

**Sec. 5. JOINT VENTURE AUTHORITY.**

(a) The city of Alexandria may enter into a joint venture or joint ventures with one, two, or three of the entities known as Runestone Telephone Association and, Runestone Electric Association, and Gardonville Telephone Cooperative for the purpose of providing local niche service, including internet services, and point to point transmission of digital information.

(b) For purposes of this section, with respect to the services described in paragraph (a), the city of Alexandria and a joint venture to which it is a party shall have the rights and authority granted by, and be subject to, Minnesota Statutes 2001 Supplement, section 452.25, except for the provisions of that section which relate specifically and only to electric utilities.

(c) For the purposes of this section, "local niche service" refers to point-to-point connections between end-user locations within a service area and any telecommunications services under the public utilities commission's jurisdiction under Minnesota Statutes, chapter 237 that do not fall within the definition of local service or the definition of interexchange service.

(d) If the city of Alexandria obtains authority to provide local service or interexchange service under chapter 237, it may enter into a joint venture with the entities identified in paragraph (a) for those purposes.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective as to the city of Alexandria the day after the city of Alexandria's governing body and its chief clerical officer timely complete compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Presented to the governor May 21, 2005

Signed by the governor May 25, 2005, 1:10 p.m.

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**CHAPTER 98—S.F.No. 1720**

*An act relating to human services; making agency technical amendments; changing provisions related to children and family services, health care, and continuing care programs; amending Minnesota Statutes 2004, sections 13.319, subdivision 3; 13.461, by adding a subdivision; 119B.02, subdivision 5; 119B.035, subdivision 1; 119B.074; 119B.08, subdivision 1; 119B.09, subdivision 1; 119B.26; 245.463, subdivision 2; 245.464, subdivision 1; 245.465, subdivision 1; 245.466, subdivisions 1, 5; 245.4661, subdivision 7; 245.483, subdivisions 1, 3; 245.4872, subdivision 2; 245.4873, subdivision 5; 245.4874; 245.4875, subdivisions 1, 5; 245A.16, subdivision 6; 252.24, subdivision 5; 252.282, subdivision 2; 252.46, subdivision 10; 256.045, subdivisions 3, 6, 7; 256B.04, subdivision 14; 256B.056, subdivision 1c; 256B.0625, subdivisions 5, 27; 256B.0911, subdivision 6; 256B.0913, subdivision 13; 256B.092, subdivision 1f; 256B.094, subdivision 8; 256B.0943, subdivisions 6, 12, 13; 256B.503; 256B.75; 256D.03, subdivision 3; 256G.01, subdivision 3; 256J.13, subdivision 2; 256J.21, subdivision 2; 256J.24,*

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*subdivision 5; 256J.561, subdivision 3; 256J.74, subdivision 1; 256J.751, subdivision 2; 256J.95, subdivisions 2, 6, 11, 18, 19; 256L.01, subdivision 3a; 256L.04, by adding a subdivision; 256M.30, subdivision 2; 260C.212, subdivision 12; 275.62, subdivision 4; 518.6111, subdivision 7; 626.557, subdivision 12b; 626.5571, subdivision 2; Laws 1997, chapter 245, article 2, section 11, as amended; repealing Minnesota Statutes 2004, sections 119A.01, subdivision 3; 119A.20; 119A.21; 119A.22; 119A.35; 119B.21, subdivision 11; 245.713, subdivisions 2, 4; 245.716; 256.014, subdivision 3; 256.045, subdivision 3c; 256B.0629, subdivisions 1, 2, 4; 256J.95, subdivision 20; 626.5551, subdivision 4; Laws 1998, chapter 407, article 4, section 63.*

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

## ARTICLE 1

### CHILDREN'S AND FAMILY SERVICES

Section 1. Minnesota Statutes 2004, section 13.319, subdivision 3, is amended to read:

Subd. 3. **PROGRAM SERVICES.** Data on individuals receiving services under certain programs administered by the Department of Education are classified under sections 119A.376, subdivision 4; 119A.44, subdivision 7; and section 119A.50, subdivision 2.

Sec. 2. Minnesota Statutes 2004, section 13.461, is amended by adding a subdivision to read:

Subd. 29. **PROGRAM SERVICES.** Data on individuals receiving services under certain programs administered by the Department of Human Services are classified under sections 119A.376, subdivision 4, and 119A.44, subdivision 7.

Sec. 3. Minnesota Statutes 2004, section 119B.02, subdivision 5, is amended to read:

Subd. 5. **PROGRAM INTEGRITY.** For child care assistance programs under this chapter, the commissioner shall enforce, in cooperation with the ~~commissioner of human services~~, the requirements for program integrity and fraud prevention investigations under sections 256.046, 256.98, and 256.983.

Sec. 4. Minnesota Statutes 2004, section 119B.035, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** A family in which a parent provides care for the family's infant child may receive a subsidy in lieu of assistance if the family is eligible for or is receiving assistance under the basic sliding fee program. An eligible family must meet the eligibility factors under section 119B.09, except as provided in subdivision 4, and the requirements of this section. Subject to federal match and maintenance of effort requirements for the child care and development fund, the

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commissioner shall establish a pool of up to three percent of the annual state appropriation for the basic sliding fee program to provide assistance under the at-home infant child care program and for administrative costs associated with the program. At the end of a fiscal year, the commissioner may carry forward any unspent funds under this section to the next fiscal year within the same biennium for assistance under the basic sliding fee program.

Sec. 5. Minnesota Statutes 2004, section 119B.074, is amended to read:

**119B.074 SPECIAL REVENUE ACCOUNT FOR CHILD CARE.**

A child support collection account is established in the special revenue fund for the deposit of collections through the assignment of child support under section 256.741, subdivision 2. The commissioner of ~~human services~~ must deposit all collections made under section 256.741, subdivision 2, in the child support collection account. Money in this account is appropriated to the commissioner for assistance under section 119B.03 and is in addition to other state and federal appropriations.

Sec. 6. Minnesota Statutes 2004, section 119B.08, subdivision 1, is amended to read:

Subdivision 1. **REPORTS.** The commissioner shall specify requirements for reports under the same authority as provided to ~~the commissioner of human services~~ in section 256.01, subdivision 2, paragraph (17).

Sec. 7. Minnesota Statutes 2004, section 119B.09, subdivision 1, is amended to read:

Subdivision 1. **GENERAL ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS FOR CHILD CARE ASSISTANCE.** (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(1) have household income less than or equal to 250 percent of the federal poverty guidelines, adjusted for family size, and meet the requirements of section 119B.05; receive MFIP assistance; and are participating in employment and training services under chapter 256J or 256K; or

(2) ~~have household income below the eligibility levels for MFIP; or~~

(3) ~~have household income less than or equal to 175 percent of the federal poverty guidelines, adjusted for family size, at program entry and less than 250 percent of the federal poverty guidelines, adjusted for family size, at program exit.~~

(b) Child care services must be made available as in-kind services.

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations for all children in the family as a condition of program eligibility. For purposes of this section, a family is considered to meet the requirement for cooperation when the family complies with the requirements of section 256.741.

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Sec. 8. Minnesota Statutes 2004, section 119B.26, is amended to read:

**119B.26 AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER PERIODS.**

The commissioner may waive requirements under this chapter for up to nine months after the disaster in areas where a federal disaster has been declared under United States Code, title 42, section 5121, et seq., or the governor has exercised authority under chapter 12. The commissioner shall notify the chairs of the ~~senate Family and Early Childhood Education Budget Division; the senate Education Finance Committee; the house Family and Early Childhood Education Finance Division; the house Education Committee;~~ house and senate committees with jurisdiction over this chapter and the house Ways and Means Committee ten days before the effective date of any waiver granted under this section.

Sec. 9. Minnesota Statutes 2004, section 256.045, subdivision 6, is amended to read:

**Subd. 6. ADDITIONAL POWERS OF THE COMMISSIONER; SUBPOENAS.** (a) The commissioner of human services, or the commissioner of health for matters within the commissioner's jurisdiction under subdivision 3b, ~~or the commissioner of education for matters within the commissioner's jurisdiction under subdivision 3e;~~ may initiate a review of any action or decision of a county agency and direct that the matter be presented to a state human services referee for a hearing held under subdivision 3, 3a, 3b, 3e, or 4a. In all matters dealing with human services committed by law to the discretion of the county agency, the commissioner's judgment may be substituted for that of the county agency. The commissioner may order an independent examination when appropriate.

