to egregious harm, or is an abandoned infant as defined in subdivision 1a, paragraph (a), clause (2). The local social services agency shall concurrently identify, recruit, process, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the local social services agency shall be joined as a party to the petition. If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(b) This requirement does not apply if the county attorney determines and files with the court ~~its determination that:~~

(1) a petition for transfer of permanent legal and physical custody to a relative is in the best interests of the child or there is under section 260.191, subdivision 3b, including a determination that the transfer is in the best interests of the child; or

(2) a petition alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason documented by the local social services agency that why filing the a termination of parental rights petition would not be in the best interests of the child.

Sec. 62. Minnesota Statutes 1998, section 260.221, subdivision 1c, is amended to read:

Subd. 1c. **CURRENT FOSTER CARE CHILDREN.** Except for cases where the child is in placement due solely to the child's status as developmentally delayed under

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United States Code, title 42, section 6001(7), or emotionally handicapped under section 252.27, and where custody has not been transferred to the responsible social services agency, the county attorney shall file a termination of parental rights petition or other a petition to support another permanent placement proceeding under section 260.191, subdivision 3b, for all children determined to be in need of protection or services who are placed in out-of-home care for reasons other than care or treatment of the child's disability, and who are in out-of-home placement on April 21, 1998, and have been in out-of-home care for 15 of the most recent 22 months. This requirement does not apply if there is a compelling reason documented in a case plan filed with the court for determining that filing a termination of parental rights petition or other permanency petition would not be in the best interests of the child or if the responsible social services agency has not provided reasonable efforts necessary for the safe return of the child, if reasonable efforts are required.

Sec. 63. Minnesota Statutes 1998, section 260.221, subdivision 3, is amended to read:

Subd. 3. **WHEN PRIOR FINDING REQUIRED.** For purposes of subdivision 1, clause (b), no prior judicial finding of dependency, neglect, need for protection or services, or neglected and in foster care is required, except as provided in subdivision 1, clause (b), item (5).

Sec. 64. Minnesota Statutes 1998, section 260.221, subdivision 5, is amended to read:

Subd. 5. **FINDINGS REGARDING REASONABLE EFFORTS.** In any proceeding under this section, the court shall make specific findings:

(1) regarding the nature and extent of efforts made by the social service services agency to rehabilitate the parent and reunite the family; or

(2) that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances; or

(3) that reasonable efforts at reunification are not required as provided under section 260.012.

Sec. 65. **[626.5551] ALTERNATIVE RESPONSE PROGRAMS FOR CHILD PROTECTION ASSESSMENTS OR INVESTIGATIONS.**

Subdivision 1. **PROGRAMS AUTHORIZED.** (a) A county may establish a program that uses alternative responses to reports of child maltreatment under section 626.556, as provided in this section.

(b) The alternative response program is a voluntary program on the part of the family, which may include a family assessment and services approach under which the local welfare agency assesses the risk of abuse and neglect and the service needs of the family and arranges for appropriate services, diversions, referral for services, or other response identified in the plan under subdivision 4.

(c) This section may not be used for reports of maltreatment in facilities required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B, or in a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and

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124D.10, or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

**Subd. 2. USE OF ALTERNATIVE RESPONSE OR INVESTIGATION.** (a) Upon receipt of a report under section 626.556, the local welfare agency in a county that has established an alternative response program under this section shall determine whether to conduct an investigation using the traditional investigative model under section 626.556 or to use an alternative response as appropriate to prevent or provide a remedy for child maltreatment.

(b) The local welfare agency may conduct an investigation of any report using the traditional investigative model under section 626.556. However, the local welfare agency must use the traditional investigative model under section 626.556 to investigate reports involving substantial child endangerment. For purposes of this subdivision, substantial child endangerment includes when a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260.015, subdivision 29;
- (2) sexual abuse as defined in section 626.556, subdivision 2, paragraph (a);
- (3) abandonment under section 260.221, subdivision 1a;
- (4) neglect as defined in section 626.556, subdivision 2, paragraph (c), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185; 609.19; or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221; 609.222; or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;
- (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378; or
- (12) use of minor in sexual performance under section 617.246.

(c) Nothing in this section gives a county any broader authority to intervene, assess, or investigate a family other than under section 626.556.

(d) In addition, in all cases the local welfare agency shall notify the appropriate law enforcement agency as provided in section 626.556, subdivision 3.

(e) The local welfare agency shall begin an immediate investigation under section 626.556 if at any time when it is using an alternative response it determines that an inves-

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tigation is required under paragraph (b) or would otherwise be appropriate. The local welfare agency may use an alternative response to a report that was initially referred for an investigation if the agency determines that a complete investigation is not required. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and consult with:

- (1) the local law enforcement agency, if the local law enforcement is involved, and notify the county attorney of the decision to terminate the investigation; or
- (2) the county attorney, if the local law enforcement is not involved.

Subd. 3. DOCUMENTATION. When a case in which an alternative response was used is closed, the local welfare agency shall document the outcome of the approach, including a description of the response and services provided and the removal or reduction of risk to the child, if it existed. Records maintained under this section must contain the documentation and must be retained for at least four years.

Subd. 4. PLAN. The county community social service plan required under section 256E.09 must address the extent that the county will use the alternative response program authorized under this section, based on the availability of new federal funding that is earned and other available revenue sources to fund the additional cost to the county of using the program. To the extent the county uses the program, the county must include the program in the community social service plan and in the program evaluation under section 256E.10. The plan must address alternative responses and services that will be used for the program and protocols for determining the appropriate response to reports under section 626.556 and address how the protocols comply with the guidelines of the commissioner under subdivision 5.

Subd. 5. COMMISSIONER OF HUMAN SERVICES TO DEVELOP GUIDELINES. The commissioner of human services, in consultation with county representatives, may develop guidelines defining alternative responses and setting out procedures for family assessment and service delivery under this section. The commissioner may also develop guidelines for counties regarding the provisions of section 626.556 that continue to apply when using an alternative response under this section. The commissioner may also develop forms, best practice guidelines, and training to assist counties in implementing alternative responses under this section.

Sec. 66. Minnesota Statutes 1998, 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 of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, 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 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), or 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

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(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:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) 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, or;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to take steps to ensure that a child is educated in accordance with state law to ensure that the child is educated as defined in sections 120A.22 and 260.155, subdivision 9;

(5) 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 of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause 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, education, or medical care, a duty to provide that care;

Neglect includes (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

Neglect also means (7) "medical neglect" as defined in section 260.015, subdivision 2a, clause (5);

(8) that the parent or other person responsible for the care of the child:

(i) engages in violent behavior that demonstrates a disregard for the well being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury, or emotional damage to the child;

(ii) engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4;

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(iii) intentionally inflicts or attempts to inflict bodily harm against a family or household member, as defined in section 518B.01, subdivision 2, that is within sight or sound of the child; or

(iv) subjects the child to ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well-being of the child;

(9) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(10) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical or injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental 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. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; or

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

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(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(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 and visitation expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates, which are not injurious to the child's health, welfare, and safety.

Sec. 67. Minnesota Statutes 1998, section 626.556, subdivision 3, is amended to read:

Subd. 3. **PERSONS MANDATED TO REPORT.** (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for

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assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

Sec. 68. Minnesota Statutes 1998, section 626.556, is amended by adding a subdivision to read:

**Subd. 3c. AGENCY RESPONSIBLE FOR ASSESSING OR INVESTIGATING REPORTS OF MALTREATMENT.** The following agencies are the administrative agencies responsible for assessing or investigating reports of alleged child maltreatment in facilities made under this section:

(1) the county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county;

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(2) the department of human services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care; and

(3) the department of health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58, and in unlicensed home health care.

Sec. 69. Minnesota Statutes 1998, section 626.556, subdivision 4, is amended to read:

Subd. 4. **IMMUNITY FROM LIABILITY.** (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency or the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency or the commissioner complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Sec. 70. Minnesota Statutes 1998, section 626.556, subdivision 7, is amended to read:

Subd. 7. **REPORT.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be fol-

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lowed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff or local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Sec. 71. Minnesota Statutes 1998, section 626.556, subdivision 10, is amended to read:

**Subd. 10. DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment including gathering information on the existence of substance abuse and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the assessment indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615. The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical

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abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97.

(c) Authority of the local welfare agency responsible for assessing the child abuse or neglect report and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded. Until that time, the local welfare or law enforcement agency shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply

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with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

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(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11:

(i) In the initial stages of an assessment or investigation, the local welfare agency shall conduct a face-to-face observation of the child reported to be maltreated and a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) The local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

Sec. 72. Minnesota Statutes 1998, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. **DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN FACILITY.** (a) This section applies to the commissioners of human services and health. The commissioner of the agency responsible for assessing or investigating the report shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and du-

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ties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j).

(d) Except for foster care and family child care, the commissioner has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner may request assistance from the local social service services agency.

Sec. 73. Minnesota Statutes 1998, section 626.556, subdivision 10d, is amended to read:

Subd. 10d. **NOTIFICATION OF NEGLECT OR ABUSE IN FACILITY.** (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a facility required to be licensed pursuant to chapter 245A, licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in section 256B.04, subdivision 16, and 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the

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parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse; the number of children allegedly neglected, physically abused, or sexually abused; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if maltreatment is determined to exist.

Sec. 74. Minnesota Statutes 1998, 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. When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible for the maltreatment using the mitigating factors in paragraph (d). Determinations under this subdivision must be made based on a preponderance of the evidence.

(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) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a); or
- (4) mental injury as defined in subdivision 2, paragraph (k).

(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.

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(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 serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(d) When determining whether the facility or individual is the responsible party for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

(e) ~~The commissioner shall work with the maltreatment of minors advisory committee established under Laws 1997, chapter 203, to make recommendations to further specify the kinds of acts or omissions that constitute physical abuse, neglect, sexual abuse, or mental injury. The commissioner shall submit the recommendation and any legislation needed by January 15, 1999.~~ Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Sec. 75. Minnesota Statutes 1998, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **NOTICE OF DETERMINATIONS.** Within ten working days of the conclusion of an assessment, the local welfare agency or agency responsible for assessing or investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the par-

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ent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal rights under this section.

Sec. 76. Minnesota Statutes 1998, section 626.556, subdivision 10j, is amended to read:

Subd. 10j. **RELEASE OF DATA TO MANDATED REPORTERS.** A local social service services or child protection agency may provide relevant private data on individuals obtained under this section to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data, in the best interests of the child. The commissioner shall consult with the maltreatment of minors advisory committee to develop criteria for determining which records may be shared with mandated reporters under this subdivision. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court service's personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this section must be limited to data pertinent to the individual's responsibility for caring for the child.

Sec. 77. Minnesota Statutes 1998, section 626.556, subdivision 11, is amended to read:

Subd. 11. **RECORDS.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the re-

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porter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

Sec. 78. Minnesota Statutes 1998, section 626.556, subdivision 11b, is amended to read:

Subd. 11b. **DATA RECEIVED FROM LAW ENFORCEMENT.** Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Sec. 79. Minnesota Statutes 1998, section 626.556, subdivision 11c, is amended to read:

Subd. 11c. **WELFARE, COURT SERVICES AGENCY, AND SCHOOL RECORDS MAINTAINED.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records must be maintained for a period of four years. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be maintained for at least ten years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

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Sec. 80. Minnesota Statutes 1998, section 626.558, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF THE TEAM.** A county shall establish a multidisciplinary child protection team 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, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, early childhood and family education programs, Head Start, or other agencies serving children and families. A member of the team must be designated as the lead person of the team responsible for the planning process to develop standards for its activities with battered women's programs and services.

**Sec. 81. AMEND CHEMICAL DEPENDENCY ASSESSMENT CRITERIA.**

Subdivision 1. **CHILD PROTECTION.** The commissioner of human services shall amend the assessment criteria under Minnesota Rules, part 9530.6600, specifically Minnesota Rules, part 9530.6615, to include assessment criteria that addresses issues related to parents who have open child protection cases due, in part, to chemical abuse. In amending this rule part, the commissioner shall use the expedited rulemaking process under Minnesota Statutes, section 14.389, and assure that notification provisions are in accordance with federal law.

Subd. 2. **PREGNANCY.** The commissioner of human services shall amend Minnesota Rules, part 9530.6605, to address pregnancy as a risk factor in determining the need for chemical dependency treatment.

**Sec. 82. REHABILITATION SERVICES OPTION FOR ADULTS WITH MENTAL ILLNESS OR OTHER CONDITIONS.**

The commissioner of human services, in consultation with the association of Minnesota counties and other stakeholders, shall design a proposal to add rehabilitation services to the state medical assistance plan for adults with mental illness or other debilitating conditions, including, but not limited to, chemical dependency.

**Sec. 83. TARGETED CASE MANAGEMENT FOR VULNERABLE ADULTS.**

The commissioner of human services, in consultation with the association of Minnesota counties and other stakeholders, shall design a proposal to provide medical assistance coverage for targeted case management service activities for adults receiving services through a county or state agency that are in need of service coordination, including, but not limited to, people age 65 and older; people in need of adult protective services; people applying for financial assistance; people who have chemical dependency; and other people who require community social services under Minnesota Statutes, chapter 256E.

