

**CHAPTER 78--H.F.No. 1535**

*An act relating to human services; providing for human services policy modifications relating to children and family services, chemical and mental health services, direct care and treatment, operations, health care, and continuing care; making changes to child care assistance programs, home and community-based services standards, medical assistance, the alternative care program, Northstar Care for Children, children's therapeutic services and supports, human services licensing provisions, and the community first services and supports program; modifying requirements for background studies; extending a council; modifying the Minnesota Indian Family Preservation Act; making changes to provisions governing child out-of-home placement; modifying reporting requirements for maltreatment of children and vulnerable adults; making technical changes; requiring reports; modifying requirements for administrative sanctions and hearings; authorizing rulemaking; providing criminal penalties; amending Minnesota Statutes 2014, sections 62J.495, subdivision 1; 119B.011, subdivision 16; 119B.025, subdivision 1; 119B.09, subdivision 9; 119B.125, subdivisions 1, 6, by adding subdivisions; 144.0724, subdivision 12; 148E.065, subdivision 4a; 168.012, subdivision 1; 245.462, subdivision 4; 245A.02, subdivision 13, by adding subdivisions; 245A.035, subdivisions 1, 5; 245A.04, subdivision 15a; 245A.07, subdivisions 2, 2a; 245A.11, subdivision 4; 245A.12; 245A.13; 245A.14, subdivision 14; 245A.148; 245A.16, subdivision 1; 245A.175; 245A.1915; 245A.192, subdivisions 3, 5, 10, 11, by adding subdivisions; 245A.40, subdivisions 3, 4, 5; 245A.50, subdivision 1; 245C.02, subdivision 2; 245C.04, subdivisions 4, 5, 6; 245C.05, subdivision 1; 245C.07; 245C.10, subdivision 10, by adding a subdivision; 245C.20, subdivision 2, by adding a subdivision; 245C.22, subdivision 7; 245D.10, subdivision 3, by adding a subdivision; 245E.01, subdivision 8, by adding a subdivision; 245E.02, subdivisions 1, 4, by adding a subdivision; 245E.06, subdivisions 2, 3; 253B.212, subdivision 2, by adding a subdivision; 254B.05, subdivision 5; 256.01, subdivisions 4, 14b; 256.045, subdivisions 3, 6; 256.975, subdivision 7; 256.98, subdivision 1; 256B.0625, subdivision 31, by adding a subdivision; 256B.0911, subdivisions 1a, 2b, 3, 3a; 256B.0913, subdivisions 4, 5, 5a, 6, 10, 11, 12, by adding a subdivision; 256B.0943, subdivisions 1, 2, 3, 4, 5, 6, 7, 9, 11; 256B.0946, subdivision 1; 256B.0947, subdivision 7a; 256B.85; 256N.02, subdivision 18; 256N.23, subdivision 6; 257.85, subdivision 3; 259A.01, subdivision 25; 259A.10, subdivision 6; 260.755, subdivisions 8, 14, by adding subdivisions; 260.761, subdivisions 1, 2; 260.771, subdivision 3, by adding subdivisions; 260B.007, subdivision 12; 260C.007, subdivision 27, by adding a subdivision; 260C.168; 260C.178, subdivision 1; 260C.201, subdivision 5; 260C.212, subdivisions 1, 2; 260C.511; 268.155, subdivision 1; 402A.12; 402A.16, subdivisions 2, 4; 402A.18; 471.346; 609.821; 626.556, subdivisions 10, 11d; 626.557, subdivisions 9a, 9b, 10; 626.5572, subdivisions 5, 6, 21; Laws 2013, chapter 108, article 7, section 58; proposing coding for new law in Minnesota Statutes, chapters 245; 245A; 256; 256B; 260; 609; repealing Minnesota Statutes 2014, sections 245D.061, subdivision 3; 245E.07, subdivision 3; 256B.0911, subdivision 6a; Minnesota Rules, parts 9505.0175, subpart 32; 9505.0365, subpart 2; 9505.1696, subpart 10; 9505.1709; 9535.2000; 9535.2100; 9535.2200; 9535.2300; 9535.2400; 9535.2500; 9535.2600; 9535.2700; 9535.2800; 9535.2900; 9535.3000; 9555.7400; 9555.7500.*

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

**ARTICLE 1****CHILDREN AND FAMILY SERVICES**

Section 1. Minnesota Statutes 2014, section 119B.011, subdivision 16, is amended to read:

Subd. 16. **Legal nonlicensed child care provider.** "Legal nonlicensed child care provider" means: (1) a child care provider who is excluded from licensing requirements under section 245A.03, subdivision 2; or (2) a child care provider authorized to provide care in a child's home under section 119B.09, subdivision 13, provided the provider only cares for related children, children from a single, unrelated family, or both related children and children from a single, unrelated family.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2014, section 119B.025, subdivision 1, is amended to read:

Subdivision 1. **Factors which must be verified.** (a) The county shall verify the following at all initial child care applications using the universal application:

- (1) identity of adults;
- (2) presence of the minor child in the home, if questionable;
- (3) relationship of minor child to the parent, stepparent, legal guardian, eligible relative caretaker, or the spouses of any of the foregoing;
- (4) age;
- (5) immigration status, if related to eligibility;
- (6) Social Security number, if given;
- (7) income;
- (8) spousal support and child support payments made to persons outside the household;
- (9) residence; and
- (10) inconsistent information, if related to eligibility.

(b) If a family did not use the universal application or child care addendum to apply for child care assistance, the family must complete the universal application or child care addendum at its next eligibility redetermination and the county must verify the factors listed in paragraph (a) as part of that redetermination. Once a family has completed a universal application or child care addendum, the county shall use the redetermination form described in paragraph (c) for that family's subsequent redeterminations. Eligibility must be redetermined at least every six months. A family is considered to have met the eligibility redetermination requirement if a complete redetermination form and all required verifications are received within 30 days after the date the form was due. When the 30th day after the date the form was due falls on a Saturday, Sunday, or legal holiday, the 30-day time period is extended to include the next succeeding day that is not a Saturday, Sunday, or legal holiday. Assistance shall be payable retroactively from the redetermination due date. For a family where at least one parent is under the age of 21, does not have a high school or general equivalency diploma, and is a student in a school district or another similar program that provides or

arranges for child care, as well as parenting, social services, career and employment supports, and academic support to achieve high school graduation, the redetermination of eligibility shall be deferred beyond six months, but not to exceed 12 months, to the end of the student's school year. If a family reports a change in an eligibility factor before the family's next regularly scheduled redetermination, the county must recalculate eligibility without requiring verification of any eligibility factor that did not change.

(c) The commissioner shall develop a redetermination form to redetermine eligibility and a change report form to report changes that minimize paperwork for the county and the participant.

Sec. 3. Minnesota Statutes 2014, section 119B.09, subdivision 9, is amended to read:

**Subd. 9. Licensed and legal nonlicensed family child care providers; assistance.** This subdivision applies to any provider providing care in a setting other than a child care center. Licensed and legal non-licensed family child care providers and their employees are not eligible to receive child care assistance subsidies under this chapter for their own children or children in their family during the hours they are providing child care or being paid to provide child care. Child care providers and their employees are eligible to receive child care assistance subsidies for their children when they are engaged in other activities that meet the requirements of this chapter and for which child care assistance can be paid. The hours for which the provider or their employee receives a child care subsidy for their own children must not overlap with the hours the provider provides child care services.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2014, section 245A.035, subdivision 1, is amended to read:

Subdivision 1. **Emergency placement.** Notwithstanding section 245A.03, subdivision 2a, or 245C.13, subdivision 2, a county agency may place a child with a relative who is not licensed to provide foster care, provided the requirements of this section are met. As used in this section, the term "relative" has the meaning given it under section 260C.007, subdivision 26b or 27.

Sec. 5. Minnesota Statutes 2014, section 245A.035, subdivision 5, is amended to read:

**Subd. 5. Child foster care license application.** (a) The relatives with whom the emergency placement has been made shall complete the child foster care license application and necessary paperwork within ten days of the placement. The county agency shall assist the applicant to complete the application. The granting of a child foster care license to a relative shall be under the procedures in this chapter and according to the standards in Minnesota Rules, chapter 2960. In licensing a relative, the commissioner shall consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether a background study disqualification should be set aside under section 245C.22, or a variance should be granted under section 245C.30.

(b) When the county or private child-placing agency is processing an application for child foster care licensure of a relative as defined in section 260B.007, subdivision 12, or 260C.007, subdivision 26b or 27, the county agency or child-placing agency must explain the licensing process to the prospective licensee, including the background study process and the procedure for reconsideration of an initial disqualification for licensure. The county or private child-placing agency must also provide the prospective relative licensee with information regarding appropriate options for legal representation in the pertinent geographic area. If a relative is initially disqualified under section 245C.14, the commissioner must provide written notice of the reasons for the disqualification and the right to request a reconsideration by the commissioner as required under section 245C.17.