(b) Any party to a hearing held pursuant to subdivision 3, 3a, 3b, 3e, or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses and the production of records at the hearing. A local agency may request that the commissioner issue a subpoena to compel the release of information from third parties prior to a request for a hearing under section 256.046 upon a showing of relevance to such a proceeding. The issuance, service, and enforcement of subpoenas under this subdivision is governed by section 357.22 and the Minnesota Rules of Civil Procedure.

(c) The commissioner may issue a temporary order staying a proposed demission by a residential facility licensed under chapter 245A while an appeal by a recipient under subdivision 3 is pending or for the period of time necessary for the county agency to implement the commissioner's order.

Sec. 10. Minnesota Statutes 2004, section 256.045, subdivision 7, is amended to read:

**Subd. 7. JUDICIAL REVIEW.** Except for a prepaid health plan, any party who is aggrieved by an order of the commissioner of human services, or the commissioner of health in appeals within the commissioner's jurisdiction under subdivision 3b, ~~or the commissioner of education for matters within the commissioner's jurisdiction under subdivision 3e;~~ may appeal the order to the district court of the county responsible for

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furnishing assistance, or, in appeals under subdivision 3b, the county where the maltreatment occurred, by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, the amended order, or order affirming the original order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision, with the exception of appeals taken under subdivision 3b. The commissioner may elect to become a party to the proceedings in the district court. Except for appeals under subdivision 3b, any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.

Sec. 11. Minnesota Statutes 2004, section 256J.13, subdivision 2, is amended to read:

Subd. 2. **PHYSICAL PRESENCE.** A minor child and a caregiver must live together except as provided in the following paragraphs.

(a) The physical presence requirement is met when a minor child is required to live away from the caregiver's home to meet the need for educational curricula that cannot be met by, but is approved by, the local public school district, the home is maintained for the minor child's return during periodic school vacations, and the caregiver continues to maintain responsibility for the support and care of the minor child.

(b) The physical presence requirement is met when an applicant caregiver or applicant minor child is away from the home due to illness or hospitalization, when the home is maintained for the return of the absent family member, the absence is not expected to last more than six months beyond the month of departure, and the conditions of clause (1), (2), or (3) apply:

(1) when the minor child and caregiver lived together immediately prior to the absence, the caregiver continues to maintain responsibility for the support and care of the minor child, and the absence is reported at the time of application;

(2) when the pregnant mother is hospitalized or out of the home due to the pregnancy; or

(3) when the newborn child and mother are hospitalized at the time of birth.

(c) The absence of a caregiver or minor child does not affect eligibility for the month of departure when the caregiver or minor child received assistance for that month and lived together immediately prior to the absence. Eligibility also exists in the following month when the absence ends on or before the tenth day of that month. A

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temporary absence of a caregiver or a minor child which continues beyond the month of departure must not affect eligibility when the home is maintained for the return of the absent family member, the caregiver continues to maintain responsibility for the support and care of the minor child, and one of clauses (1) to (7) applies:

(1) a participant caregiver or participant child is absent due to illness or hospitalization, and the absence is expected to last no more than six months beyond the month of departure;

(2) a participant child is out of the home due to placement in foster care as defined in section sections 260B.007, subdivision 7, and 260C.007, subdivision ~~15~~ 18, when the placement will not be paid under title IV-E of the Social Security Act, and when the absence is expected to last no more than six months beyond the month of departure;

(3) a participant minor child is out of the home for a vacation, the vacation is not with an absent parent, and the absence is expected to last no more than two months beyond the month of departure;

(4) a participant minor child is out of the home due to a visit or vacation with an absent parent, the home of the minor child remains with the caregiver, the absence meets the conditions of this paragraph and the absence is expected to last no more than two months beyond the month of departure;

(5) a participant caregiver is out of the home due to a death or illness of a relative, incarceration, training, or employment search and suitable arrangements have been made for the care of the minor child, or a participant minor child is out of the home due to incarceration, and the absence is expected to last no more than two months beyond the month of departure;

(6) a participant caregiver and a participant minor child are both absent from Minnesota due to a situation described in clause (5), except for incarceration, and the absence is expected to last no more than one month beyond the month of the departure;  
or

(7) a participant minor child has run away from home, and another person has not made application for that minor child, assistance must continue for no more than two months following the month of departure.

Sec. 12. Minnesota Statutes 2004, section 256J.21, subdivision 2, is amended to read:

Subd. 2. **INCOME EXCLUSIONS.** The following must be excluded in determining a family's available income:

(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, 9560.0521, and 9560.0650 to 9560.0655~~, 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 Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

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(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, 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) 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;

(15) payments for short-term emergency needs under section 256J.626, subdivision 2;

(16) funeral and cemetery payments as provided by section 256.935;

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(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 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 (SSI), including retroactive SSI payments and other income of an SSI recipient, except as described in section 256J.37, subdivision 3b;

(20) Minnesota supplemental aid, including retroactive payments;

(21) proceeds from the sale of real or personal property;

(22) state adoption assistance payments under section 259.67, and up to an equal amount of county adoption assistance payments;

(23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;

(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, 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 child care payments under section 119B.05;

(29) all other payments made through MFIP to support a caregiver's pursuit of greater economic stability;

(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;

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(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;

(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 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from 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 Laws 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 parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children;

(43) income of the minor parent's parents and 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 parents or stepparents not on 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. 13. Minnesota Statutes 2004, section 256J.24, subdivision 5, is amended to read:

Subd. 5. **MFIP TRANSITIONAL STANDARD.** The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards effective October 1, ~~2003~~ 2004.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
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1	\$371	\$379:	\$250	\$121	\$129	
2	\$661	\$675:	\$437	\$224	\$238	
3	\$852	\$876:	\$532	\$320	\$344	
4	\$1,006	\$1,036:	\$621	\$385	\$415	
5	\$1,146	\$1,180:	\$697	\$449	\$483	
6	\$1,309	\$1,350:	\$773	\$536	\$577	
7	\$1,428	\$1,472:	\$850	\$578	\$622	
8	\$1,572	\$1,623:	\$916	\$656	\$707	
9	\$1,715	\$1,772:	\$980	\$735	\$792	
10	\$1,853	\$1,915:	\$1,035	\$818	\$880	
over 10	add	\$137	\$142:	\$53	\$84	\$89

per additional member.

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10 including a breakdown of the cash and food portions.

Sec. 14. Minnesota Statutes 2004, section 256J.561, subdivision 3, is amended to read:

Subd. 3. **CHILD UNDER 12 WEEKS OF AGE.** (a) A participant who has a natural born child who is less than 12 weeks of age who meets the criteria in clauses (1) and (2) this subdivision is not required to participate in employment services until the child reaches 12 weeks of age. To be eligible for this provision, the following conditions must be met:

(1) the child must have been born within ten months of the caregiver's application for the diversionary work program or MFIP; and

(2) the assistance unit must not have already used this provision or the previously allowed child under age one exemption. However, an assistance unit that has an approved child under age one exemption at the time this provision becomes effective may continue to use that exemption until the child reaches one year of age.

(b) The provision in paragraph (a) ends the first full month after the child reaches 12 weeks of age. This provision is available only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this provision. The participant and job counselor must meet within ten days after the child reaches 12 weeks of age to revise the participant's employment plan.

Sec. 15. Minnesota Statutes 2004, section 256J.74, subdivision 1, is amended to read:

Subdivision 1. **SOCIAL SERVICES.** The county agency shall refer a participant for social services that are offered in the county of financial responsibility according to the criteria established by that county agency under Minnesota Rules, parts 9550.0010 to 9550.0092. A payment issued from federal funds under title XX of the Social Security Act, state funds under the Children and Community Social Services Act, federal or state child welfare funds, or county funds in a payment month must not restrict MFIP eligibility or reduce the monthly assistance payment for that participant.

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Sec. 16. Minnesota Statutes 2004, section 256J.751, subdivision 2, is amended to read:

Subd. 2. **QUARTERLY COMPARISON REPORT.** The commissioner shall report quarterly to all counties on 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 104-193;
- (5) median placement wage rate;
- (6) caseload by months of TANF assistance;

(7) percent of MFIP and diversionary work program (DWP) cases off cash assistance or working 30 or more hours per week at one-year, two-year, and three-year follow-up points from a baseline quarter. This measure is called the self-support index. Twice annually, the commissioner shall report an expected range of performance for each county, county grouping, and tribe on the self-support index. The expected range shall be derived by a statistical methodology developed by the commissioner in consultation with the counties and tribes. The statistical methodology shall control differences across counties in economic conditions and demographics of the MFIP and DWP case load; and

(8) the MFIP work participation rate, defined as the participation requirements specified in title 1 of Public Law 104-193 applied to all MFIP cases except child only cases and cases exempt under section 256J.56.