**Sec. 84. RECOMMENDATIONS TO THE LEGISLATURE.**

The commissioner of human services shall submit to the legislature design and implementation recommendations for the proposals required in sections 82 and 83, includ-

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ing draft legislation, by January 15, 2000, for implementation by July 1, 2000. The proposals shall not include requirements for maintenance of effort and expanded expenditures concerning federal reimbursements earned in these programs.

**Sec. 85. INSTRUCTION TO REVISOR.**

The revisor of statutes shall delete the references to Minnesota Statutes, section 260.181, and substitute a reference to Minnesota Statutes, section 260.015, subdivision 13, in the following sections: Minnesota Statutes, sections 245A.035, subdivision 1; 257.071, subdivision 1; 260.191, subdivision 1d; and 260.191, subdivision 1e.

**Sec. 86. REPEALER.**

Minnesota Statutes 1998, section 257.071, subdivisions 8 and 10, are repealed.

**Sec. 87. EFFECTIVE DATE.**

Sections 2, 5, and 9 are effective July 1, 2000.

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**ARTICLE 9**

**HEALTH OCCUPATIONS**

Section 1. Minnesota Statutes 1998, section 13.99, subdivision 38a, is amended to read:

Subd. 38a. **AMBULANCE SERVICE DATA.** Data required to be reported by ambulance services under section ~~144E.17, subdivision 1,~~ 144E.123 are classified under that section.

Sec. 2. Minnesota Statutes 1998, section 13.99, is amended by adding a subdivision to read:

Subd. 39b. **EMT, EMT-I, EMT-P, OR FIRST RESPONDER MISCONDUCT.** Reports of emergency medical technician, emergency medical technician-intermediate, emergency medical technician-paramedic, or first responder misconduct are classified under section 144E.305, subdivision 3.

Sec. 3. Minnesota Statutes 1998, section 144A.46, subdivision 2, is amended to read:

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 as a registered nurse 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 to only one individual under the medical assistance program as authorized under sections 256B.0625, subdivision 19, and 256B.04, subdivision 16;

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

(4) a person who is registered licensed 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 provider that is licensed by the commissioner of human services to provide semi-independent living services under Minnesota Rules, parts 9525.0500 to 9525.0660 when providing home care services to a person with a developmental disability;

(6) a provider that is licensed by the commissioner of human services to provide home and community-based services under Minnesota Rules, parts 9525.2000 to 9525.2140 when providing home care services to a person with a developmental disability;

(7) a person or organization that provides only home management services, if the person or organization is registered under section 144A.461; or

(8) a person who is licensed as a social worker under sections 148B.18 to 148B.289 and who provides social work services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

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

Sec. 4. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 1a. **ADVANCED AIRWAY MANAGEMENT.** "Advanced airway management" means insertion of an endotracheal tube or creation of a surgical airway.

Sec. 5. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 1b. **ADVANCED LIFE SUPPORT.** "Advanced life support" means rendering basic life support and rendering intravenous therapy, drug therapy, intubation, and defibrillation as outlined in the United States Department of Transportation emergency medical technician-paramedic curriculum or its equivalent, as approved by the board.

Sec. 6. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 3a. **AMBULANCE SERVICE PERSONNEL.** "Ambulance service personnel" means individuals who are authorized by a licensed ambulance service to provide emergency care for the ambulance service and are:

(1) EMTs, EMT-Is, or EMT-Ps;

(2) Minnesota registered nurses who are: (i) EMTs, are currently practicing nursing, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis;  
or

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(3) Minnesota registered physician assistants who are: (i) EMTs, are currently practicing as physician assistants, and have passed a paramedic practical skills test, as approved by the board and administered by a training program approved by the board; (ii) on the roster of an ambulance service on or before January 1, 2000; or (iii) after petitioning the board, deemed by the board to have training and skills equivalent to an EMT, as determined on a case-by-case basis.

Sec. 7. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 4a. BASIC AIRWAY MANAGEMENT. "Basic airway management" means:

(1) resuscitation by mouth-to-mouth, mouth-to-mask, bag valve mask, or oxygen powered ventilators; or

(2) insertion of an oropharyngeal, nasal pharyngeal, esophageal obturator airway, esophageal tracheal airway, or esophageal gastric tube airway.

Sec. 8. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 4b. BASIC LIFE SUPPORT. "Basic life support" means rendering basic-level emergency care, including, but not limited to, basic airway management, cardiopulmonary resuscitation, controlling shock and bleeding, and splinting fractures, as outlined in the United States Department of Transportation emergency medical technician-basic curriculum or its equivalent, as approved by the board.

Sec. 9. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 5a. CLINICAL TRAINING SITE. "Clinical training site" means a licensed health care facility.

Sec. 10. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 5b. DEFIBRILLATOR. "Defibrillator" means an automatic, semiautomatic, or manual device that delivers an electric shock at a preset voltage to the myocardium through the chest wall and that is used to restore the normal cardiac rhythm and rate when the heart has stopped beating or is fibrillating.

Sec. 11. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 5c. EMERGENCY MEDICAL TECHNICIAN OR EMT. "Emergency medical technician" or "EMT" means a person who has successfully completed the United States Department of Transportation emergency medical technician-basic course or its equivalent, as approved by the board, and has been issued valid certification by the board.

Sec. 12. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 5d. EMERGENCY MEDICAL TECHNICIAN-INTERMEDIATE OR EMT-I. "Emergency medical technician-intermediate" or "EMT-I" means a person

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who has successfully completed the United States Department of Transportation emergency medical technician-intermediate course or its equivalent, as approved by the board, and has been issued valid certification by the board.

Sec. 13. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 5e. **EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC OR EMT-P.** “Emergency medical technician-paramedic” or “EMT-P” means a person who has successfully completed the United States Department of Transportation emergency medical technician course-paramedic or its equivalent, as approved by the board, and has been issued valid certification by the board.

Sec. 14. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 8a. **MEDICAL CONTROL.** “Medical control” means direction by a physician or a physician’s designee of out-of-hospital emergency medical care.

Sec. 15. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 9a. **PART-TIME ADVANCED LIFE SUPPORT.** “Part-time advanced life support” means rendering basic life support and advanced life support for less than 24 hours of every day.

Sec. 16. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 9b. **PHYSICIAN.** “Physician” means a person licensed to practice medicine under chapter 147.

Sec. 17. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 9c. **PHYSICIAN ASSISTANT.** “Physician assistant” means a person registered to practice as a physician assistant under chapter 147A.

Sec. 18. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 9d. **PREHOSPITAL CARE DATA.** “Prehospital care data” means information collected by ambulance service personnel about the circumstances related to an emergency response and patient care activities provided by the ambulance service personnel in a prehospital setting.

Sec. 19. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 11. **PROGRAM MEDICAL DIRECTOR.** “Program medical director” means a physician who is responsible for ensuring an accurate and thorough presentation of the medical content of an emergency care training program; certifying that each student has successfully completed the training course; and in conjunction with the program coordinator, planning the clinical training.

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Sec. 20. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 12. REGISTERED NURSE. "Registered nurse" means a person licensed to practice professional nursing under chapter 148.

Sec. 21. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 13. STANDING ORDER. "Standing order" means a type of medical protocol that provides specific, written orders for actions, techniques, or drug administration when communication has not been established for direct medical control.

Sec. 22. Minnesota Statutes 1998, section 144E.001, is amended by adding a subdivision to read:

Subd. 14. TRAINING PROGRAM COORDINATOR. "Training program coordinator" means an individual who serves as the administrator of an emergency care training program and who is responsible for planning, conducting, and evaluating the program; selecting students and instructors; documenting and maintaining records; developing a curriculum; and assisting in the coordination of examination sessions and clinical training.

Sec. 23. Minnesota Statutes 1998, section 144E.10, subdivision 1, is amended to read:

Subdivision 1. **LICENSE REQUIRED.** No natural person, partnership, association, corporation, or unit of government may operate an ambulance service within this state unless it possesses a valid license to do so issued by the board. The license shall specify the base of operations, the primary service area, and the type or types of ambulance service for which the licensee is licensed. The licensee shall obtain a new license if it wishes to expand its primary service area, or to provide a new type or types of service. The cost of licenses shall be in an amount prescribed by the board pursuant to section 144E.05. Licenses shall expire and be renewed in accordance with rules adopted by the board.

Sec. 24. **[144E.101] AMBULANCE SERVICE REQUIREMENTS.**

Subdivision 1. **PERSONNEL.** (a) No publicly or privately owned ambulance service shall be operated in the state unless its ambulance service personnel are certified, appropriate to the type of ambulance service being provided, according to section 144E.28 or meet the staffing criteria specific to the type of ambulance service.

(b) An ambulance service shall have a medical director as provided under section 144E.265.

Subd. 2. **PATIENT CARE.** When a patient is being transported, at least one of the ambulance service personnel must be in the patient compartment. If advanced life support procedures are required, an EMT-P, a registered nurse qualified under section 144E.001, subdivision 3a, clause (2), item (i), or a physician assistant qualified under section 144E.001, subdivision 3a, clause (3), item (i), shall be in the patient compartment.

Subd. 3. **CONTINUAL SERVICE.** An ambulance service shall offer service 24 hours per day every day of the year, unless otherwise authorized under subdivisions 8 and 9.

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**Subd. 4. DENIAL OF SERVICE PROHIBITED.** An ambulance service shall not deny prehospital care to a person needing emergency ambulance service because of inability to pay or because of the source of payment for services if the need develops within the licensee's primary service area or when responding to a mutual aid call. Transport for the patient may be limited to the closest appropriate emergency medical facility.

**Subd. 5. TYPES OF SERVICE.** The board shall regulate the following types of ambulance service:

- (1) basic life support;
- (2) advanced life support;
- (3) part-time advanced life support; and
- (4) specialized life support.

**Subd. 6. BASIC LIFE SUPPORT.** (a) A basic life support ambulance shall be staffed by at least two ambulance service personnel, at least one of which must be an EMT, who provide a level of care so as to ensure that:

- (1) life-threatening situations and potentially serious injuries are recognized;
- (2) patients are protected from additional hazards;
- (3) basic treatment to reduce the seriousness of emergency situations is administered; and

(4) patients are transported to an appropriate medical facility for treatment.

(b) A basic life support service shall provide basic airway management.

(c) By January 1, 2001, a basic life support service shall provide automatic defibrillation, as provided in section 144E.103, subdivision 1, paragraph (b).

(d) A basic life support service licensee's medical director may authorize the ambulance service personnel to carry and to use medical antishock trousers and to perform intravenous infusion if the ambulance service personnel have been properly trained.

**Subd. 7. ADVANCED LIFE SUPPORT.** (a) An advanced life support ambulance shall be staffed by at least:

- (1) one EMT and one EMT-P;
- (2) one EMT and one registered nurse who is an EMT, is currently practicing nursing, and has passed a paramedic practical skills test approved by the board and administered by a training program; or
- (3) one EMT and one physician assistant who is an EMT, is currently practicing as a physician assistant, and has passed a paramedic practical skills test approved by the board and administered by a training program.

(b) An advanced life support service shall provide basic life support, as specified under subdivision 6, paragraph (a), advanced airway management, manual defibrillation, and administration of intravenous fluids and pharmaceuticals.

(c) In addition to providing advanced life support, an advanced life support service may staff additional ambulances to provide basic life support according to subdivision 6.

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When routinely staffed and equipped as a basic life support service according to subdivision 6 and section 144E.103, subdivision 1, the vehicle shall not be marked as advanced life support.

(d) An ambulance service providing advanced life support shall have a written agreement with its medical director to ensure medical control for patient care 24 hours a day, seven days a week. The terms of the agreement shall include a written policy on the administration of medical control for the service. The policy shall address the following issues:

- (i) two-way communication for physician direction of ambulance service personnel;
- (ii) patient triage, treatment, and transport;
- (iii) use of standing orders; and
- (iv) the means by which medical control will be provided 24 hours a day.

The agreement shall be signed by the licensee's medical director and the licensee or the licensee's designee and maintained in the files of the licensee.

(e) When an ambulance service provides advanced life support, the authority of an EMT-P, Minnesota registered nurse-EMT, or Minnesota registered physician assistant-EMT to determine the delivery of patient care prevails over the authority of an EMT.

**Subd. 8. PART-TIME ADVANCED LIFE SUPPORT.** (a) A part-time advanced life support service shall meet the staffing requirements under subdivision 7, paragraph (a); provide service as required under subdivision 7, paragraph (b), for less than 24 hours every day; and meet the equipment requirements specified in section 144E.103.

(b) A part-time advanced life support service shall have a written agreement with its medical director to ensure medical control for patient care during the time the service offers advanced life support. The terms of the agreement shall include a written policy on the administration of medical control for the service and address the issues specified in subdivision 7, paragraph (d).

**Subd. 9. SPECIALIZED LIFE SUPPORT.** A specialized life support service shall provide basic or advanced life support as designated by the board, and shall be restricted by the board to:

- (1) operation less than 24 hours of every day;
- (2) designated segments of the population;
- (3) certain types of medical conditions; or
- (4) air ambulance service that includes fixed-wing and rotor-wing.

**Subd. 10. DRIVER.** A driver of an ambulance must possess a current driver's license issued by any state and must have attended an emergency vehicle driving course approved by the licensee. The emergency vehicle driving course must include actual driving experience.