Sec. 17. Minnesota Statutes 2004, section 256J.95, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** The terms used in this section have the following meanings.

(a) "Diversionary Work Program (DWP)" means the program established under this section.

(b) "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a timetable for the completion of each step. For participants who request and qualify for a family violence waiver in section 256J.521, subdivision 3, an employment plan must be developed by the job counselor, the participant, and a person trained in domestic violence and follow the employment plan provisions in section 256J.521, subdivision 3. Employment plans under this section shall be written for a period of time not to exceed four months.

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(c) "Employment services" means programs, activities, and services in this section that are designed to assist participants in obtaining and retaining employment.

(d) "Family maintenance needs" means current housing costs including rent; manufactured home lot rental costs, or monthly principal, interest, insurance premiums, and property taxes due for mortgages or contracts for deed; association fees required for homeownership; utility costs for current month expenses of gas and electric, garbage, water and sewer; and a flat rate of \$35 for telephone services.

(e) "Family unit" means a group of people applying for or receiving DWP benefits together. For the purposes of determining eligibility for this program, the composition of the family unit includes the relationships in is determined according to section 256J.24, subdivisions 2 and 1 to 4.

(f) "Minnesota family investment program (MFIP)" means the assistance program as defined in section 256J.08, subdivision 57.

(g) "Personal needs allowance" means an allowance of up to \$70 per month per DWP unit member to pay for expenses such as household products and personal products.

(h) "Work activities" means allowable work activities as defined in section 256J.49, subdivision 13.

(i) "Caregiver" means the caregiver as defined in section 256J.08, subdivision 11.

Sec. 18. Minnesota Statutes 2004, section 256J.95, subdivision 6, is amended to read:

Subd. 6. **INITIAL SCREENING OF APPLICATIONS.** Upon receipt of the application, the county agency must determine if the applicant may be eligible for other benefits as required in sections 256J.09, subdivision 3a, and 256J.28, subdivisions 1 and 5. The county must screen and the applicant must apply for other benefits as required under section 256J.30, subdivision 2. The county must also follow the provisions in section 256J.09, subdivision 3b, clause (2).

Sec. 19. Minnesota Statutes 2004, section 256J.95, subdivision 11, is amended to read:

Subd. 11. **UNIVERSAL PARTICIPATION REQUIRED.** (a) All DWP caregivers, except caregivers who meet the criteria in paragraph (d), are required to participate in DWP employment services. Except as specified in paragraphs (b) and (c), employment plans under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

(b) A caregiver who is a member of a two-parent family that is required to participate in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed to develop an employment plan under section 256J.521, subdivision 2, paragraph (c), that may contain alternate activities and reduced hours.

(c) A participant who is a victim of family violence shall be allowed to develop an employment plan under section 256J.521, subdivision 3. A claim of family violence

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must be documented by the applicant or participant by providing a sworn statement which is supported by collateral documentation in section 256J.545, paragraph (b).

(d) One parent in a two-parent family unit that has a natural born child under 12 weeks of age is not required to have an employment plan until the child reaches 12 weeks of age unless the family unit has already used the exclusion under section 256J.561, subdivision 2 3, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

(e) The provision in paragraph (d) ends the first full month after the child reaches 12 weeks of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this category.

(f) The participant and job counselor must meet within ten working days after the child reaches 12 weeks of age to revise the participant's employment plan. The employment plan for a family unit that has a child under 12 weeks of age that has already used the exclusion in section 256J.561 or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5), must be tailored to recognize the caregiving needs of the parent.

Sec. 20. Minnesota Statutes 2004, section 256J.95, subdivision 18, is amended to read:

Subd. 18. **REINSTATEMENT FOLLOWING DISQUALIFICATION.** A participant who has been disqualified from the diversionary work program due to noncompliance with employment services may regain eligibility for the diversionary work program by complying with program requirements. A participant who has been disqualified from the diversionary work program due to noncooperation with child support enforcement requirements may regain eligibility by complying with child support requirements under section 256.741. Once a participant has been reinstated, the county shall issue prorated benefits for the remaining portion of the month. A family unit that has been disqualified from the diversionary work program due to noncompliance shall not be eligible for MFIP or any other TANF cash program during the period of time the participant remains noncompliant for the remainder of the four-month period. In a two-parent family, both parents must be in compliance before the family unit can regain eligibility for benefits.

Sec. 21. Minnesota Statutes 2004, section 256J.95, subdivision 19, is amended to read:

Subd. 19. **DWP OVERPAYMENTS AND UNDERPAYMENTS.** DWP benefits are subject to overpayments and underpayments. Anytime an overpayment or an underpayment is determined for DWP, the correction shall be calculated using prospective budgeting. Corrections shall be determined based on the policy in section 256J.34, subdivision 1, paragraphs (a), (b), and (c); and subdivision 3, paragraph (b), clause (4). ATM errors must be recovered as specified in section 256J.38, subdivision 5. DWP overpayments are not subject to Cross program recoupment of overpayments cannot be assigned to or from DWP.

Sec. 22. Minnesota Statutes 2004, section 518.6111, subdivision 7, is amended to read:

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Subd. 7. **SUBSEQUENT INCOME WITHHOLDING.** (a) This subdivision applies to support orders that do not contain provisions for income withholding.

(b) For cases in which the public authority is providing child support enforcement services to the parties, the income withholding under this subdivision shall take effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding shall result when:

- (1) the obligor requests it in writing to the public authority;
- (2) the obligee or obligor serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services; or
- (3) the public authority commences withholding according to section 518.5513, subdivision 6 5, paragraph (a), clause (5).

(c) For cases in which the public authority is not providing child support services to the parties, income withholding under this subdivision shall take effect when an obligee requests it by making a written motion to the court and the court finds that previous support has not been paid on a timely consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments.

(d) Within two days after the public authority commences withholding under this subdivision, the public authority shall send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice shall include the information provided to the payor of funds in the notice of withholding.

Sec. 23. Laws 1997, chapter 245, article 2, section 11, as amended by Laws 2003, First Special Session chapter 14, article 10, section 7, and Laws 2004, chapter 288, article 4, section 60, is amended to read:

**Sec. 11. FEDERAL FUNDS FOR VISITATION AND ACCESS.**

The commissioner of human services shall apply for and accept on behalf of the state any federal funding received under Public Law Number 104-193 for access and visitation programs. The commissioner shall transfer these funds in three equal amounts to the ~~FATHER Project of Goodwill/Easter Seals Minnesota, the Hennepin County African American Men Project, and the Minnesota Fathers & Families Network for use of the activities allowed under federal law.~~ These programs must administer the funds for the activities allowed under federal law. The commissioner may distribute the funds on a competitive basis and must monitor, evaluate, and report on the access and visitation programs in accordance with any applicable regulations.

**Sec. 24. REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall change the term "education" to "human services" in Minnesota Statutes, sections 119A.11, subdivision 6; 119A.17; 119B.011, subdivision 8; 119B.189, subdivisions 2, clause (3), and 4; 119B.19; and 119B.24.

(b) The revisor of statutes shall change the term "Department of Human Services" to "Department of Education" and "Department of Education" to "Department of

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Human Services” in Minnesota Statutes, section 119A.04, subdivision 1.

(c) The revisor of statutes shall codify Laws 1997, chapter 162, article 3, section 7, and change “children, families, and learning” to “human services” wherever it appears in section 7.

(d) The revisor of statutes shall renumber each section of Minnesota Statutes specified in column A with the number specified in column B. The revisor shall make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>13.319, subd. 5</u>	<u>13.461, subd. 30</u>
<u>13.321, subd. 7, para. (b)</u>	<u>13.461, subd. 31</u>
<u>119A.10</u>	<u>256E.20</u>
<u>119A.11</u>	<u>256E.21</u>
<u>119A.12</u>	<u>256E.22</u>
<u>119A.14</u>	<u>256E.24</u>
<u>119A.15</u>	<u>256E.25</u>
<u>119A.16</u>	<u>256E.26</u>
<u>119A.17</u>	<u>256E.27</u>
<u>119A.374</u>	<u>256E.30</u>
<u>119A.375</u>	<u>256E.31</u>
<u>119A.376</u>	<u>256E.32</u>
<u>119A.43</u>	<u>256E.33</u>
<u>119A.44</u>	<u>256E.34</u>
<u>119A.445</u>	<u>256E.35</u>

(e) The revisor of statutes shall recodify any changes to Minnesota Statutes, chapter 119A, that occur during the 2005 legislative session to comply with the changes specified in this section. If a new section or subdivision is added to chapter 119A that is a program administered by the commissioner of human services, the revisor shall recodify that section or subdivision in the appropriate section specified under paragraph (d), column B.

## ARTICLE 2

### HEALTH CARE AND CONTINUING CARE

Section 1. Minnesota Statutes 2004, section 256B.04, subdivision 14, is amended to read:

Subd. 14. **COMPETITIVE BIDDING.** (a) When determined to be effective, economical, and feasible, the commissioner may utilize volume purchase through competitive bidding and negotiation under the provisions of chapter 16C, to provide items under the medical assistance program including but not limited to the following:

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(1) eyeglasses;

(2) oxygen. The commissioner shall provide for oxygen needed in an emergency situation on a short-term basis, until the vendor can obtain the necessary supply from the contract dealer;

(3) hearing aids and supplies; and

(4) durable medical equipment, including but not limited to:

(a) (i) hospital beds;

(b) (ii) commodes;

(c) (iii) glide-about chairs;

(d) (iv) patient lift apparatus;

(e) (v) wheelchairs and accessories;

(f) (vi) oxygen administration equipment;

(g) (vii) respiratory therapy equipment;

(h) (viii) electronic diagnostic, therapeutic and life support systems;

(5) special transportation services; and

(6) drugs.

(b) Rate changes under this chapter and chapters 256D and 256L do not affect contract payments under this subdivision unless specifically identified.

Sec. 2. Minnesota Statutes 2004, section 256B.056, subdivision 1c, is amended to read:

Subd. 1c. **FAMILIES WITH CHILDREN INCOME METHODOLOGY.**

(a)(1) (Expired, 1Sp2003 c 14 art 12 s 17)

(2) For applications processed within one calendar month prior to July 1, 2003, eligibility shall be determined by applying the income standards and methodologies in effect prior to July 1, 2003, for any months in the six-month budget period before July 1, 2003, and the income standards and methodologies in effect on July 1, 2003, for any months in the six-month budget period on or after that date. The income standards for each month shall be added together and compared to the applicant's total countable income for the six-month budget period to determine eligibility.

(3) For children ages one through 18 whose eligibility is determined under section 256B.057, subdivision 2, the following deductions shall be applied to income counted toward the child's eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: \$90 work expense, dependent care, and child support paid under court order. This clause is effective October 1, 2003.

(b) For families with children whose eligibility is determined using the standard specified in section 256B.056, subdivision 4, paragraph (c), 17 percent of countable earned income shall be disregarded for up to four months and the following deductions

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shall be applied to each individual's income counted toward eligibility as allowed under the state's AFDC plan in effect as of July 16, 1996: dependent care and child support paid under court order.

(c) If the four-month disregard in paragraph (b) has been applied to the wage earner's income for four months, the disregard shall not be applied again until the wage earner's income has not been considered in determining medical assistance eligibility for 12 consecutive months.

(d) The commissioner shall adjust the income standards under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services.

Sec. 3. Minnesota Statutes 2004, section 256B.0625, subdivision 5, is amended to read:

Subd. 5. **COMMUNITY MENTAL HEALTH CENTER SERVICES.** Medical assistance covers community mental health center services provided by a community mental health center that meets the requirements in paragraphs (a) to (j).

(a) The provider is licensed under Minnesota Rules, parts 9520.0750 to 9520.0870.

(b) The provider provides mental health services under the clinical supervision of a mental health professional who is licensed for independent practice at the doctoral level or by a board-certified psychiatrist or a psychiatrist who is eligible for board certification. Clinical supervision has the meaning given in Minnesota Rules, part 9505.0323, subpart 1, item F.

(c) The provider must be a private nonprofit corporation or a governmental agency and have a community board of directors as specified by section 245.66.

(d) The provider must have a sliding fee scale that meets the requirements in Minnesota Rules, part 9550.0060 section 245.481, and agree to serve within the limits of its capacity all individuals residing in its service delivery area.

(e) At a minimum, the provider must provide the following outpatient mental health services: diagnostic assessment; explanation of findings; family, group, and individual psychotherapy, including crisis intervention psychotherapy services, multiple family group psychotherapy, psychological testing, and medication management. In addition, the provider must provide or be capable of providing upon request of the local mental health authority day treatment services and professional home-based mental health services. The provider must have the capacity to provide such services to specialized populations such as the elderly, families with children, persons who are seriously and persistently mentally ill, and children who are seriously emotionally disturbed.

(f) The provider must be capable of providing the services specified in paragraph (e) to individuals who are diagnosed with both mental illness or emotional disturbance, and chemical dependency, and to individuals dually diagnosed with a mental illness or emotional disturbance and mental retardation or a related condition.

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(g) The provider must provide 24-hour emergency care services or demonstrate the capacity to assist recipients in need of such services to access such services on a 24-hour basis.

(h) The provider must have a contract with the local mental health authority to provide one or more of the services specified in paragraph (e).

(i) The provider must agree, upon request of the local mental health authority, to enter into a contract with the county to provide mental health services not reimbursable under the medical assistance program.

(j) The provider may not be enrolled with the medical assistance program as both a hospital and a community mental health center. The community mental health center's administrative, organizational, and financial structure must be separate and distinct from that of the hospital.

Sec. 4. Minnesota Statutes 2004, section 256B.0625, subdivision 27, is amended to read:

Subd. 27. **ORGAN AND TISSUE TRANSPLANTS.** ~~Medical assistance coverage for organ and tissue transplant procedures is limited to those procedures covered by the Medicare program or approved by the Advisory Committee on Organ and Tissue Transplants. All organ transplants must be performed at transplant centers meeting united network for organ sharing criteria or at Medicare-approved organ transplant centers. Stem cell or bone marrow transplant centers must meet the standards established by the Foundation for the Accreditation of Hematopoietic Cell Therapy or be approved by the Advisory Committee on Organ and Tissue Transplants. Transplant procedures must comply with all applicable laws, rules, and regulations governing (1) coverage by the Medicare program, (2) federal financial participation by the Medicaid program, and (3) coverage by the Minnesota medical assistance program. Transplants performed out of Minnesota or the local trade area must be prior authorized.~~

Sec. 5. Minnesota Statutes 2004, section 256B.0911, subdivision 6, is amended to read:

Subd. 6. **PAYMENT FOR LONG-TERM CARE CONSULTATION SERVICES.** (a) The total 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 long-term care consultation services 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. Payments to counties in which there is no certified nursing facility must be made by increasing the payment rate of the two facilities located nearest to the county seat.

(b) The commissioner shall include the total annual payment determined under paragraph (a) for each nursing facility reimbursed under section 256B.431 or 256B.434 according to section 256B.431, subdivision 2b, paragraph (g), or 256B.435.

(c) In the event of the layaway, delicensure and decertification, or removal from layaway of 25 percent or more of the beds in a facility, the commissioner may adjust

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the per diem payment amount in paragraph (b) and may adjust the monthly payment amount in paragraph (a). The effective date of an adjustment made under this paragraph shall be on or after the first day of the month following the effective date of the layaway, delicensure and decertification, or removal from layaway.

(d) Payments for long-term care consultation services are available to the county or counties to cover staff salaries and expenses to provide the services described in subdivision 1a. The county shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide long-term care consultation services while meeting the state's long-term care outcomes and objectives as defined in section 256B.0917, subdivision 1. The county shall be accountable for meeting local objectives as approved by the commissioner in the CSSA biennial home and community based services quality assurance plan on a form provided by the commissioner.

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

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

(g) The county may bill, as case management services, assessments, support planning, and follow-along provided to persons determined to be eligible for case management under Minnesota health care programs. No individual or family member shall be charged for an initial assessment or initial support plan development provided under subdivision 3a or 3b.

Sec. 6. Minnesota Statutes 2004, section 256B.0913, subdivision 13, is amended to read:

Subd. 13. **COUNTY BIENNIAL PLAN.** The county biennial plan for long-term care consultation services under section 256B.0911, the alternative care program under this section, and waivers for the elderly under section 256B.0915, shall be ~~incorporated into the biennial Community Social Services Act plan and shall meet the regulations and timelines of that~~ submitted by the lead agency as the home and community based services quality assurance plan on a form provided by the commissioner.