**Subd. 11. PERSONNEL ROSTER AND FILES.** (a) An ambulance service shall maintain:

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- (1) at least two ambulance service personnel on a written on-call schedule;
- (2) a current roster of its ambulance service personnel, including the name, address, and qualifications of its ambulance service personnel; and
- (3) files documenting personnel qualifications.

(b) A licensee shall maintain in its files the name and address of its medical director and a written statement signed by the medical director indicating acceptance of the responsibilities specified in section 144E.265, subdivision 2.

Subd. 12. **MUTUAL AID AGREEMENT.** A licensee shall have a written agreement with at least one neighboring licensed ambulance service for coverage during times when the licensee's ambulances are not available for service in its primary service area. The agreement must specify the duties and responsibilities of the agreeing parties. A copy of each mutual aid agreement shall be maintained in the files of the licensee.

Subd. 13. **SERVICE OUTSIDE PRIMARY SERVICE AREA.** A licensee may provide its services outside of its primary service area only if requested by a transferring physician or ambulance service licensed to provide service in the primary service area when it can reasonably be expected that:

- (1) the response is required by the immediate medical need of an individual; and
- (2) the ambulance service licensed to provide service in the primary service area is unavailable for appropriate response.

Sec. 25. **[144E.103] EQUIPMENT.**

Subdivision 1. **GENERAL REQUIREMENTS.** (a) Every ambulance in service for patient care shall carry, at a minimum:

- (1) oxygen;
- (2) airway maintenance equipment in various sizes to accommodate all age groups;
- (3) splinting equipment in various sizes to accommodate all age groups;
- (4) dressings, bandages, and bandaging equipment;
- (5) an emergency obstetric kit;
- (6) equipment to determine vital signs in various sizes to accommodate all age groups;
- (7) a stretcher;
- (8) a defibrillator; and
- (9) a fire extinguisher.

(b) A basic life support service has until January 1, 2001, to equip each ambulance in service for patient care with a defibrillator.

Subd. 2. **ADVANCED LIFE SUPPORT REQUIREMENTS.** In addition to the requirements in subdivision 1, an ambulance used in providing advanced life support must carry drugs and drug administration equipment and supplies as approved by the licensee's medical director.

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Subd. 3. STORAGE. All equipment carried in an ambulance must be securely stored.

Subd. 4. SAFETY RESTRAINTS. An ambulance must be equipped with safety straps for the stretcher and seat belts in the patient compartment for the patient and ambulance personnel.

Sec. 26. Minnesota Statutes 1998, section 144E.11, is amended by adding a subdivision to read:

Subd. 9. RENEWAL REQUIREMENTS. An ambulance service license expires two years from the date of licensure. An ambulance service must apply to the board for license renewal at least one month prior to the expiration date of the license and must submit:

(1) an application prescribed by the board specifying any changes from the information provided for prior licensure and any other information requested by the board to clarify incomplete or ambiguous information presented in the application; and

(2) the appropriate fee as required under section 144E.29.

Sec. 27. **[144E.121] AIR AMBULANCE SERVICE REQUIREMENTS.**

Subdivision 1. AVIATION COMPLIANCE. An air ambulance service must comply with the regulations of the Federal Aviation Administration and the rules of the Minnesota department of transportation, aeronautics division.

Subd. 2. PERSONNEL. (a) With the exception of pilots, each of the air ambulance emergency medical personnel must:

(1) possess current certification, appropriate to the type of ambulance service being provided, according to section 144E.28, be a registered nurse, or be a physician assistant; and

(2) be trained to use the equipment on the air ambulance.

(b) Emergency medical personnel for an air ambulance service must receive training approved by the licensee's medical director that includes instruction in the physiological changes due to decreased atmospheric pressure, acceleration, vibration, and changes in altitude; medical conditions requiring special precautions; and contraindications to air transport.

(c) A licensee's medical director must sign and file a statement with the licensee that each of its emergency medical personnel has successfully completed the training under paragraph (b).

(d) A licensee shall retain documentation of compliance with this subdivision in its files.

Subd. 3. EQUIPMENT. An air ambulance must carry equipment appropriate to the level of service being provided. Equipment that is not permanently stored on or in an ambulance must be kept separate from the air ambulance in a modular prepackaged form.

Sec. 28. **[144E.123] PREHOSPITAL CARE DATA.**

Subdivision 1. COLLECTION AND MAINTENANCE. A licensee shall collect and provide prehospital care data to the board in a manner prescribed by the board. At a

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minimum, the data must include items identified by the board that are part of the National Uniform Emergency Medical Services Data Set. A licensee shall maintain prehospital care data for every response.

Subd. 2. COPY TO RECEIVING HOSPITAL. If a patient is transported to a hospital, a copy of the ambulance report delineating prehospital medical care given shall be provided to the receiving hospital.

Subd. 3. REVIEW. Prehospital care data may be reviewed by the board or its designees. The data shall be classified as private data on individuals under chapter 13, the Minnesota Government Data Practices Act.

Subd. 4. PENALTY. Failure to report all information required by the board under this section shall constitute grounds for license revocation.

**Sec. 29. [144E.125] OPERATIONAL PROCEDURES.**

A licensee shall establish and implement written procedures for responding to ambulance service complaints, maintaining ambulances and equipment, procuring and storing drugs, and controlling infection. The licensee shall maintain the procedures in its files.

**Sec. 30. [144E.127] INTERHOSPITAL TRANSFER.**

When transporting a patient from one licensed hospital to another, a licensee may substitute for one of the required ambulance service personnel, a physician, a registered nurse, or physician's assistant who has been trained to use the equipment in the ambulance and is knowledgeable of the licensee's ambulance service protocols.

Sec. 31. Minnesota Statutes 1998, section 144E.16, subdivision 4, is amended to read:

**Subd. 4. TYPES OF SERVICES TO BE REGULATED.** (a) The board may adopt rules needed to regulate ambulance services in the following areas:

- (1) applications for licensure;
- (2) personnel qualifications and staffing standards;
- (3) quality of life support treatment;
- (4) restricted treatments and procedures;
- (5) equipment standards;
- (6) ambulance standards;
- (7) communication standards, equipment performance and maintenance, and radio frequency assignments;
- (8) advertising;
- (9) scheduled ambulance services;
- (10) ambulance services in time of disaster;
- (11) basic, intermediate, advanced, and refresher emergency care course programs;

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- (12) continuing education requirements;
- (13) trip reports;
- (14) license fees, vehicle fees, and expiration dates; and
- (15) waivers and variances.

(b) These rules shall apply to the following types of ambulance service:

(1) basic ambulance service that provides a level of care to ensure that life-threatening situations and potentially serious injuries can be recognized, patients will be protected from additional hazards, basic treatment to reduce the seriousness of emergency situations will be administered, and patients will be transported to an appropriate medical facility for treatment;

(2) intermediate ambulance service that provides (i) basic ambulance service, and (ii) intravenous infusions or defibrillation or both;

(3) advanced ambulance service that provides (i) basic ambulance service, and (ii) advanced airway management, defibrillation, and administration of intravenous fluids and pharmaceuticals. Vehicles of advanced ambulance service licensees not equipped or staffed at the advanced ambulance service level shall not be identified to the public as capable of providing advanced ambulance service;

(4) specialized ambulance service that provides basic, intermediate, or advanced service as designated by the board, and is restricted by the board to (i) less than 24 hours of every day, (ii) designated segments of the population, or (iii) certain types of medical conditions; and

(5) air ambulance service, that includes fixed-wing and helicopter, and is specialized ambulance service.

Until rules are promulgated, the current provisions of Minnesota Rules shall govern these services.

Sec. 32. Minnesota Statutes 1998, section 144E.18, is amended to read:

#### 144E.18 INSPECTIONS.

The board may inspect ambulance services as frequently as deemed necessary to determine whether an ambulance service is in compliance with sections 144E.001 to 144E.33 and rules adopted under those sections. These inspections shall be for the purpose of determining whether the ambulance and equipment is clean and in proper working order and whether the operator is in compliance with sections 144E.001 to 144E.16 and any rules that the board adopts related to sections 144E.001 to 144E.16. The board may review at any time documentation required to be on file with a licensee.

#### Sec. 33. [144E.19] DISCIPLINARY ACTION.

Subdivision 1. SUSPENSION; REVOCATION; NONRENEWAL. The board may suspend, revoke, refuse to renew, or place conditions on the license of a licensee upon finding that the licensee has violated a provision of this chapter or rules adopted under this chapter or has ceased to provide the service for which the licensee is licensed.

Subd. 2. NOTICE; CONTESTED CASE. (a) Before taking action under subdivision 1, the board shall give notice to a licensee of the right to a contested case hearing

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under chapter 14. If a licensee requests a contested case hearing within 30 days after receiving notice, the board shall initiate a contested case hearing according to chapter 14.

(b) The administrative law judge shall issue a report and recommendation within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

Subd. 3. TEMPORARY SUSPENSION. (a) In addition to any other remedy provided by law, the board may temporarily suspend the license of a licensee after conducting a preliminary inquiry to determine whether the board believes that the licensee has violated a statute or rule that the board is empowered to enforce and determining that the continued provision of service by the licensee would create an imminent risk to public health or harm to others.

(b) A temporary suspension order prohibiting a licensee from providing ambulance service shall give notice of the right to a preliminary hearing according to paragraph (d) and shall state the reasons for the entry of the temporary suspension order.

(c) Service of a temporary suspension order is effective when the order is served on the licensee personally or by certified mail, which is complete upon receipt, refusal, or return for nondelivery to the most recent address provided to the board for the licensee.

(d) At the time the board issues a temporary suspension order, the board shall schedule a hearing, to be held before a group of its members designated by the board, that shall begin within 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for a hearing from a licensee, whichever is sooner. The hearing shall be on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. A hearing under this paragraph is not subject to chapter 14.

(e) Evidence presented by the board or licensee may be in the form of an affidavit. The licensee or the licensee's designee may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, notify the licensee of the right to a contested case hearing under chapter 14.

(g) If a licensee requests a contested case hearing within 30 days after receiving notice under paragraph (f), the board shall initiate a contested case hearing according to chapter 14. The administrative law judge shall issue a report and recommendation within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

#### Sec. 34. [144E.265] MEDICAL DIRECTOR.

Subdivision 1. REQUIREMENTS. A medical director shall:

- (1) be currently licensed as a physician in this state;
- (2) have experience in, and knowledge of, emergency care of acutely ill or traumatized patients; and
- (3) be familiar with the design and operation of local, regional, and state emergency medical service systems.

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Subd. 2. **RESPONSIBILITIES.** Responsibilities of the medical director shall include, but are not limited to:

- (1) approving standards for training and orientation of personnel that impact patient care;
- (2) approving standards for purchasing equipment and supplies that impact patient care;
- (3) establishing standing orders for prehospital care;
- (4) approving triage, treatment, and transportation protocols;
- (5) participating in the development and operation of continuous quality improvement programs including, but not limited to, case review and resolution of patient complaints;
- (6) establishing procedures for the administration of drugs; and
- (7) maintaining the quality of care according to the standards and procedures established under clauses (1) to (6).

Subd. 3. **ANNUAL ASSESSMENT; AMBULANCE SERVICE.** Annually, the medical director or the medical director's designee shall assess the practical skills of each person on the ambulance service roster and sign a statement verifying the proficiency of each person. The statements shall be maintained in the licensee's files.

Sec. 35. Minnesota Statutes 1998, section 144E.27, is amended by adding a subdivision to read:

Subd. 5. **DENIAL, SUSPENSION, REVOCATION.** (a) The board may deny, suspend, revoke, place conditions on, or refuse to renew the registration of an individual who the board determines:

- (1) violates sections 144E.001 to 144E.33 or the rules adopted under those sections;
  - (2) misrepresents or falsifies information on an application form for registration;
  - (3) is convicted or pleads guilty or nolo contendere to any felony; any gross misdemeanor relating to assault, sexual misconduct, or the illegal use of drugs or alcohol; or any misdemeanor relating to sexual misconduct or the illegal use of drugs or alcohol;
  - (4) is actually or potentially unable to provide emergency medical services with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition;
  - (5) engages in unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of the public; or
  - (6) maltreats or abandons a patient.
- (b) Before taking action under paragraph (a), the board shall give notice to an individual of the right to a contested case hearing under chapter 14. If an individual requests a contested case hearing within 30 days after receiving notice, the board shall initiate a contested case hearing according to chapter 14.

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(c) The administrative law judge shall issue a report and recommendation within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

(d) After six months from the board's decision to deny, revoke, place conditions on, or refuse renewal of an individual's registration for disciplinary action, the individual shall have the opportunity to apply to the board for reinstatement.

Sec. 36. Minnesota Statutes 1998, section 144E.27, is amended by adding a subdivision to read:

Subd. 6. TEMPORARY SUSPENSION. (a) In addition to any other remedy provided by law, the board may temporarily suspend the registration of an individual after conducting a preliminary inquiry to determine whether the board believes that the individual has violated a statute or rule that the board is empowered to enforce and determining that the continued provision of service by the individual would create an imminent risk to public health or harm to others.

(b) A temporary suspension order prohibiting an individual from providing emergency medical care shall give notice of the right to a preliminary hearing according to paragraph (d) and shall state the reasons for the entry of the temporary suspension order.

(c) Service of a temporary suspension order is effective when the order is served on the individual personally or by certified mail, which is complete upon receipt, refusal, or return for nondelivery to the most recent address provided to the board for the individual.

(d) At the time the board issues a temporary suspension order, the board shall schedule a hearing, to be held before a group of its members designated by the board, that shall begin within 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for a hearing from the individual, whichever is sooner. The hearing shall be on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. A hearing under this paragraph is not subject to chapter 14.

(e) Evidence presented by the board or the individual may be in the form of an affidavit. The individual or the individual's designee may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, notify the individual of the right to a contested case hearing under chapter 14.

(g) If an individual requests a contested case hearing within 30 days after receiving notice under paragraph (f), the board shall initiate a contested case hearing according to chapter 14. The administrative law judge shall issue a report and recommendation within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

**Sec. 37. [144E.28] CERTIFICATION OF EMT, EMT-I, AND EMT-P.**

Subdivision 1. REQUIREMENTS. To be eligible for certification by the board as an EMT, EMT-I, or EMT-P, an individual shall:

(1) successfully complete the United States Department of Transportation course, or its equivalent as approved by the board, specific to the EMT, EMT-I, or EMT-P classification; and

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(2) pass the written and practical examinations approved by the board and administered by the board or its designee, specific to the EMT, EMT-I, or EMT-P classification.

Subd. 2. EXPIRATION DATES. Certification expiration dates are as follows:

(1) for initial certification granted between January 1 and June 30 of an even-numbered year, the expiration date is March 31 of the next even-numbered year;

(2) for initial certification granted between July 1 and December 31 of an even-numbered year, the expiration date is March 31 of the second odd-numbered year;

(3) for initial certification granted between January 1 and June 30 of an odd-numbered year, the expiration date is March 31 of the next odd-numbered year; and

(4) for initial certification granted between July 1 and December 31 of an odd-numbered year, the expiration date is March 31 of the second even-numbered year.

Subd. 3. RECIPROCITY. The board may certify an individual who possesses a current National Registry of Emergency Medical Technicians registration from another jurisdiction. The board certification classification shall be the same as the National Registry's classification. Certification shall be for the duration of the applicant's registration period in another jurisdiction, not to exceed two years.

Subd. 4. FORMS OF DISCIPLINARY ACTION. When the board finds that a person certified under this section has violated a provision or provisions of subdivision 5, it may do one or more of the following:

(1) revoke the certification;

(2) suspend the certification;

(3) refuse to renew the certification;

(4) impose limitations or conditions on the person's performance of regulated duties, including the imposition of retraining or rehabilitation requirements; the requirement to work under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;

(5) order the person to provide unremunerated professional service under supervision at a designated public hospital, clinic, or other health care institution; or

(6) censure or reprimand the person.

Subd. 5. DENIAL, SUSPENSION, REVOCATION. (a) The board may take any action authorized in subdivision 4 against an individual who the board determines:

(1) violates sections 144E.001 to 144E.33 or the rules adopted under those sections;

(2) misrepresents or falsifies information on an application form for certification;

(3) is convicted or pleads guilty or nolo contendere to any felony; any gross misdemeanor relating to assault, sexual misconduct, or the illegal use of drugs or alcohol; or any misdemeanor relating to sexual misconduct or the illegal use of drugs or alcohol;

(4) is actually or potentially unable to provide emergency medical services with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition;

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(5) engages in unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public or demonstrating a willful or careless disregard for the health, welfare, or safety of the public; or

(6) maltreats or abandons a patient.

(b) Before taking action under paragraph (a), the board shall give notice to an individual of the right to a contested case hearing under chapter 14. If an individual requests a contested case hearing within 30 days after receiving notice, the board shall initiate a contested case hearing according to chapter 14 and no disciplinary action shall be taken at that time.

(c) The administrative law judge shall issue a report and recommendation within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

(d) After six months from the board's decision to deny, revoke, place conditions on, or refuse renewal of an individual's certification for disciplinary action, the individual shall have the opportunity to apply to the board for reinstatement.

**Subd. 6. TEMPORARY SUSPENSION.** (a) In addition to any other remedy provided by law, the board may temporarily suspend the certification of an individual after conducting a preliminary inquiry to determine whether the board believes that the individual has violated a statute or rule that the board is empowered to enforce and determining that the continued provision of service by the individual would create an imminent risk to public health or harm to others.

(b) A temporary suspension order prohibiting an individual from providing emergency medical care shall give notice of the right to a preliminary hearing according to paragraph (d) and shall state the reasons for the entry of the temporary suspension order.

(c) Service of a temporary suspension order is effective when the order is served on the individual personally or by certified mail, which is complete upon receipt, refusal, or return for nondelivery to the most recent address provided to the board for the individual.

(d) At the time the board issues a temporary suspension order, the board shall schedule a hearing, to be held before a group of its members designated by the board, that shall begin within 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for a hearing from the individual, whichever is sooner. The hearing shall be on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. A hearing under this paragraph is not subject to chapter 14.

(e) Evidence presented by the board or the individual may be in the form of an affidavit. The individual or individual's designee may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, notify the individual of the right to a contested case hearing under chapter 14.

(g) If an individual requests a contested case hearing within 30 days of receiving notice under paragraph (f), the board shall initiate a contested case hearing according to chapter 14. The administrative law judge shall issue a report and recommendation within

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30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

Subd. 7. RENEWAL. (a) Before the expiration date of certification, an applicant for renewal of certification as an EMT shall:

(1) successfully complete a course in cardiopulmonary resuscitation that is approved by the board or the licensee's medical director; and

(2) take the United States Department of Transportation EMT refresher course and successfully pass the practical skills test portion of the course, or successfully complete 48 hours of continuing education in EMT programs that are consistent with the United States Department of Transportation National Standard Curriculum or its equivalent as approved by the board or as approved by the licensee's medical director and pass a practical skills test approved by the board and administered by a training program approved by the board. Twenty-four of the 48 hours must include at least four hours of instruction in each of the following six categories:

(i) airway management and resuscitation procedures;

(ii) circulation, bleeding control, and shock;

(iii) human anatomy and physiology, patient assessment, and medical emergencies;

(iv) injuries involving musculoskeletal, nervous, digestive, and genito-urinary systems;

(v) environmental emergencies and rescue techniques; and

(vi) emergency childbirth and other special situations.

(b) Before the expiration date of certification, an applicant for renewal of certification as an EMT-I or EMT-P shall:

(1) for an EMT-I, successfully complete a course in cardiopulmonary resuscitation that is approved by the board or the licensee's medical director and for an EMT-P, successfully complete a course in advanced cardiac life support that is approved by the board or the licensee's medical director; and

(2) successfully complete 48 hours of continuing education in emergency medical training programs, appropriate to the level of the applicant's EMT-I or EMT-P certification, that are consistent with the United States Department of Transportation National Standard Curriculum or its equivalent as approved by the board or as approved by the licensee's medical director. An applicant may take the United States Department of Transportation Emergency Medical Technician refresher course or its equivalent without the written or practical test as approved by the board, and as appropriate to the applicant's level of certification, as part of the 48 hours of continuing education. Each hour of the refresher course counts toward the 48-hour continuing education requirement.

(c) Certification shall be renewed every two years.

(d) If the applicant does not meet the renewal requirements under this subdivision, the applicant's certification expires.

Subd. 8. REINSTATEMENT. (a) Within four years of a certification expiration date, a person whose certification has expired under subdivision 7, paragraph (d), may

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have the certification reinstated upon submission of evidence to the board of training equivalent to the continuing education requirements of subdivision 7.

(b) If more than four years have passed since a certificate expiration date, an applicant must complete the initial certification process required under subdivision 1.

**Sec. 38. [144E.283] EMT INSTRUCTOR QUALIFICATIONS.**

An emergency medical technician instructor must:

(1) possess valid certification, registration, or licensure as an EMT, EMT-1, EMT-P, physician, physician's assistant, or registered nurse;

(2) have two years of active emergency medical practical experience;

(3) be recommended by a medical director of a licensed hospital, ambulance service, or training program approved by the board; and

(4) successfully complete the United States Department of Transportation Emergency Medical Services Instructor Training Program or its equivalent as approved by the board.

**Sec. 39. [144E.285] TRAINING PROGRAMS.**

Subdivision 1. APPROVAL REQUIRED. (a) All training programs for an EMT, EMT-1, or EMT-P must be approved by the board.

(b) To be approved by the board, a training program must:

(1) submit an application prescribed by the board that includes:

(i) type and length of course to be offered;

(ii) names, addresses, and qualifications of the program medical director, program training coordinator, and certified instructors;

(iii) names and addresses of clinical sites, including a contact person and telephone number;

(iv) admission criteria for students; and

(v) materials and equipment to be used;

(2) for each course, implement the most current version of the United States Department of Transportation curriculum or its equivalent as determined by the board applicable to EMT, EMT-1, or EMT-P training;

(3) have a program medical director and a program coordinator;

(4) utilize instructors who meet the requirements of section 144E.283 for teaching at least 50 percent of the course content. The remaining 50 percent of the course may be taught by guest lecturers approved by the training program coordinator or medical director;

(5) have at least one instructor for every ten students at the practical skill stations;

(6) maintain a written agreement with a licensed hospital or licensed ambulance service designating a clinical training site;

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(7) retain documentation of program approval by the board, course outline, and student information;

(8) notify the board of the starting date of a course prior to the beginning of a course;  
and

(9) submit the appropriate fee as required under section 144E.29.

**Subd. 2. EMT-P REQUIREMENTS.** (a) In addition to the requirements under subdivision 1, paragraph (b), a training program applying for approval to teach EMT-P curriculum must be administered by an educational institution accredited by the Commission of Accreditation of Allied Health Education Programs (CAAHEP).

(b) An EMT-P training program that is administered by an educational institution not accredited by CAAHEP, but that is in the process of completing the accreditation process, may be granted provisional approval by the board upon verification of submission of its self-study report and the appropriate review fee to CAAHEP.

(c) An educational institution that discontinues its participation in the accreditation process must notify the board immediately and provisional approval shall be withdrawn.

**Subd. 3. EXPIRATION.** Training program approval shall expire two years from the date of approval.

**Subd. 4. REAPPROVAL.** A training program shall apply to the board for reapproval at least three months prior to the expiration date of its approval and must:

(1) submit an application prescribed by the board specifying any changes from the information provided for prior approval and any other information requested by the board to clarify incomplete or ambiguous information presented in the application; and

(2) comply with the requirements under subdivision 1, paragraph (b), clauses (2) to (8).

**Subd. 5. DISCIPLINARY ACTION.** (a) The board may deny, suspend, revoke, place conditions on, or refuse to renew approval of a training program that the board determines:

(1) violated subdivisions 1 to 4 or rules adopted under sections 144E.001 to 144E.33; or

(2) misrepresented or falsified information on an application form provided by the board.

(b) Before taking action under paragraph (a), the board shall give notice to a training program of the right to a contested case hearing under chapter 14. If a training program requests a contested case hearing within 30 days after receiving notice, the board shall initiate a contested case hearing according to chapter 14.

(c) The administrative law judge shall issue a report and recommendation within 30 days after closing the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

(d) After six months from the board's decision to deny, revoke, place conditions on, or refuse approval of a training program for disciplinary action, the training program shall have the opportunity to apply to the board for reapproval.

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Subd. 6. **TEMPORARY SUSPENSION.** (a) In addition to any other remedy provided by law, the board may temporarily suspend approval of the training program after conducting a preliminary inquiry to determine whether the board believes that the training program has violated a statute or rule that the board is empowered to enforce and determining that the continued provision of service by the training program would create an imminent risk to public health or harm to others.

(b) A temporary suspension order prohibiting the training program from providing emergency medical care training shall give notice of the right to a preliminary hearing according to paragraph (d) and shall state the reasons for the entry of the temporary suspension order.

(c) Service of a temporary suspension order is effective when the order is served on the training program personally or by certified mail, which is complete upon receipt, refusal, or return for nondelivery to the most recent address provided to the board for the training program.

(d) At the time the board issues a temporary suspension order, the board shall schedule a hearing, to be held before a group of its members designated by the board, that shall begin within 60 days after issuance of the temporary suspension order or within 15 working days of the date of the board's receipt of a request for a hearing from the training program, whichever is sooner. The hearing shall be on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. A hearing under this paragraph is not subject to chapter 14.

(e) Evidence presented by the board or the individual may be in the form of an affidavit. The training program or counsel of record may appear for oral argument.

(f) Within five working days of the hearing, the board shall issue its order and, if the suspension is continued, notify the training program of the right to a contested case hearing under chapter 14.

(g) If a training program requests a contested case hearing within 30 days of receiving notice under paragraph (f), the board shall initiate a contested case hearing according to chapter 14. The administrative law judge shall issue a report and recommendation within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of the administrative law judge's report.

Subd. 7. **AUDIT.** The board may audit training programs approved by the board. The audit may include, but is not limited to, investigation of complaints, course inspection, classroom observation, review of instructor qualifications, and student interviews.