Sec. 7. Minnesota Statutes 2004, section 256B.092, subdivision 1f, is amended to read:

Subd. 1f. **COUNTY WAITING LIST.** The county agency shall maintain a waiting list of persons with developmental disabilities specifying the services needed but not provided. This waiting list shall be used by county agencies to assist them in developing needed services or amending their children and community social services plan service agreements.

Sec. 8. Minnesota Statutes 2004, section 256B.094, subdivision 8, is amended to read:

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Subd. 8. **PAYMENT LIMITATION.** Services that are not eligible for payment as a child welfare targeted case management service include, but are not limited to:

- (1) assessments prior to opening a case;
- (2) therapy and treatment services;
- (3) legal services, including legal advocacy, for the client;
- (4) information and referral services ~~that are part of a county's community social services plan,~~ that are not provided to an eligible recipient;
- (5) outreach services including outreach services provided through the community support services program;
- (6) services that are not documented as required under subdivision 7 and Minnesota Rules, parts 9505.2165 and 9505.2175;
- (7) services that are otherwise eligible for payment on a separate schedule under rules of the Department of Human Services;
- (8) services to a client that duplicate the same case management service from another case manager;
- (9) case management services provided to patients or residents in a medical assistance facility except as described under subdivision 2, clause (9); and
- (10) for children in foster care, group homes, or residential care, payment for case management services is limited to case management services that focus on permanency planning or return to the family home and that do not duplicate the facility's discharge planning services.

Sec. 9. Minnesota Statutes 2004, section 256B.0943, subdivision 6, is amended to read:

Subd. 6. **PROVIDER ENTITY CLINICAL INFRASTRUCTURE REQUIREMENTS.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, an individualized treatment plan, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review and update the clinical policies and procedures every three years and must distribute the policies and procedures to staff initially and upon each subsequent update.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for:

- (1) providing or obtaining a client's diagnostic assessment that identifies acute and chronic clinical disorders, co-occurring medical conditions, sources of psychological and environmental problems, and a functional assessment. The functional assessment must clearly summarize the client's individual strengths and needs;
- (2) developing an individual treatment plan that is:

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(i) based on the information in the client's diagnostic assessment;

(ii) developed no later than the end of the first psychotherapy session after the completion of the client's diagnostic assessment by the mental health professional who provides the client's psychotherapy;

(iii) developed through a child-centered, family-driven planning process that identifies service needs and individualized, planned, and culturally appropriate interventions that contain specific treatment goals and objectives for the client and the client's family or foster family;

(iv) reviewed at least once every 90 days and revised, if necessary; and

(v) signed by the client or, if appropriate, by the client's parent or other person authorized by statute to consent to mental health services for the client;

(3) developing an individual behavior plan that documents services to be provided by the mental health behavioral aide. The individual behavior plan must include:

(i) detailed instructions on the service to be provided;

(ii) time allocated to each service;

(iii) methods of documenting the child's behavior;

(iv) methods of monitoring the child's progress in reaching objectives; and

(v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;

(4) clinical supervision of the mental health practitioner and mental health behavioral aide. A mental health professional must document the clinical supervision the professional provides by cosigning individual treatment plans and making entries in the client's record on supervisory activities. Clinical supervision does not include the authority to make or terminate court-ordered placements of the child. A clinical supervisor must be available for urgent consultation as required by the individual client's needs or the situation. Clinical supervision may occur individually or in a small group to discuss treatment and review progress toward goals. The focus of clinical supervision must be the client's treatment needs and progress and the mental health practitioner's or behavioral aide's ability to provide services;

(4a) CTSS certified provider entities providing day treatment programs must meet the conditions in items (i) to (iii):

(i) the provider must be present and available on the premises more than 50 percent of the time in a five-working-day period during which the supervisee is providing a mental health service;

(ii) the diagnosis and the client's individual treatment plan or a change in the diagnosis or individual treatment plan must be made by or reviewed, approved, and signed by the provider; and

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(iii) every 30 days, the supervisor must review and sign the record of the client's care for all activities in the preceding 30-day period;

(4b) for all other services provided under CTSS, clinical supervision standards provided in items (i) to (iii) must be used:

(i) medical assistance shall reimburse a mental health practitioner who maintains a consulting relationship with a mental health professional who accepts full professional responsibility and is present on-site for at least one observation during the first 12 hours in which the mental health practitioner provides the individual, family, or group skills training to the child or the child's family;

(ii) thereafter, the mental health professional is required to be present on-site for observation as clinically appropriate when the mental health practitioner is providing individual, family, or group skills training to the child or the child's family; and

(iii) the observation must be a minimum of one clinical unit. The on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts full professional responsibility;

(5) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the clinical supervisor must be employed by the provider entity or other certified children's therapeutic supports and services provider entity to ensure necessary and appropriate oversight for the client's treatment and continuity of care. The mental health professional or mental health practitioner giving direction must begin with the goals on the individualized treatment plan, and instruct the mental health behavioral aide on how to construct therapeutic activities and interventions that will lead to goal attainment. The professional or practitioner giving direction must also instruct the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the professional or practitioner providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individualized treatment plan and the individualized behavior plan. When providing direction, the professional or practitioner must:

(i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the professional or practitioner must approve and sign the progress notes;

(ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented;

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(iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider; and

(v) record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide;

(6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

(7) individual treatment plan review. The review must determine the extent to which the services have met the goals and objectives in the previous treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family. Revision of the individual treatment plan does not require a new diagnostic assessment unless the client's mental health status has changed markedly. The updated treatment plan must be signed by the client, if appropriate, and by the client's parent or other person authorized by statute to give consent to the mental health services for the child.

Sec. 10. Minnesota Statutes 2004, section 256B.0943, subdivision 12, is amended to read:

Subd. 12. **EXCLUDED SERVICES.** The following services are not eligible for medical assistance payment as children's therapeutic services and supports:

(1) service components of children's therapeutic services and supports simultaneously provided by more than one provider entity unless prior authorization is obtained;

(2) children's therapeutic services and supports provided in violation of medical assistance policy in Minnesota Rules, part 9505.0220;

(3) mental health behavioral aide services provided by a personal care assistant who is not qualified as a mental health behavioral aide and employed by a certified children's therapeutic services and supports provider entity;

(4) services service components of CTSS that are the responsibility of a residential or program license holder, including foster care providers under the terms of a service agreement or administrative rules governing licensure; and

(5) adjunctive activities that may be offered by a provider entity but are not otherwise covered by medical assistance, including:

(i) a service that is primarily recreation oriented or that is provided in a setting that is not medically supervised. This includes sports activities, exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time, trips to community activities, and tours;

(ii) a social or educational service that does not have or cannot reasonably be expected to have a therapeutic outcome related to the client's emotional disturbance;

(iii) consultation with other providers or service agency staff about the care or progress of a client;

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- (iv) prevention or education programs provided to the community; and
- (v) treatment for clients with primary diagnoses of alcohol or other drug abuse.

Sec. 11. Minnesota Statutes 2004, section 256B.0943, subdivision 13, is amended to read:

Subd. 13. **EXCEPTION TO EXCLUDED SERVICES.** Notwithstanding subdivision 12, up to 15 hours of children's therapeutic services and supports provided within a six-month period to a child with severe emotional disturbance who is residing in a hospital; a group home as defined in Minnesota Rules, ~~part 9560.0520, subpart 4 parts 2960.0130 to 2960.0220~~; a residential treatment facility licensed under Minnesota Rules, ~~parts 9545.0900 to 9545.1090~~ 2960.0580 to 2960.0690; a regional treatment center; or other institutional group setting or who is participating in a program of partial hospitalization are eligible for medical assistance payment if part of the discharge plan.

Sec. 12. Minnesota Statutes 2004, section 256B.503, is amended to read:

**256B.503 RULES.**

To implement Laws 1983, chapter 312, article 9, sections 1 to 7, the commissioner shall promulgate rules. Rules adopted to implement Laws 1983, chapter 312, article 9, section 5, must (a) be in accord with the provisions of Minnesota Statutes, ~~chapter 256B,~~ (b) set standards for case management which include, encourage, and enable flexible administration, ~~(c)~~ (b) require the county boards to develop individualized procedures governing case management activities, ~~(d)~~ (c) consider criteria promulgated under section 256B.092, subdivision 3, and the federal waiver plan, ~~(e)~~ (d) identify cost implications to the state and to county boards, and ~~(f)~~ (e) require the screening teams to make recommendations to the county case manager for development of the individual service plan.