**Sec. 40. [144E.286] EXAMINER QUALIFICATIONS FOR EMERGENCY MEDICAL TECHNICIAN TESTING.**

Subdivision 1. **EMT TESTING.** An examiner testing basic level EMT practical skills must:

- (1) be certified as an EMT, EMT-I, or EMT-P;
- (2) have two years or 4,000 hours' experience in emergency medical care;
- (3) be certified in basic cardiac life support; and

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(4) be approved by the board.

**Subd. 2. EMT-I OR EMT-P TESTING.** (a) An examiner testing EMT-I or EMT-P level practical skills must be approved by the board and:

(1) be a physician or registered nurse; or

(2) be a certified EMT-P, have two years or 4,000 hours' experience in emergency medical care and be certified in basic cardiac life support.

(b) A physician must be available to answer questions relating to the evaluation of skill performance at the practical examination.

**Sec. 41. [144E.29] FEES.**

(a) The board shall charge the following fees:

(1) initial application for and renewal of an ambulance service license, \$150;

(2) each ambulance operated by a licensee, \$96. The licensee shall pay an additional \$96 fee for the full licensing period or \$8 per month for any fraction of the period for each ambulance added to the ambulance service during the licensing period;

(3) initial application for and renewal of approval for a training program, \$100; and

(4) duplicate of an original license, certification, or approval, \$25.

(b) With the exception of paragraph (a), clause (5), all fees are for a two-year period. All fees are nonrefundable.

(c) Fees collected by the board shall be deposited as nondedicated receipts in the trunk highway fund.

**Sec. 42. [144E.305] REPORTING MISCONDUCT.**

**Subdivision 1. VOLUNTARY REPORTING.** A person who has knowledge of any conduct constituting grounds for discipline under section 144E.27, subdivision 5, or 144E.28, subdivision 4, may report the alleged violation to the board.

**Subd. 2. MANDATORY REPORTING.** (a) A licensee shall report to the board conduct by a first responder, EMT, EMT-I, or EMT-P that they reasonably believe constitutes grounds for disciplinary action under section 144E.27, subdivision 5, or 144E.28, subdivision 4.

(b) A licensee shall report to the board any dismissal from employment of a first responder, EMT, EMT-I, or EMT-P. A licensee shall report the resignation of a first responder, EMT, EMT-I, or EMT-P before the conclusion of any disciplinary proceeding or before commencement of formal charges but after the first responder, EMT, EMT-I, or EMT-P has knowledge that formal charges are contemplated or in preparation.

**Subd. 3. IMMUNITY.** (a) An individual, licensee, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting in good faith a report to the board under subdivision 1 or 2 or for otherwise reporting in good faith to the board violations or alleged violations of sections 144E.001 to 144E.33. Reports are classified as confidential data on individuals or protected nonpublic data under section 13.02 while an investigation is active. Except for the board's final determination, all com-

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munications or information received by or disclosed to the board relating to disciplinary matters of any person or entity subject to the board's regulatory jurisdiction are confidential and privileged and any disciplinary hearing shall be closed to the public.

(b) Members of the board, persons employed by the board, persons engaged in the investigation of violations and in the preparation and management of charges of violations of sections 144E.001 to 144E.33 on behalf of the board, and persons participating in the investigation regarding charges of violations are immune from civil liability and criminal prosecution for any actions, transactions, or publications, made in good faith, in the execution of, or relating to, their duties under sections 144E.001 to 144E.33.

(c) For purposes of this section, a member of the board is considered a state employee under section 3.736, subdivision 9.

#### Sec. 43. [144E.31] CORRECTION ORDER AND FINES.

Subdivision 1. CORRECTION ORDER. (a) If the board finds that a licensee or training program has failed to comply with an applicable law or rule and the violation does not imminently endanger the public's health or safety, the board may issue a correction order to the licensee or training program.

(b) The correction order shall 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 the violation.

Subd. 2. RECONSIDERATION. (a) If the licensee or training program believes that the contents of the board's correction order are in error, the licensee or training program may ask the board to reconsider the parts of the correction order that are alleged to be in error.

(b) The request for reconsideration must:

- (1) be in writing;
- (2) be delivered by certified mail;
- (3) specify the parts of the correction order that are alleged to be in error;
- (4) explain why they are in error; and
- (5) include documentation to support the allegation of error.

(c) A request for reconsideration does not stay any provision or requirement of the correction order. The board's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Subd. 3. FINE. (a) The board may order a fine concurrently with the issuance of a correction order, or after the licensee or training program has not corrected the violation within the time specified in the correction order.

(b) A licensee or training program that is ordered to pay a fine shall be notified of the order by certified mail. The notice shall be mailed to the address shown on the application

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or the last known address of the licensee or training program. The notice shall state the reasons the fine was ordered and shall inform the licensee or training program of the right to a contested case hearing under chapter 14.

(c) A licensee or training program may appeal the order to pay a fine by notifying the board by certified mail within 15 calendar days after receiving the order. A timely appeal shall stay payment of the fine until the board issues a final order.

(d) A licensee or training program shall pay the fine assessed on or before the payment date specified in the board's order. If a licensee or training program fails to fully comply with the order, the board shall suspend the license or cancel approval until there is full compliance with the order.

(e) Fines shall be assessed as follows:

(1) \$150 for violation of section 144E.123;

(2) \$400 for violation of sections 144E.06, 144E.07, 144E.101, 144E.103, 144E.121, 144E.125, 144E.265, 144E.285, and 144E.305;

(3) \$750 for violation of rules adopted under section 144E.16, subdivision 4, clause (8); and

(4) \$50 for violation of all other sections under this chapter or rules adopted under this chapter that are not specifically enumerated in clauses (1) to (3).

(f) Fines collected by the board shall be deposited as nondedicated receipts in the trunk highway fund.

Subd. 4. **ADDITIONAL PENALTIES.** This section does not prohibit the board from suspending, revoking, placing conditions on, or refusing to renew a licensee's license or a training program's approval in addition to ordering a fine.

**Sec. 44. [144E.33] PENALTY.**

A person who violates a provision of sections 144E.001 to 144E.33 is guilty of a misdemeanor.

**Sec. 45. [144E.37] COMPREHENSIVE ADVANCED LIFE SUPPORT.**

The board shall establish a comprehensive advanced life support educational program to train rural medical personnel, including physicians, physician assistants, nurses, and allied health care providers, in a team approach to anticipate, recognize, and treat life-threatening emergencies before serious injury or cardiac arrest occurs.

Sec. 46. Minnesota Statutes 1998, section 144E.50, is amended by adding a subdivision to read:

Subd. 6. **AUDITS.** (a) Each regional emergency medical services board designated by the emergency medical services regulatory board shall be audited biennially by an independent auditor who is either a state or local government auditor or a certified public accountant who meets the independence standards specified by the General Accounting Office for audits of governmental organizations, programs, activities, and functions. The audit shall cover all funds received by the regional board, including but not limited to, funds appropriated under this section, section 144E.52, and section 169.686, subdivision 3. Expenses associated with the audit are the responsibility of the regional board.

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(b) The audit specified in paragraph (a) shall be performed within 60 days following the close of the biennium. Copies of the audit and any accompanying materials shall be filed by October 1 of each odd-numbered year, beginning in 1999, with the emergency medical services regulatory board, the legislative auditor, and the state auditor.

(c) If the audit is not conducted as required in paragraph (a) or copies filed as required in paragraph (b), or if the audit determines that funds were not spent in accordance with this chapter, the emergency medical services regulatory board shall immediately reduce funding to the regional emergency medical services board as follows:

(1) if an audit was not conducted or if an audit was conducted but copies were not provided as required, funding shall be reduced by 100 percent; and

(2) if an audit was conducted and copies provided, and the audit identifies expenditures made that are not in compliance with this chapter, funding shall be reduced by the amount in question plus ten percent.

A funding reduction under this paragraph is effective for the fiscal year in which the reduction is taken and the following fiscal year.

(d) The emergency medical services regulatory board shall distribute any funds withheld from a regional board under paragraph (c) to the remaining regional boards on a pro rata basis.

Sec. 47. Minnesota Statutes 1998, section 145A.02, subdivision 10, is amended to read:

Subd. 10. **EMERGENCY MEDICAL CARE.** "Emergency medical care" means activities intended to protect the health of persons suffering a medical emergency and to ensure rapid and effective emergency medical treatment. These activities include the coordination or provision of training, cooperation with public safety agencies, communications, life-support transportation as defined under section 144E.16 sections 144E.06 to 144E.19, public information and involvement, and system management.

Sec. 48. Minnesota Statutes 1998, section 148.66, is amended to read:

**148.66 STATE BOARD OF MEDICAL PRACTICE PHYSICAL THERAPY, DUTIES.**

The state board of medical practice, as now or hereafter constituted, hereinafter termed "the board," in the manner hereinafter provided, physical therapy established under section 148.67 shall administer the provisions of this law sections 148.65 to 148.78. As used in sections 148.65 to 148.78, "board" means the state board of physical therapy.

The board shall:

- (1) adopt rules necessary to administer and enforce sections 148.65 to 148.78;
- (2) administer, coordinate, and enforce sections 148.65 to 148.78;
- (3) evaluate the qualifications of applicants;
- (4) issue subpoenas, examine witnesses, and administer oaths;
- (5) conduct hearings and keep records and minutes necessary to the orderly administration of sections 148.65 to 148.78;

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(6) investigate persons engaging in practices that violate sections 148.65 to 148.78;  
and

(7) adopt rules under chapter 14 prescribing a code of ethics for licensees.

Sec. 49. Minnesota Statutes 1998, section 148.67, is amended to read:

**148.67 STATE BOARD OF PHYSICAL THERAPY COUNCIL; MEMBERSHIP APPOINTMENTS, VACANCIES, REMOVALS.**

Subdivision 1. BOARD OF PHYSICAL THERAPY APPOINTED. The board of medical practice shall ~~governor shall~~ appoint a state board of physical therapy council in carrying out the provisions of this law to administer sections 148.65 to 148.78, regarding the qualifications and examination of physical therapists. The council board shall consist of seven nine members, citizens and residents of the state of Minnesota, composed of three four physical therapists, two one licensed and registered doctors doctor of medicine and surgery, one being a professor or associate or assistant professor from a program in physical therapy approved by the board of medical practice, one aide or assistant to a physical therapist and one public member. The council shall expire, and the terms, compensation and removal of members shall be as provided in section 15.059, one physical therapy assistant and three public members. The four physical therapist members must be licensed physical therapists in this state. Each of the four physical therapist members must have at least five years' experience in physical therapy practice, physical therapy administration, or physical therapy education. The five years' experience must immediately precede appointment. Membership terms, compensation of members, removal of members, filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214. Each member of the board shall file with the secretary of state the constitutional oath of office before beginning the term of office.

Subd. 2. RECOMMENDATIONS FOR APPOINTMENT. Prior to the end of the term of a member of the board, or within 60 days after a position on the board becomes vacant, the Minnesota Chapter of the American Physical Therapy Association and other interested persons and organizations may recommend to the governor members qualified to serve on the board. The governor may appoint members to the board from the list of persons recommended or from among other qualified candidates.

**Sec. 50. [148.691] OFFICERS; EXECUTIVE DIRECTOR.**

Subdivision 1. OFFICERS OF THE BOARD. The board shall elect from its members a president, a vice-president, and a secretary-treasurer. Each shall serve for one year or until a successor is elected and qualifies. The board shall appoint and employ an executive secretary. A majority of the board, including one officer, constitutes a quorum at a meeting.

Subd. 2. BOARD AUTHORITY TO HIRE. The board may employ persons needed to carry out its work.

Subd. 3. DISCLOSURE. Subject to the exceptions listed in this subdivision, all communications or information received by or disclosed to the board relating to any person or matter subject to its regulatory jurisdiction are confidential and privileged and any disciplinary hearing shall be closed to the public.

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(a) Upon application of a party in a proceeding before the board, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with the provisions of rule 34, Minnesota Rules of Civil Procedure.

(b) If the board imposes disciplinary measures of any kind, whether by contested case or by settlement agreement, the name and business address of the licensee, the nature of the misconduct, and the action taken by the board are public data. If disciplinary action is taken by settlement agreement, the entire agreement is public data. The board shall decide disciplinary matters, whether by settlement or by contested case, by roll call vote. The votes are public data.

(c) The board shall exchange information with other licensing boards, agencies, or departments within the state, as required under section 214.10, subdivision 8, paragraph (d), and may release information in the reports required under section 214.10, subdivision 8, paragraph (b).

(d) The board shall upon request furnish to a person who made a complaint, a description of the activities and actions of the board relating to that complaint, a summary of the results of an investigation of that complaint, and the reasons for actions taken by the board.

Sec. 51. Minnesota Statutes 1998, section 148.70, is amended to read:

#### 148.70 APPLICANTS, QUALIFICATIONS.

~~It shall be the duty of~~ The board of medical practice with the advice and assistance of the physical therapy council to pass upon physical therapy must:

(1) establish the qualifications of applicants for registration, licensing and continuing education requirements for reregistration, relicensing;

(2) provide for and conduct all examinations following satisfactory completion of all didactic requirements;

(3) determine the applicants who successfully pass the examination; and

(4) duly register such applicants license an applicant after the applicant has presented evidence satisfactory to the board that the applicant has completed a an accredited physical therapy educational program of education or continuing education approved by the board.

The passing score for examinations taken after July 1, 1995, shall be based on objective, numerical standards, as established by a nationally recognized board approved testing service.

Sec. 52. Minnesota Statutes 1998, section 148.705, is amended to read:

#### 148.705 APPLICATION.

An applicant for ~~registration~~ licensing as a physical therapist shall file a written application on forms provided by the board together with a fee in the amount set by the board, ~~no portion of which shall be returned. No portion of the fee is refundable.~~

An approved program for physical therapists shall include the following:

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(a) (1) a minimum of 60 academic semester credits or its equivalent from an accredited college, including courses in the biological and physical sciences; and

(b) (2) an accredited course in physical therapy education which has provided adequate instruction in the basic sciences, clinical sciences, and physical therapy theory and procedures, as determined by the board. In determining whether or not a course in physical therapy is approved, the board may take into consideration the accreditation of such schools by the appropriate council of the American Medical Association, the American Physical Therapy Association, or the Canadian Medical Association.

Sec. 53. Minnesota Statutes 1998, section 148.71, is amended to read:

148.71 **REGISTRATION LICENSING.**

Subdivision 1. **QUALIFIED APPLICANT.** The state board of medical practice physical therapy shall register license as a physical therapist and shall furnish a certificate of registration license to each an applicant who successfully passes an examination provided for in sections 148.65 to 148.78 for registration licensing as a physical therapist and who is otherwise qualified as required herein in sections 148.65 to 148.78.

Subd. 2. **TEMPORARY PERMIT.** (a) The board may, upon payment of a fee set by the board, issue a temporary permit to practice physical therapy under supervision to a physical therapist who is a graduate of an approved school of physical therapy and qualified for admission to examination for registration licensing as a physical therapist. A temporary permit to practice physical therapy under supervision may be issued only once and cannot be renewed. It expires 90 days after the next examination for registration licensing given by the board or on the date on which the board, after examination of the applicant, grants or denies the applicant a registration license to practice, whichever occurs first. A temporary permit expires on the first day the board begins its next examination for registration license after the permit is issued if the holder does not submit to examination on that date. The holder of a temporary permit to practice physical therapy under supervision may practice physical therapy as defined in section 148.65 if the entire practice is under the supervision of a person holding a valid registration license to practice physical therapy in this state. The supervision shall be direct, immediate, and on premises.

(b) A physical therapist from another state who is licensed or otherwise registered in good standing as a physical therapist by that state and meets the requirements for registration licensing under section 148.72 does not require supervision to practice physical therapy while holding a temporary permit in this state. The temporary permit remains valid only until the meeting of the board at which the application for registration licensing is considered.

Subd. 3. **FOREIGN-TRAINED PHYSICAL THERAPISTS; TEMPORARY PERMITS.** (a) The board of medical practice may issue a temporary permit to a foreign-trained physical therapist who:

(1) is enrolled in a supervised physical therapy traineeship that meets the requirements under paragraph (b);

(2) has completed a physical therapy education program equivalent to that under section 148.705 and Minnesota Rules, part 5601.0800, subpart 2;

(3) has achieved a score of at least 550 on the test of English as a foreign language or a score of at least 85 on the Minnesota battery test; and

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(4) has paid a nonrefundable fee set by the board.

A foreign-trained physical therapist must have the temporary permit before beginning a traineeship.

(b) A supervised physical therapy traineeship must:

(1) be at least six months;

(2) be at a board-approved facility;

(3) provide a broad base of clinical experience to the foreign-trained physical therapist including a variety of physical agents, therapeutic exercises, evaluation procedures, and patient diagnoses;

(4) be supervised by a physical therapist who has at least three years of clinical experience and is ~~registered~~ licensed under subdivision 1; and

(5) be approved by the board before the foreign-trained physical therapist begins the traineeship.

(c) A temporary permit is effective on the first day of a traineeship and expires 90 days after the next examination for ~~registration~~ licensing given by the board following successful completion of the traineeship or on the date on which the board, after examination of the applicant, grants or denies the applicant a ~~registration~~ license to practice, whichever occurs first.

(d) A foreign-trained physical therapist must successfully complete a traineeship to be ~~registered~~ licensed as a physical therapist under subdivision 1. The traineeship may be waived for a foreign-trained physical therapist who is licensed or otherwise registered in good standing in another state and has successfully practiced physical therapy in that state under the supervision of a licensed or registered physical therapist for at least six months at a facility that meets the requirements under paragraph (b), clauses (2) and (3).

(e) A temporary permit will not be issued to a foreign-trained applicant who has been issued a temporary permit for longer than six months in any other state.

Sec. 54. Minnesota Statutes 1998, section 148.72, subdivision 1, is amended to read:

Subdivision 1. **ISSUANCE OF REGISTRATION LICENSE WITHOUT EXAMINATION.** On payment to the board of a fee in the amount set by the board and on submission of a written application on forms provided by the board, the board shall issue ~~registration~~ a license without examination to a person who is licensed or otherwise registered as a physical therapist by another state of the United States of America, its possessions, or the District of Columbia, if the board determines that the requirements for ~~licensure~~ licensing or registration in the state, possession, or District are equal to, or greater than, the requirements set forth in sections 148.65 to 148.78.

Sec. 55. Minnesota Statutes 1998, section 148.72, subdivision 2, is amended to read:

Subd. 2. **CERTIFICATE OF REGISTRATION LICENSE.** The board may issue a ~~certificate of registration to a physical therapist~~ license without examination to an applicant who presents evidence satisfactory to the board of having passed an examination recognized by the board, if the board determines the standards of the other state or foreign country are ~~determined by the board to be as high as~~ equal to those of this state. ~~At the~~

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time of making an Upon application, the applicant shall pay to the board a fee in the amount set by the board. ~~No portion of which shall be returned~~ the fee is refundable.

Sec. 56. Minnesota Statutes 1998, section 148.72, subdivision 4, is amended to read:

Subd. 4. **ISSUANCE OF REGISTRATION LICENSE AFTER EXAMINATION.** The board shall issue a certificate of registration license to each an applicant who passes the examination ~~in accordance with~~ according to standards established by the board and who is not disqualified to receive registration a license under the provisions of section 148.75.

Sec. 57. Minnesota Statutes 1998, section 148.73, is amended to read:

#### 148.73 RENEWALS.

Every ~~registered~~ licensed physical therapist shall, during each January, apply to the board for an extension of registration a license and pay a fee in the amount set by the board. The extension of registration the license is contingent upon demonstration that the continuing education requirements set by the board under section 148.70 have been satisfied.

Sec. 58. Minnesota Statutes 1998, section 148.74, is amended to read:

#### 148.74 RULES.

The board is ~~authorized to~~ may adopt rules as ~~may be necessary~~ needed to carry out the purposes of sections 148.65 to 148.78. The ~~secretary~~ secretary-treasurer of the board shall keep a record of proceedings under these sections and a register of all persons ~~registered~~ licensed under it. The register shall show the name, address, date and number of ~~registration~~ the license, and the renewal ~~thereof~~ of the license. Any other interested person in the state may obtain a copy of such the list on request to the board upon payment of ~~paying~~ an amount as ~~may be fixed by the board, which.~~ The amount shall not exceed the cost of the list so furnished. The board shall provide blanks, books, certificates, and stationery and assistance as is necessary ~~for the transaction of the~~ to transact business of the board and the physical therapy council hereunder, and. All money received by the board under sections 148.65 to 148.78 shall be paid into the state treasury as provided for by law. The board shall set by rule the amounts of the application fee and the annual registration licensing fee. The fees collected by the board must be sufficient to cover the costs of administering sections 148.65 to 148.78.

#### Sec. 59. [148.745] MALPRACTICE HISTORY.

Subdivision 1. **SUBMISSION.** A person desiring to practice physical therapy in this state who has previously practiced in another state shall submit the following additional information with the license application for the five-year period of active practice preceding the date of filing such application:

(a) The name and address of the person's professional liability insurer in the other state.

(b) The number, date, and disposition of any malpractice settlement or award made to the plaintiff relating to the quality of services provided.

Subd. 2. **BOARD ACTION.** The board shall give due consideration to the information submitted pursuant to section 148.72 and this section. An applicant who willfully

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submits incorrect information shall be subject to disciplinary action pursuant to section 148.75.

Sec. 60. Minnesota Statutes 1998, section 148.75, is amended to read:

**148.75 CERTIFICATES LICENSES; DENIAL, SUSPENSION, REVOCATION.**

(a) ~~The state board of medical practice~~ physical therapy may refuse to grant registration a license to any physical therapist, or may suspend or revoke the registration license of any physical therapist for any of the following grounds:

(a) ~~(1)~~ (1) using drugs or intoxicating liquors to an extent which affects professional competence;

(b) ~~been convicted~~ (2) conviction of a felony;

(c) ~~(3)~~ (3) conviction for violating any state or federal narcotic law;

(d) ~~procuring, aiding or abetting a criminal abortion;~~

(e) ~~registration~~ (4) obtaining a license or attempted registration attempting to obtain a license by fraud or deception;

(f) ~~(5)~~ (5) conduct unbecoming a person ~~registered~~ licensed as a physical therapist or conduct detrimental to the best interests of the public;

(g) ~~(6)~~ (6) gross negligence in the practice of physical therapy as a physical therapist;

(h) ~~(7)~~ (7) treating human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state ~~to in the practice of medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, or the practice of dentistry as defined in section 150A.05 and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of medical practice~~ physical therapy rule;

(i) ~~(8)~~ (8) treating human ailments, without referral, by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(j) ~~failure~~ (9) failing to consult with the patient's health care provider who prescribed the physical therapy treatment if the treatment is altered by the physical therapist from the original written order. The provision does not include written orders specifying orders to "evaluate and treat";

(k) ~~(10)~~ (10) treating human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state;

(l) ~~(11)~~ (11) inappropriate delegation to a physical therapist assistant or inappropriate task assignment to an aide or inadequate supervision of either level of supportive personnel;

(m) ~~treating human ailments other than by performing physical therapy procedures unless duly licensed or registered to do so under the laws of this state;~~

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(n) (12) practicing as a physical therapist performing medical diagnosis, the practice of medicine as defined in section 147.081, or the practice of chiropractic as defined in section 148.01;

(o) failure (13) failing to comply with a reasonable request to obtain appropriate clearance for mental or physical conditions which that would interfere with the ability to practice physical therapy, and which that may be potentially harmful to patients;

(p) (14) dividing fees with, or paying or promising to pay a commission or part of the fee to, any person who contacts the physical therapist for consultation or sends patients to the physical therapist for treatment;

(q) (15) engaging in an incentive payment arrangement, other than that prohibited by clause (p) (14), that tends to promote physical therapy ~~overutilization~~ overuse, where-  
by that allows the referring person or person who controls the availability of physical therapy services to a client profits to profit unreasonably as a result of patient treatment;

(r) (16) practicing physical therapy and failing to refer to a licensed health care professional any a patient whose medical condition at the time of evaluation has been determined by the physical therapist to be beyond the scope of practice of a physical therapist; and

(s) failure (17) failing to report to the board other ~~registered~~ licensed physical therapists who violate this section.

(b) A certificate of registration license to practice as a physical therapist is suspended if (1) a guardian of the person of the physical therapist is appointed by order of a court pursuant to sections 525.54 to 525.61, for reasons other than the minority of the physical therapist; or (2) the physical therapist is committed by order of a court pursuant to chapter 253B. The certificate of registration license remains suspended until the physical therapist is restored to capacity by a court and, upon petition by the physical therapist, the suspension is terminated by the board of ~~medical practice~~ physical therapy after a hearing.

Sec. 61. Minnesota Statutes 1998, section 148.76, is amended to read:

#### 148.76 PROHIBITED CONDUCT.

Subdivision 1. No person shall:

(1) provide physical therapy unless the person is licensed as a physical therapist under sections 148.65 to 148.78;

(a) (2) use the title of physical therapist without a ~~certificate of registration license~~ as a physical therapist issued pursuant to the provisions of under sections 148.65 to 148.78;

(b) (3) in any manner hold out as a physical therapist, or use in connection with the person's name the words or letters Physical Therapist, Physiotherapist, Physical Therapy Technician, Registered Physical Therapist, Licensed Physical Therapist, P.T., P.T.T., R.P.T., L.P.T., or any letters, words, abbreviations or insignia indicating or implying that the person is a physical therapist, without a ~~certificate of registration license~~ as a physical therapist issued pursuant to the provisions of under sections 148.65 to 148.78. To do so is a gross misdemeanor;

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(e) ~~(4)~~ employ fraud or deception in applying for or securing a certificate of registration license as a physical therapist.

Nothing contained in sections 148.65 to 148.78 ~~shall prohibit any~~ prohibits a person licensed or registered in this state under another law from carrying out the therapy or practice for which the person is duly licensed or registered.