The commissioner shall adopt rules to implement this section by July 1, 1986.

Sec. 13. Minnesota Statutes 2004, 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 October 1, 1992, the commissioner of human services shall pay the lower of (1) submitted 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

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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)~~ (10), shall be paid on a cost-based payment system that is based on the cost-finding methods and allowable costs of the Medicare program.

(c) Effective for services provided on or after July 1, 2003, rates that are based on the Medicare outpatient prospective payment system shall be replaced by a budget neutral prospective payment system that is derived using medical assistance data. The commissioner shall provide a proposal to the 2003 legislature to define and implement this provision.

(d) For fee-for-service services provided on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for outpatient hospital facility services is reduced by .5 percent from the current statutory rate.

(e) In addition to the reduction in paragraph (d), the total payment for fee-for-service services provided on or after July 1, 2003, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced five percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

Sec. 14. Minnesota Statutes 2004, 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 (MFIP), or who is having a payment made on the person's behalf under sections 256I.01 to 256I.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period 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 section 256B.056, subdivision 3, with 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; or

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(ii) who has gross countable income above 75 percent of the federal poverty guidelines but not in excess of 175 percent of the federal poverty guidelines for the family size, using a six-month budget period, whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3c, and who applies during an inpatient hospitalization; or

(iii) the commissioner shall adjust the income standards under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services.

(b) General assistance medical care may not be paid for applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines.

(c) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization. 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 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 a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health care program application by providing the county agency or Department of Human Services with provider identification and a temporary unique identifier for the applicant. 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.

(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

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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.

(h) In determining the amount of assets of an individual eligible under paragraph (a), clause (2), item (i), 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 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 104-193, sections 421 and 422, and subsequently set out in federal rules.

(j) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care. 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

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United States without the approval or acquiescence of the Immigration and Naturalization Service.

(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.

(l) Effective July 1, 2003, general assistance medical care emergency services end.

Sec. 15. Minnesota Statutes 2004, section 256L.01, subdivision 3a, is amended to read:

Subd. 3a. **FAMILY WITH CHILDREN.** (a) "Family with children" means:

(1) ~~parents, and their children, and dependent siblings~~ residing in the same household; or

(2) grandparents, foster parents, relative caretakers as defined in the medical assistance program, or legal guardians; ~~and their wards who are children; and dependent siblings~~ residing in the same household.

(b) The term includes children and ~~dependent siblings~~ who are temporarily absent from the household in settings such as schools, camps, or parenting time with noncustodial parents.

(c) ~~For purposes of this subdivision, a dependent sibling means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent, grandparent, foster parent, relative caretaker, or legal guardian. Proof of school enrollment is required.~~

Sec. 16. Minnesota Statutes 2004, section 256L.04, is amended by adding a subdivision to read:

Subd. 7b. ANNUAL INCOME LIMITS ADJUSTMENT. The commissioner shall adjust the income limits under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services.

Sec. 17. Minnesota Statutes 2004, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **DATA MANAGEMENT.** (a) **COUNTY DATA.** In performing any of the duties of this section as a lead agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section

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138.163, the common entry point shall destroy data three calendar years after date of receipt.

(b) **LEAD AGENCY DATA.** The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

- (i) the name of the facility investigated;
- (ii) a statement of the nature of the alleged maltreatment;
- (iii) pertinent information obtained from medical or other records reviewed;
- (iv) the identity of the investigator;
- (v) a summary of the investigation's findings;
- (vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;
- (vii) a statement of any action taken by the facility;
- (viii) a statement of any action taken by the lead agency; and
- (ix) when a lead agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

- (i) the name of the vulnerable adult;
- (ii) the identity of the individual alleged to be the perpetrator;
- (iii) the identity of the individual substantiated as the perpetrator; and
- (iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) **IDENTITY OF REPORTER.** The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a

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written finding by a court that the report was false and 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, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) **DESTRUCTION OF DATA.** Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be destroyed under the following schedule:

- (1) data from reports determined to be false, two years after the finding was made;
- (2) data from reports determined to be inconclusive, four years after the finding was made;
- (3) data from reports determined to be substantiated, seven years after the finding was made; and
- (4) data from reports which were not investigated by a lead agency and for which there is no final disposition, two years from the date of the report.

(e) **SUMMARY OF REPORTS.** The commissioners of health and human services shall each annually report to the legislature and the governor on the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. The report shall identify:

- (1) whether and where backlogs of cases result in a failure to conform with statutory time frames;
- (2) where adequate coverage requires additional appropriations and staffing; and
- (3) any other trends that affect the safety of vulnerable adults.

(f) **RECORD RETENTION POLICY.** Each lead agency must have a record retention policy.

(g) **EXCHANGE OF INFORMATION.** Lead agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Upon completion of the review, not public data received by the review panel must be returned to the lead agency.

(h) **COMPLETION TIME.** Each lead agency shall keep records of the length of time it takes to complete its investigations.

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(i) **NOTIFICATION OF OTHER AFFECTED PARTIES.** A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) **FEDERAL REQUIREMENTS.** Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

**Sec. 18. REPEALER.**

(a) Minnesota Statutes 2004, sections 119A.01, subdivision 3; 119A.20; 119A.21; 119A.22; 119A.35; 119B.21, subdivision 11; 256.014, subdivision 3; 256.045, subdivision 3c; 256B.0629, subdivisions 1, 2, and 4; and 256J.95, subdivision 20, are repealed.

(b) Laws 1998, chapter 407, article 4, section 63, is repealed.

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**ARTICLE 3**

**MISCELLANEOUS**

Section 1. Minnesota Statutes 2004, section 245.463, subdivision 2, is amended to read:

Subd. 2. **TECHNICAL ASSISTANCE.** The commissioner shall provide ongoing technical assistance to county boards to ~~develop the adult mental health component of the community social services plan~~ to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of adults with mental illness residing in the county and extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Sec. 2. Minnesota Statutes 2004, section 245.464, subdivision 1, is amended to read:

Subdivision 1. **COORDINATION.** The commissioner shall supervise the development and coordination of locally available adult mental health services by the county boards in a manner consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area including state-operated services offered at sites outside of the regional treatment centers. The commissioner shall ~~review the adult mental health component of the community social services plan developed by county~~

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boards as specified in section 245.463 and provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's adult mental health component of the community social services plan and other information as required by sections 245.461 to 245.486.

Sec. 3. Minnesota Statutes 2004, section 245.465, subdivision 1, is amended to read:

Subdivision 1. **SPEND ACCORDING TO PLAN; OTHER LISTED DUTIES.** The county board in each county shall use its share of mental health and ~~Community Social Services Act~~ funds allocated by the commissioner according to the biennial mental health component of the county's ~~community social services plan~~ as approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available adult mental health services in accordance with sections 245.461 to 245.486;

(2) with the involvement of the local adult mental health advisory council or the adult mental health subcommittee of an existing advisory council, develop a biennial adult mental health component of the ~~community social services plan~~ which considers the assessment of unmet needs in the county as reported by the local adult mental health advisory council under section 245.466, subdivision 5, clause (3). The county shall provide, upon request of the local adult mental health advisory council, readily available data to assist in the determination of unmet needs;

(3) provide for case management services to adults with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; 245.4711; and 245.486;

(4) provide for screening of adults specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center;

(5) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486; and

(6) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.

Sec. 4. Minnesota Statutes 2004, section 245.466, subdivision 1, is amended to read:

Subdivision 1. **DEVELOPMENT OF SERVICES.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable adult mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other

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individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 or with any state facility or program as defined in section 246.50, subdivision 3, to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987, to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the adult mental health ~~component of the community social services plan~~ approved by the commissioner.

Sec. 5. Minnesota Statutes 2004, section 245.466, subdivision 5, is amended to read:

Subd. 5. **LOCAL ADVISORY COUNCIL.** The county board, individually or in conjunction with other county boards, shall establish a local adult mental health advisory council or mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of an adult with mental illness, one mental health professional, and one community support services program representative. The local adult mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local adult mental health advisory council or mental health subcommittee of an existing advisory council shall:

(1) arrange for input from the regional treatment center's mental illness program unit regarding coordination of care between the regional treatment center and community-based services;

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.462, subdivision 10;

(3) provide to the county board a report of unmet mental health needs of adults residing in the county to be included in the county's biennial mental health ~~component of the community social services plan~~, and participate in developing the mental health ~~component of the plan~~; and

(4) coordinate its review, evaluation, and recommendations regarding the local mental health system with the state advisory council on mental health.