Subd. 2. No physical therapist may:

(a) (1) treat human ailments by physical therapy after an initial 30-day period of patient admittance to treatment has lapsed, except by the order or referral of a person licensed in this state to practice medicine as defined in section 147.081, the practice of chiropractic as defined in section 148.01, the practice of podiatry as defined in section 153.01, the practice of dentistry as defined in section 150A.05, or the practice of advanced practice nursing as defined in section 62A.15, subdivision 3a, when orders or referrals are made in collaboration with a physician, chiropractor, podiatrist, or dentist, and whose license is in good standing; or when a previous diagnosis exists indicating an ongoing condition warranting physical therapy treatment, subject to periodic review defined by board of ~~medical practice~~ physical therapy rule;

(b) (2) treat human ailments by physical therapy treatment without first having practiced one year under a physician's orders as verified by the board's records;

(e) ~~utilize~~ (3) use any chiropractic manipulative technique whose end is the chiropractic adjustment of an abnormal articulation of the body; and

(d) (4) treat human ailments other than by physical therapy unless duly licensed or registered to do so under the laws of this state.

Sec. 62. Minnesota Statutes 1998, section 148.78, is amended to read:

#### 148.78 PROSECUTION, ALLEGATIONS.

In the prosecution of any person for violation of sections 148.65 to 148.78 as specified in section 148.76, it shall not be necessary to allege or prove want of a valid certificate of registration license as a physical therapist, but shall be a matter of defense to be established by the accused.

Sec. 63. Minnesota Statutes 1998, section 214.01, subdivision 2, is amended to read:

Subd. 2. **HEALTH-RELATED LICENSING BOARD.** "Health-related licensing board" means the board of examiners of nursing home administrators established pursuant to section 144A.19, the board of medical practice created pursuant to section 147.01, the board of nursing created pursuant to section 148.181, the board of chiropractic examiners established pursuant to section 148.02, the board of optometry established pursuant to section 148.52, the board of physical therapy established pursuant to section 148.67, the board of psychology established pursuant to section 148.90, the board of social work pursuant to section 148B.19, the board of marriage and family therapy pursuant to section 148B.30, the office of mental health practice established pursuant to section 148B.61, the alcohol and drug counselors licensing advisory council established pursuant to section 148C.02, the board of dietetics and nutrition practice established under section 148.622, the board of dentistry established pursuant to section 150A.02, the board of pharmacy established pursuant to section 151.02, the board of podiatric medi-

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cine established pursuant to section 153.02, and the board of veterinary medicine, established pursuant to section 156.01.

**Sec. 64. INITIAL APPOINTMENTS TO BOARD.**

Notwithstanding Minnesota Statutes, section 148.67, the first physical therapist members appointed to the board may be registered physical therapists.

**Sec. 65. REVISOR'S INSTRUCTION.**

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>144E.10, subd. 2</u>	<u>144E.16</u>	<u>144E.101 to 144E.127</u>
<u>144E.12</u>	<u>144E.16</u>	<u>144E.121 to 144E.127</u>
<u>144E.13</u>	<u>144E.16</u>	<u>144E.101 to 144E.127</u>
<u>144E.14</u>	<u>144E.16</u>	<u>144E.101 to 144E.127</u>
<u>144E.35, subd. 1</u>	<u>144E.16</u>	<u>144E.285</u>
<u>144E.41</u>	<u>144E.16</u>	<u>144E.265 or 144E.28</u>
<u>353.64, subd. 10</u>	<u>144E.16</u>	<u>144E.28</u>
<u>147A.09, subd. 2</u>	<u>144E.16,</u>	<u>144E.127</u>
	<u>subd. 2,</u>	
	<u>para. (c)</u>	

**Sec. 66. REPEALER.**

Minnesota Statutes 1998, sections 144E.16, subdivisions 1, 2, 3, and 6; 144E.17; 144E.25; and 144E.30, subdivisions 1, 2, and 6, are repealed. Minnesota Rules, parts 4690.0100, subparts 4, 13, 15, 19, 20, 21, 22, 23, 24, 26, 27, and 29; 4690.0300; 4690.0400; 4690.0500; 4690.0600; 4690.0700; 4690.0800, subparts 1 and 2; 4690.0900; 4690.1000; 4690.1100; 4690.1200; 4690.1300; 4690.1600; 4690.1700; 4690.2100; 4690.2200, subparts 1, 3, 4, and 5; 4690.2300; 4690.2400, subparts 1, 2, and 3; 4690.2500; 4690.2900; 4690.3000; 4690.3700; 4690.3900; 4690.4000; 4690.4100; 4690.4200; 4690.4300; 4690.4400; 4690.4500; 4690.4600; 4690.4700; 4690.4800; 4690.4900; 4690.5000; 4690.5100; 4690.5200; 4690.5300; 4690.5400; 4690.5500; 4690.5700; 4690.5800; 4690.5900; 4690.6000; 4690.6100; 4690.6200; 4690.6300; 4690.6400; 4690.6500; 4690.6600; 4690.6700; 4690.6800; 4690.7000; 4690.7100; 4690.7200; 4690.7300; 4690.7400; 4690.7500; 4690.7600; 4690.7700; 4690.7800; 4690.8300, subparts 1, 2, 3, 4, and 5; and 4735.5000, are repealed.

**ARTICLE 10**

**OTHER PROVISIONS**

Section 1. Minnesota Statutes 1998, section 62E.11, is amended by adding a subdivision to read:

Subd. 13. STATE FUNDING; EFFECT ON PREMIUM RATES OF MEMBERS. In approving the premium rates as required in sections 62A.65, subdivision 3; and

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62L.08, subdivision 8, the commissioners of health and commerce shall ensure that any appropriation to reduce the annual assessment made on the contributing members to cover the costs of the Minnesota comprehensive health insurance plan as required under this section is reflected in the premium rates charged by each contributing member.

Sec. 2. Minnesota Statutes 1998, section 116L.02, is amended to read:

**116L.02 JOB SKILLS PARTNERSHIP PROGRAM.**

(a) The Minnesota job skills partnership program is created to act as a catalyst to bring together employers with specific training needs with educational or other nonprofit institutions which can design programs to fill those needs. The partnership shall work closely with employers to train and place workers in identifiable positions as well as assisting educational or other nonprofit institutions in developing training programs that coincide with current and future employer requirements. The partnership shall provide grants to educational or other nonprofit institutions for the purpose of training displaced workers. A participating business must match the grant-in-aid made by the Minnesota job skills partnership. The match may be in the form of funding, equipment, or faculty.

(b) The partnership program shall administer the health care and human services worker training and retention program under sections 116L.10 to 116L.15.

**Sec. 3. [116L.10] PROGRAM ESTABLISHED.**

A health care and human services worker training and retention program is established to:

(1) alleviate critical worker shortages confronting specific geographical areas of the state, specific health care and human services industries, or specific providers when employers are not currently offering sufficient worker training and retention options and are unable to do so because of the limited size of the employer, economic circumstances, or other limiting factors described in the grant application and verified by the board; and

(2) increase opportunities for current and potential direct care employees to qualify for advanced employment in the health care or human services fields through experience, training, and education.

**Sec. 4. [116L.11] DEFINITIONS.**

Subdivision 1. SCOPE. For the purposes of sections 116L.10 to 116L.15, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. ELIGIBLE EMPLOYER. "Eligible employer" means a nursing facility, small rural hospital, intermediate care facility for persons with mental retardation or related conditions, waived services provider, home health services provider, personal care assistant services provider, semi-independent living services provider, day training and habilitation services provider, or similar provider of health care or human services.

Subd. 3. POTENTIAL EMPLOYEE TARGET GROUPS. "Potential employee target groups" means high school students, past and present recipients of Minnesota family investment program benefits, immigrants, senior citizens, current health care and human services workers, and persons who are underemployed or unemployed.

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Subd. 4. QUALIFYING CONSORTIUM. "Qualifying consortium" means an entity that may include a public or private institution of higher education, work force center, county, and one or more eligible employers, but must include a public or private institution of higher education and one or more eligible employers.

**Sec. 5. [116L.12] FUNDING MECHANISM.**

Subdivision 1. APPLICATIONS. A qualifying consortium shall apply to the board in the manner specified by the board.

Subd. 2. FISCAL REQUIREMENTS. The application must specify how the consortium will make maximum use of available federal and state training, education, and employment funds to minimize the need for training and retention grants. A consortium must designate a lead agency as the fiscal agent for reporting, claiming, and receiving payments. An institution of higher learning may be designated as a lead agency, but the governing board of a multicampus higher education system may not be given that designation.

Subd. 3. PROGRAM TARGETS. Applications for grants must describe targeted employers or types of employers and must describe the specific critical work force shortage the program is designed to alleviate. Programs may be limited geographically or be statewide. The application must include verification that in the process of determining that a critical work force shortage exists in the target area, the applicant has:

- (1) consulted available data on worker shortages;
- (2) conferred with other employers in the target area; and
- (3) compared shortages in the target area with shortages at the regional or statewide level.

Subd. 4. GRANTS. Within the limits of available appropriations, the board shall make grants to qualifying consortia to operate local, regional, or statewide training and retention programs. Grant awards must establish specific, measurable outcomes and timelines for achieving those outcomes.

Subd. 5. LOCAL MATCH REQUIREMENTS. A consortium must provide at least a 50 percent match from local resources for money appropriated under this section. The local match requirement must be satisfied on an overall program basis but need not be satisfied for each particular client. The local match requirement may be reduced for consortia that include a relatively large number of small employers whose financial contribution has been reduced in accordance with section 116L.15. In-kind services and expenditures under section 116L.13, subdivision 2, may be used to meet this local match requirement. The grant application must specify the financial contribution from each member of the consortium.

Subd. 6. INELIGIBLE WORKER CATEGORIES. Grants shall not be made to alleviate shortages of physicians, physician assistants, or advanced practice nurses.

Subd. 7. EVALUATION. The board shall evaluate the success of consortia that receive grants in achieving expected outcomes and shall report to the legislature annually. The report must compare consortia in terms of overall program costs, costs per client, retention rates, advancement rates, and other outcome measurements established in the

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grantmaking process. The first report shall be due on March 15, 2000, and on January 15 annually in succeeding years. The report shall include any recommendations from the board to modify the grant program.

**Sec. 6. [116L.13] PROGRAM REQUIREMENTS.**

Subdivision 1. **MARKETING AND RECRUITMENT.** A qualifying consortium must implement a marketing and outreach strategy to recruit into the health care and human services fields persons from one or more of the potential employee target groups. Recruitment strategies must include a screening process to evaluate whether potential employees may be disqualified as the result of a required background check or are otherwise unlikely to succeed in the position for which they are being recruited.

Subd. 2. **RECRUITMENT AND RETENTION INCENTIVES.** Employer members of a consortium must provide incentives to train and retain employees. These incentives may include, but are not limited to:

(1) paid salary during initial training periods, but only if specifically approved by the board, which must certify that the employer has not formerly paid employees during the initial training period and is unable to do so because of the employer's limited size, financial condition, or other factors;

(2) scholarship programs under which a specified amount is deposited into an educational account for the employee for each hour worked, which may include contributions on behalf of an employee to an Edvest account under Minnesota Statutes, sections 136A.241 to 136A.245;

(3) the provision of advanced education to employees so that they may qualify for advanced positions in the health care or human services fields. This education may be provided at the employer's site, at the site of a nearby employer, or at a local educational institution or other site. Preference shall be given to grantees that offer flexible advanced training to employees at convenient sites, allow workers time off with pay during the work day to participate, and provide education at no cost to students or through employer-based scholarships that pay expenses prior to the start of classes rather than upon completion;

(4) work maturity or soft skills training, adult basic education, English as a second language instruction, and basic computer orientation for persons with limited previous attachment to the work force due to a lack of these skills;

(5) child care subsidies during training or educational activities;

(6) transportation to training and education programs; and

(7) programs to coordinate efforts by employer members of the consortium to share staff among employers where feasible, to pool employee and employer benefit contributions in order to enhance benefit packages, and to coordinate education and training opportunities for staff in order to increase the availability and flexibility of education and training programs.

Subd. 3. **WORK HOUR LIMITS.** High school students participating in a training and retention program shall not be permitted to work more than 20 hours per week when school is in session.

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Subd. 4. COLLECTIVE BARGAINING AGREEMENTS. This section shall be implemented consistent with existing collective bargaining agreements covering health care and human services employees.

**Sec. 7. [116L.14] CAREER ENHANCEMENT REQUIREMENTS.**

All consortium members must work cooperatively to establish and maintain a career ladder program under which direct care staff have the opportunity to advance along a career development path that includes regular educational opportunities, coordination between job duties and educational opportunities, and a planned series of promotions for which qualified employees will be eligible. This section shall be implemented consistent with existing collective bargaining agreements covering direct care staff.

**Sec. 8. [116L.15] SMALL EMPLOYER PROTECTION.**

Grantees must guarantee that small employers, including licensed personal care assistant organizations, be allowed to participate in consortium programs. The financial contribution required from a small employer must be adjusted to reflect the employer's financial circumstances.

Sec. 9. Minnesota Statutes 1998, section 256.485, is amended to read:

**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, 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.

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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.

Subd. 6. EXPIRATION. This section expires June 30, 2001.

**Sec. 10. REPEALER.**

(a) Minnesota Statutes 1998, section 256.973, is repealed June 30, 2001.

(b) Laws 1997, chapter 225, article 6, section 8, is repealed.

**Sec. 11. EFFECTIVE DATE.**

Section 10, paragraph (b), is effective the day following final enactment.

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## ARTICLE 11

### TOBACCO SETTLEMENT PAYMENTS

**Section 1. [16A.87] TOBACCO SETTLEMENT FUND.**

Subdivision 1. ESTABLISHMENT; PURPOSE. The tobacco settlement fund is established as a clearing account in the state treasury.

Subd. 2. DEPOSIT OF MONEY. The commissioner shall credit to the tobacco settlement fund the tobacco settlement payments received by the state on September 5, 1998, January 4, 1999, January 3, 2000, and January 2, 2001, as a result of the settlement of the lawsuit styled as State v. Philip Morris Inc., No. C1-94-8565 (Minnesota District Court, Second Judicial District).

Subd. 3. APPROPRIATION. Of the amounts credited to the fund, 61 percent is appropriated for transfer to the tobacco use prevention and local public health endowment fund created in section 144.395 and 39 percent is appropriated for transfer to the medical education endowment fund created in section 62J.694.

Subd. 4. SUNSET. The tobacco settlement fund expires June 30, 2015.

**Sec. 2. [62J.694] MEDICAL EDUCATION ENDOWMENT FUND.**

Subdivision 1. CREATION. The medical education endowment fund is created in the state treasury. The state board of investment shall invest the fund under section 11A.24. All earnings of the fund must be credited to the fund. The principal of the fund must be maintained inviolate.

Subd. 2. EXPENDITURES. (a) Earnings of the fund, up to five percent of the fair market value of the fund, are appropriated for medical education activities in the state of Minnesota. The appropriations are to be transferred quarterly for the purposes identified in the following paragraphs. Actual appropriations are not to exceed actual earnings.

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(b) For fiscal year 2000, 70 percent of the appropriation in paragraph (a) is for transfer to the board of regents for the instructional costs of health professional programs at the academic health center and affiliated teaching institutions, and 30 percent of the appropriation is for transfer to the commissioner of health to be distributed for medical education under section 62J.692.

(c) For fiscal year 2001, 49 percent of the appropriation in paragraph (a) is for transfer to the board of regents for the instructional costs of health professional programs at the academic health center and affiliated teaching institutions, and 51 percent is for transfer to the commissioner of health to be distributed for medical education under section 62J.692.

(d) For fiscal year 2002, and each year thereafter, 42 percent of the appropriation in paragraph (a) may be appropriated by another law for the instructional costs of health professional programs at publicly funded academic health centers and affiliated teaching institutions, and 58 percent is for transfer to the commissioner of health to be distributed for medical education under section 62J.692.

(e) A maximum of \$150,000 of each annual appropriation to the commissioner of health in paragraph (d) may be used by the commissioner for administrative expenses associated with implementing section 62J.692.

Subd. 3. **AUDITS REQUIRED.** The legislative auditor shall audit endowment fund expenditures to ensure that the money is spent for the purposes set out in this section.

Subd. 4. **SUNSET.** The medical education endowment fund expires June 30, 2015. Upon expiration, the commissioner of finance shall transfer the principal and any remaining interest to the general fund.

### **Sec. 3. [137.44] HEALTH PROFESSIONAL EDUCATION BUDGET PLAN.**

The board of regents is requested to adopt a biennial budget plan for making expenditures from the medical education endowment fund dedicated for the instructional costs of health professional programs at publicly funded academic health centers and affiliated teaching institutions. The budget plan may be submitted as part of the University of Minnesota's biennial budget request.

### **Sec. 4. [144.395] TOBACCO USE PREVENTION AND LOCAL PUBLIC HEALTH ENDOWMENT FUND.**

Subdivision 1. **CREATION.** The tobacco use prevention and local public health endowment fund is created in the state treasury. The state board of investment shall invest the fund under section 11A.24. All earnings of the fund must be credited to the fund. The principal of the fund must be maintained inviolate.

Subd. 2. **EXPENDITURES.** (a) Earnings of the fund, up to five percent of the fair market value of the fund on the preceding July 1, must be spent to reduce the human and economic consequences of tobacco use among the youth of this state through state and local tobacco prevention measures and efforts, and for other public health initiatives.

(b) Notwithstanding paragraph (a), on January 1, 2000, up to five percent of the fair market value of the fund is appropriated to the commissioner of health to distribute as grants under section 144.396, subdivisions 5 and 6, in accordance with allocations in

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paragraph (c), clauses (1) and (2). Up to \$200,000 of this appropriation is available to the commissioner to conduct the statewide assessments described in section 144.396, subdivision 3.

(c) Beginning July 1, 2000, and on July 1 of each year thereafter, the money in paragraph (a) is appropriated as follows, except as provided in paragraphs (d) and (e):

(1) 67 percent to the commissioner of health to distribute as grants under section 144.396, subdivision 5, to fund statewide tobacco use prevention initiatives aimed at youth;

(2) 16.5 percent to the commissioner of health to distribute as grants under section 144.396, subdivision 6, to fund local public health initiatives aimed at tobacco use prevention in coordination with other local health-related efforts to achieve measurable improvements in health among youth; and

(3) 16.5 percent to the commissioner of health to distribute in accordance with section 144.396, subdivision 7.

(d) A maximum of \$150,000 of each annual appropriation to the commissioner of health in paragraphs (b) and (c) may be used by the commissioner for administrative expenses associated with implementing this section.

(e) Beginning July 1, 2001, \$1,100,000 of each annual appropriation to the commissioner under paragraph (c), clause (1), may be used to provide base level funding for the commissioner's tobacco prevention and control programs and activities. This appropriation must occur before any other appropriation under this subdivision.

#### **Sec. 5. [144.396] TOBACCO USE PREVENTION.**

Subdivision 1. PURPOSE. The legislature finds that it is important to reduce the prevalence of tobacco use among the youth of this state. It is a goal of the state to reduce tobacco use among youth by 30 percent by the year 2005, and to promote statewide and local tobacco use prevention activities to achieve this goal.

Subd. 2. MEASURABLE OUTCOMES. The commissioner, in consultation with other public, private, or nonprofit organizations involved in tobacco use prevention efforts, shall establish measurable outcomes to determine the effectiveness of the grants receiving funds under this section in reducing the use of tobacco among youth.

Subd. 3. STATEWIDE ASSESSMENT. The commissioner of health shall conduct a statewide assessment of tobacco-related behaviors and attitudes among youth to establish a baseline to measure the statewide effect of tobacco use prevention activities. The commissioner of children, families, and learning must provide any information requested by the commissioner of health as part of conducting the assessment. To the extent feasible, the commissioner of health should conduct the assessment so that the results may be compared to nationwide data.

Subd. 4. PROCESS. (a) The commissioner shall develop the criteria and procedures to allocate the grants under this section. In developing the criteria, the commissioner shall establish an administrative cost limit for grant recipients. The outcomes established under subdivision 2 must be specified to the grant recipients receiving grants under this section at the time the grant is awarded.

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(b) A recipient of a grant under this section must coordinate its tobacco use prevention activities with other entities performing tobacco use prevention activities within the recipient's service area.

**Subd. 5. STATEWIDE TOBACCO PREVENTION GRANTS.** (a) The commissioner of health shall award competitive grants to eligible applicants for projects and initiatives directed at the prevention of tobacco use. The project areas for grants include:

(1) statewide public education and information campaigns which include implementation at the local level; and

(2) coordinated special projects, including training and technical assistance, a resource clearinghouse, and contracts with ethnic and minority communities.

(b) Eligible applicants may include, but are not limited to, nonprofit organizations, colleges and universities, professional health associations, community health boards, and other health care organizations. Applicants must submit proposals to the commissioner. The proposals must specify the strategies to be implemented to target tobacco use among youth, and must take into account the need for a coordinated statewide tobacco prevention effort.

(c) The commissioner must give priority to applicants who demonstrate that the proposed project:

(1) is research based or based on proven effective strategies;

(2) is designed to coordinate with other activities and education messages related to other health initiatives;

(3) utilizes and enhances existing prevention activities and resources; or

(4) involves innovative approaches preventing tobacco use among youth.

**Subd. 6. LOCAL TOBACCO PREVENTION GRANTS.** (a) The commissioner shall award grants to eligible applicants for local and regional projects and initiatives directed at tobacco prevention in coordination with other health areas aimed at reducing high-risk behaviors in youth that lead to adverse health-related problems. The project areas for grants include:

(1) school-based tobacco prevention programs aimed at youth and parents;

(2) local public awareness and education projects aimed at tobacco prevention in coordination with locally assessed community public health needs pursuant to chapter 145A; or

(3) local initiatives aimed at reducing high-risk behavior in youth associated with tobacco use and the health consequences of these behaviors.

(b) Eligible applicants may include, but are not limited to, community health boards, school districts, community clinics, Indian tribes, nonprofit organizations, and other health care organizations. Applicants must submit proposals to the commissioner. The proposals must specify the strategies to be implemented to target tobacco use among youth, and must be targeted to achieve the outcomes established in subdivision 2.

(c) The commissioner must give priority to applicants who demonstrate that the proposed project or initiative is:

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- (1) supported by the community in which the applicant serves;
- (2) is based on research or on proven effective strategies;
- (3) is designed to coordinate with other community activities related to other health initiatives;
- (4) incorporates an understanding of the role of community in influencing behavioral changes among youth regarding tobacco use and other high-risk health-related behaviors; or
- (5) addresses disparities among populations of color related to tobacco use and other high-risk health-related behaviors.

(d) The commissioner shall divide the state into specific geographic regions and allocate a percentage of the money available for distribution to projects or initiatives aimed at that geographic region. If the commissioner does not receive a sufficient number of grant proposals from applicants that serve a particular region or the proposals submitted do not meet the criteria developed by the commissioner, the commissioner shall provide technical assistance and expertise to ensure the development of adequate proposals aimed at addressing the public health needs of that region. In awarding the grants, the commissioner shall consider locally assessed community public health needs pursuant to chapter 145A.

**Subd. 7. LOCAL PUBLIC HEALTH PROMOTION AND PROTECTION.**

The commissioner shall distribute the funds available under section 144.395, subdivision 2, paragraph (c), clause (3) to community health boards for local health promotion and protection activities for local health initiatives other than tobacco prevention aimed at high risk health behaviors among youth. The commissioner shall distribute these funds to the community health boards based on demographics and other need-based factors relating to health.

**Subd. 8. COORDINATION.** The commissioner shall coordinate the projects and initiatives funded under this section with the tobacco use prevention efforts of the Minnesota partnership for action against tobacco, community health boards, and other public, private, and nonprofit organizations and the tobacco prevention efforts that are being conducted on the national level.

**Subd. 9. EVALUATION.** (a) Using the outcome measures established in subdivision 2, the commissioner of health shall conduct a biennial evaluation of the statewide and local tobacco use prevention projects and community health board activities funded under this section. The evaluation must include:

- (1) the effect of these activities on the amount of tobacco use by youth and rates at which youth start to use tobacco products; and
- (2) a longitudinal tracking of outcomes for youth.

Grant recipients and community health boards shall cooperate with the commissioner in the evaluation and provide the commissioner with the information necessary to conduct the evaluation. Beginning January 15, 2003, the results of each evaluation must be submitted to the chairs and members of the house health and human services finance committee and the senate health and family security budget division.

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(b) A maximum of \$150,000 of the annual appropriation described in section 144.395, subdivision 2, paragraph (c), that is appropriated on July 1, 2000, and in every odd-numbered year thereafter, may be used by the commissioner to establish and maintain tobacco use monitoring systems and to conduct the evaluations. This appropriation is in addition to the appropriation in section 144.395, subdivision 2, paragraph (d).

Subd. 10. REPORT. The commissioner of health shall submit an annual report to the chairs and members of the house health and human services finance committee and the senate health and family security budget division on the statewide and local projects and community health board prevention activities funded under this section. These reports must include information on grant recipients, activities that were conducted using grant funds, and evaluation data and outcome measures, if available. These reports are due by January 15 of each year, beginning in 2001.

Subd. 11. AUDITS REQUIRED. The legislative auditor shall audit endowment fund expenditures to ensure that the money is spent for tobacco use prevention measures.

Subd. 12. ENDOWMENT FUND NOT TO SUPPLANT EXISTING FUNDING. Appropriations from the account must not be used as a substitute for traditional sources of funding tobacco use prevention activities or public health initiatives. Any local unit of government receiving money under this section must ensure that existing local financial efforts remain in place.

Subd. 13. SUNSET. The tobacco use prevention and local public health endowment fund expires June 30, 2015. Upon expiration, the commissioner of finance shall transfer the principal and only remaining interest to the general fund.

**Sec. 6. EFFECTIVE DATE.**

Sections 1 to 3 and 5 are effective the day following final enactment.

**Sec. 7. IRRECONCILABLE PROVISIONS.**

Notwithstanding Minnesota Statutes, section 645.26, subdivision 3, if a bill styled as H.F. No. 2420 is enacted in the 1999 regular session of the legislature and contains a provision establishing a tobacco settlement fund, that provision is superseded by section 1.

Presented to the governor May 24, 1999

Signed by the governor May 25, 1999, 3:10 p.m.

**CHAPTER 246—H.F.No. 420**

*An act relating to the city of Brooklyn Park; authorizing its economic development authority to exercise housing improvement powers and issue bonds.*

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

**Section 1. BROOKLYN PARK; ECONOMIC DEVELOPMENT AUTHORITY.**

Subdivision 1. HOUSING IMPROVEMENT AREAS. The city of Brooklyn Park may, by resolution, authorize its economic development authority to exercise all or

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