The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Sec. 6. Minnesota Statutes 2004, section 245.4661, subdivision 7, is amended to read:

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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

(3) provide the commissioner of human services with timely and pertinent information through the following methods:

(i) submission of ~~community social services act~~ mental health plans and plan amendments which are based on a format and timetable determined by the commissioner;

(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. 7. Minnesota Statutes 2004, section 245.483, subdivision 1, is amended to read:

Subdivision 1. **FUNDS NOT PROPERLY USED.** If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 and 245.487 to 245.4887, or that funds are not being used according to the approved biennial mental health component of the ~~community social services~~ plan, all or part of the mental health and ~~Community Social Services Act~~ funds may be terminated upon 30 days' notice to the county board. The commissioner may require repayment of any funds not used according to the approved biennial mental health component of the ~~community social services~~ plan. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota Administrative Procedure Act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.

Sec. 8. Minnesota Statutes 2004, section 245.483, subdivision 3, is amended to read:

Subd. 3. **DELAYED PAYMENTS.** If the commissioner finds that a county board or its contractors are not in compliance with the approved biennial mental health component of the ~~community social services~~ plan or sections 245.461 to 245.486 and 245.487 to 245.4887, the commissioner may delay payment of all or part of the quarterly mental health and ~~Community Social Service Act~~ funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this

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notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.

Sec. 9. Minnesota Statutes 2004, section 245.4872, subdivision 2, is amended to read:

Subd. 2. **TECHNICAL ASSISTANCE.** The commissioner shall provide ongoing technical assistance to county boards to develop the children's mental health component of the community social services plan to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of children with emotional disturbances residing in the county and the extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Sec. 10. Minnesota Statutes 2004, section 245.4873, subdivision 5, is amended to read:

Subd. 5. **DUTIES OF THE COMMISSIONER.** The commissioner shall supervise the development and coordination of locally available children's mental health services by the county boards in a manner consistent with sections 245.487 to 245.4887. The commissioner shall review the children's mental health component of the community social services plan developed by county boards as specified in section 245.4872 and provide technical assistance to county boards in developing and maintaining locally available and coordinated children's mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's children's mental health proposals and other information as required by sections 245.487 to 245.4887.

Sec. 11. Minnesota Statutes 2004, section 245.4874, is amended to read:

**245.4874 DUTIES OF COUNTY BOARD.**

The county board in each county shall use its share of mental health and Community Social Services Act funds allocated by the commissioner according to a biennial children's mental health component of the community social services plan that is approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) establish a mechanism providing for interagency coordination as specified in section 245.4875, subdivision 6;

(3) develop a biennial children's mental health component of the community social services plan which considers ~~considers~~ the assessment of unmet needs in the county as reported by the local children's mental health advisory council under section 245.4875, subdivision 5, paragraph (b), clause (3). The county shall provide, upon request of the local children's mental health advisory council, readily available data to assist in the determination of unmet needs;

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(4) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;

(5) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost-effectiveness of their delivery;

(6) assure that mental health services delivered according to sections 245.487 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(7) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(8) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(9) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(10) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(11) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871;

(12) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age;

(13) assure that culturally informed mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage; and

(14) consistent with section 245.486, arrange for or provide a children's mental health screening to a child receiving child protective services or a child in out-of-home placement, a child for whom parental rights have been terminated, a child found to be delinquent, and a child found to have committed a juvenile petty offense for the third or subsequent time, unless a screening has been performed within the previous 180 days, or the child is currently under the care of a mental health professional. The court or county agency must notify a parent or guardian whose parental rights have not been terminated of the potential mental health screening and the option to prevent the screening by notifying the court or county agency in writing. The screening shall be conducted with a screening instrument approved by the commissioner of human

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services according to criteria that are updated and issued annually to ensure that approved screening instruments are valid and useful for child welfare and juvenile justice populations, and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer or local social services agency staff person who is trained in the use of the screening instrument. Training in the use of the instrument shall include training in the administration of the instrument, the interpretation of its validity given the child's current circumstances, the state and federal data practices laws and confidentiality standards, the parental consent requirement, and providing respect for families and cultural values. If the screen indicates a need for assessment, the child's family, or if the family lacks mental health insurance, the local social services agency, in consultation with the child's family, shall have conducted a diagnostic assessment, including a functional assessment, as defined in section 245.4871. The administration of the screening shall safeguard the privacy of children receiving the screening and their families and shall comply with the Minnesota Government Data Practices Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Screening results shall be considered private data and the commissioner shall not collect individual screening results.

Sec. 12. Minnesota Statutes 2004, section 245.4875, subdivision 1, is amended to read:

Subdivision 1. **DEVELOPMENT OF CHILDREN'S SERVICES.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable children's mental health services. The county board may provide some or all of the children's mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward fully implementing sections 245.487 to 245.4887 during the period July 1, 1989, to January 1, 1992. County boards must develop fully each of the treatment services prescribed by sections 245.487 to 245.4887 by January 1, 1992, according to the priorities established in section 245.4873 and the children's mental health component of the ~~community social services~~ plan approved by the commissioner under section 245.4887.

Sec. 13. Minnesota Statutes 2004, section 245.4875, subdivision 5, is amended to read:

Subd. 5. **LOCAL CHILDREN'S ADVISORY COUNCIL.** (a) By October 1, 1989, the county board, individually or in conjunction with other county boards, shall establish a local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council or shall include persons on its existing mental health advisory council who are representatives of children's mental health interests. The following individuals must serve on the local

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children's mental health advisory council, the children's mental health subcommittee of an existing local mental health advisory council, or be included on an existing mental health advisory council: (1) at least one person who was in a mental health program as a child or adolescent; (2) at least one parent of a child or adolescent with severe emotional disturbance; (3) one children's mental health professional; (4) representatives of minority populations of significant size residing in the county; (5) a representative of the children's mental health local coordinating council; and (6) one family community support services program representative.

(b) The local children's mental health advisory council or children's mental health subcommittee of an existing advisory council shall seek input from parents, former consumers, providers, and others about the needs of children with emotional disturbance in the local area and services needed by families of these children, and shall meet monthly, unless otherwise determined by the council or subcommittee, but not less than quarterly, to review, evaluate, and make recommendations regarding the local children's mental health system. Annually, the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council shall:

(1) arrange for input from the local system of care providers regarding coordination of care between the services;

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.4877, clause (2); and

(3) provide to the county board a report of unmet mental health needs of children residing in the county to be included in the county's biennial children's mental health component of the community social services plan and participate in developing the mental health component of the plan.

(c) The county board shall consider the advice of its local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council in carrying out its authorities and responsibilities.

Sec. 14. Minnesota Statutes 2004, section 245A.16, subdivision 6, is amended to read:

Subd. 6. **CERTIFICATION BY THE COMMISSIONER.** The commissioner shall ensure that rules are uniformly enforced throughout the state by reviewing each county and private agency for compliance with this section and other applicable laws and rules at least every four years. County agencies that comply with this section shall be certified by the commissioner. If a county agency fails to be certified by the commissioner, the commissioner shall certify a reduction of up to 20 percent of the county's Community Social Services Act funding or an equivalent amount from state administrative aids in an amount up to 20 percent of the county's state portion of Children and Community Services Act funding.

Sec. 15. Minnesota Statutes 2004, section 252.24, subdivision 5, is amended to read:

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Subd. 5. **DEVELOPMENTAL ACHIEVEMENT CENTERS: SALARY ADJUSTMENT PER DIEM.** The commissioner shall approve a two percent increase in the payment rates for day training and habilitation services vendors effective July 1, 1991. All revenue generated shall be used by vendors to increase salaries, fringe benefits, and payroll taxes by at least three percent for personnel below top management. County boards shall amend contracts with vendors to require that all revenue generated by this provision is expended on salary increases to staff below top management. County boards shall verify in writing to the commissioner that each vendor has complied with this requirement. If a county board determines that a vendor has not complied with this requirement for a specific contract period, the county board shall reduce the vendor's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for vendors and counties as necessary to monitor compliance with this provision.

Each county agency shall report to the commissioner by July 30, 1991, its actual social service day training and habilitation expenditures for calendar year 1990. The commissioner shall allocate the day habilitation service ~~CSSA appropriation made available for this purpose to county agencies in proportion to these expenditures.~~

Sec. 16. Minnesota Statutes 2004, section 252.282, subdivision 2, is amended to read:

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. Continuous quality improvement goals as well as consumer satisfaction surveys may also be considered in this process.

Sec. 17. Minnesota Statutes 2004, section 252.46, subdivision 10, is amended to read:

Subd. 10. **VENDOR'S REPORT; AUDIT.** The vendor shall report to the commissioner and the county board on forms prescribed by the commissioner at times specified by the commissioner. The reports shall include programmatic and fiscal information. ~~Fiscal information shall be provided in an annual audit that complies with the requirements of Minnesota Rules, parts 9550.0010 to 9550.0092.~~ The audit must be done according to generally accepted auditing standards to result in statements that include a balance sheet, income statement, changes in financial position, and the certified public accountant's opinion. The county's annual audit shall satisfy the audit required under this subdivision for any county-operated day training and habilitation

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program. Except for day training and habilitation programs operated by a county, the audit must provide supplemental statements for each day training and habilitation program with an approved unique set of rates.

Sec. 18. Minnesota Statutes 2004, section 256.045, subdivision 3, is amended to read:

**Subd. 3. STATE AGENCY HEARINGS.** (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; (8) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or (9) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (8) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4), (8), or (9) is the only administrative appeal to the final agency determination specifically, including a

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challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (8) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (8) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan prescribed under chapter 256M or other social services the person is eligible for under state law.

(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 19. Minnesota Statutes 2004, section 256G.01, subdivision 3, is amended to read:

Subd. 3. **PROGRAM COVERAGE.** This chapter applies to all social service programs administered by the commissioner in which residence is the determining factor in establishing financial responsibility. These include, but are not limited to: commitment proceedings, including voluntary admissions; emergency holds; poor relief funded wholly through local agencies; social services, including title XX, IV-E and other components of the Community Social Services Act, section 256E.12; social services programs funded wholly through the resources of county agencies; social services provided under the Minnesota Indian Family Preservation Act, sections 260.751 to 260.781; costs for delinquency confinement under section 393.07, subdivision 2; service responsibility for these programs; and group residential housing.

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Sec. 20. Minnesota Statutes 2004, section 256M.30, subdivision 2, is amended to read:

Subd. 2. **CONTENTS.** The service plan shall be completed in a form prescribed by the commissioner. The plan must include:

(1) a statement of the needs of the children, adolescents, and adults who experience the conditions defined in section 256M.10, subdivision 2, paragraph (a), and strengths and resources available in the community to address those needs;

(2) strategies the county will pursue to achieve the performance targets. Strategies must include specification of how funds under this section and other community resources will be used to achieve desired performance targets;

(3) a description of the county's process to solicit public input and a summary of that input;

(4) beginning with the service plans submitted for the period from January 1, 2006, through December 31, 2007, performance targets on statewide indicators for each county to measure outcomes of children's mental health, and child safety, permanency, and well-being. The commissioner shall consult with counties and other stakeholders to develop these indicators and collect baseline data to inform the establishment of individual county performance targets for the 2006-2007 biennium and subsequent plans; and

(5) a budget for services to be provided with funds under this section. The county must budget at least 40 percent of funds appropriated under sections 256M.01 to 256M.80 for services to ensure the mental health, safety, permanency, and well-being of children from low-income families. The commissioner may reduce the portion of child and community services funds that must be budgeted by a county for services to children in low-income families if:

(i) the incidence of children in low-income families within the county's population is significantly below the statewide median; or

(ii) the county has successfully achieved past performance targets for children's mental health, and child safety, permanency, and well-being and its proposed service plan is judged by the commissioner to provide an adequate level of service to the population with less funding.

Sec. 21. Minnesota Statutes 2004, section 260C.212, subdivision 12, is amended to read:

Subd. 12. **FAIR HEARING REVIEW.** Any person whose claim for foster care payment pursuant to the placement of a child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness may appeal the decision under section 256.045, subdivision 3. ~~The application and fair hearing procedures set forth in the administration of community social services rule, Minnesota Rules, parts 9550.0070 to 9550.0092, do not apply to foster care payment issues appealable under this subdivision.~~

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Sec. 22. Minnesota Statutes 2004, section 275.62, subdivision 4, is amended to read:

Subd. 4. **PENALTY FOR LATE REPORTING.** If a local government unit fails to submit the report required in subdivision 1 by January 30 of the year after the year in which the tax was levied, aid payments to the local governmental unit in the year after the year in which the tax was levied shall be reduced as follows:

(1) for a county, the aid amount under ~~section 256E.06~~ chapter 256M shall be reduced by five percent; and

(2) for other local governmental units, the aid certified to be received under sections 477A.011 to 477A.014 shall be reduced by five percent.

Sec. 23. Minnesota Statutes 2004, section 626.5571, subdivision 2, is amended to read:

Subd. 2. **DUTIES OF TEAM.** A multidisciplinary adult protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency to better enable the agency to carry out its adult protection functions under section 626.557 and the Community Social Services Act, and to meet the community's needs for adult protection services. Case consultation may be performed by a committee of the team composed of the team members representing social services, law enforcement, the county attorney, health care, and persons directly involved in an individual case as determined by the case consultation committee. Case consultation is a case review process that results in recommendations about services to be provided to the identified adult and family.

Sec. 24. **REVISOR INSTRUCTION.**

In the next publication of Minnesota Statutes, the revisor of statutes shall make the changes in paragraphs (a) to (e) to be consistent with the changes in Laws 2003, First Special Session chapter 14, article 11, section 12. The revisor of statutes shall:

(a) In Minnesota Statutes, section 62Q.075, subdivisions 2 and 4; delete the term "and 256E" and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

(b) In Minnesota Statutes, section 245.483, subdivision 4; delete "Community Social Services Act and".

(c) In Minnesota Statutes, section 254B.01, subdivision 6; delete "community social services block grants,".

(d) In Minnesota Statutes, section 256B.0917, subdivision 2; delete "Community Social Services Act,".

(e) In Minnesota Statutes, section 256B.0917, subdivision 4; delete "and the Community Social Services Act".

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Sec. 25. **REPEALER.**

Minnesota Statutes 2004, sections 245.713, subdivisions 2 and 4; 245.716; and 626.5551, subdivision 4, are repealed.

Presented to the governor May 21, 2005

Signed by the governor May 25, 2005, 12:55 p.m.

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**CHAPTER 99—H.F.No. 478**

*An act relating to counties; providing for alternative filing of surveys; modifying requirements for land surveyors; providing for a transfer of records; amending Minnesota Statutes 2004, sections 160.15, subdivision 4; 381.12, subdivisions 1, 3; 389.03.*

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

Section 1. Minnesota Statutes 2004, section 160.15, subdivision 4, is amended to read:

Subd. 4. **FILING OF CERTIFICATE; FEE.** The land surveyor placing and establishing the markers or monuments shall, no later than one year after placing and establishing them, file a certificate to that effect in the office of the county recorder, ~~or in the office of the county surveyor where~~, if the county maintains a full-time office, in the county or counties ~~wherein~~ in which the markers or monuments were placed. If a county in which the markers or monuments were placed does not have a full-time office of the county surveyor, then the land surveyor shall record the certificate in the office of the county recorder of that county. Each certificate must contain only the record of markers and monuments at one corner. ~~The county recorder may charge a fee of 50 cents for each certificate filed.~~

**EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2005, and applies to markers and monuments placed and established on or after that date.

Sec. 2. Minnesota Statutes 2004, section 381.12, subdivision 1, is amended to read:

Subdivision 1. **SURVEYOR, EMPLOYMENT.** When the county board determines that the monuments established by the United States in the public lands survey to mark section, quarter section, and meander corners have been destroyed or are becoming obscure, it may employ a licensed surveyor to preserve, restore and mark the corners with a durable magnetic monument. The surveyor shall make full and accurate notes and records from which the entire survey can be relocated, and shall, no later than one year after preserving, restoring, and marking the corners, file a certified copy of the same, with a plat, in the office of the county recorder ~~or the office of the county surveyor if an office is maintained in a building maintained by the county for county purposes on a full-time basis~~, and if not, shall record it in the office of the county recorder. The monuments are prima facie evidence of the original United States public land survey corners.

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