(c) The commissioner shall maintain licensing data so that activities related to applications and licensing actions for relative foster care providers may be distinguished from other child foster care settings.

Sec. 6. Minnesota Statutes 2014, section 245C.22, subdivision 7, is amended to read:

Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, except as provided in paragraph (f), upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set-aside and the individual's disqualifying characteristics are public data if the set-aside was:

(1) for any disqualifying characteristic under section 245C.15, when the set-aside relates to a child care center or a family child care provider licensed under chapter 245A; or

(2) for a disqualifying characteristic under section 245C.15, subdivision 2.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics under section 245C.15, and the terms of the variance are public data, when the variance:

(1) is issued to a child care center or a family child care provider licensed under chapter 245A; or

(2) relates to an individual with a disqualifying characteristic under section 245C.15, subdivision 2.

(c) The identity of a disqualified individual and the reason for disqualification remain private data when:

(1) a disqualification is not set aside and no variance is granted, except as provided under section 13.46, subdivision 4;

(2) the data are not public under paragraph (a) or (b);

(3) the disqualification is rescinded because the information relied upon to disqualify the individual is incorrect;

(4) the disqualification relates to a license to provide relative child foster care. As used in this clause, "relative" has the meaning given it under section 260C.007, subdivision 26b or 27; or

(5) the disqualified individual is a household member of a licensed foster care provider and:

(i) the disqualified individual previously received foster care services from this licensed foster care provider;

(ii) the disqualified individual was subsequently adopted by this licensed foster care provider; and

(iii) the disqualifying act occurred before the adoption.

(d) Licensed family child care providers and child care centers must provide notices as required under section 245C.301.

(e) Notwithstanding paragraphs (a) and (b), the identity of household members who are the subject of a disqualification related set-aside or variance is not public data if:

(1) the household member resides in the residence where the family child care is provided;

(2) the subject of the set-aside or variance is under the age of 18 years; and

(3) the set-aside or variance only relates to a disqualification under section 245C.15, subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

(f) When the commissioner has reason to know that a disqualified individual has received an order for expungement for the disqualifying record that does not limit the commissioner's access to the record, and the record was opened or exchanged with the commissioner for purposes of a background study under this chapter, the data that would otherwise become public under paragraph (a) or (b) remain private data.

Sec. 7. Minnesota Statutes 2014, section 256.01, subdivision 14b, is amended to read:

Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human services may authorize projects to test tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. The commissioner has authority to solicit and determine which tribes may participate in a project. Grants may be issued to Minnesota Indian tribes to support the projects. The commissioner may waive existing state rules as needed to accomplish the projects. ~~Notwithstanding section 626.556, the commissioner may authorize projects to use alternative methods of investigating and assessing reports of child maltreatment, provided that the projects comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements.~~ The commissioner may authorize projects to use alternative methods of (1) investigating and assessing reports of child maltreatment, and (2) administrative reconsideration, administrative appeal, and judicial appeal of maltreatment determinations, provided the alternative methods used by the projects comply with the provisions of sections 256.045 and 626.556 dealing with the rights of individuals who are the subjects of reports or investigations, including notice and appeal rights and data practices requirements. The commissioner may seek any federal approvals necessary to carry out the projects as well as seek and use any funds available to the commissioner, including use of federal funds, foundation funds, existing grant funds, and other funds. The commissioner is authorized to advance state funds as necessary to operate the projects. Federal reimbursement applicable to the projects is appropriated to the commissioner for the purposes of the projects. The projects must be required to address responsibility for safety, permanency, and well-being of children.

(b) For the purposes of this section, "American Indian child" means a person under 21 years old and who is a tribal member or eligible for membership in one of the tribes chosen for a project under this subdivision and who is residing on the reservation of that tribe.

(c) In order to qualify for an American Indian child welfare project, a tribe must:

- (1) be one of the existing tribes with reservation land in Minnesota;
- (2) have a tribal court with jurisdiction over child custody proceedings;
- (3) have a substantial number of children for whom determinations of maltreatment have occurred;
- (4) have capacity to respond to reports of abuse and neglect under section 626.556;
- (5) provide a wide range of services to families in need of child welfare services; and
- (6) have a tribal-state title IV-E agreement in effect.

(d) Grants awarded under this section may be used for the nonfederal costs of providing child welfare services to American Indian children on the tribe's reservation, including costs associated with:

- (1) assessment and prevention of child abuse and neglect;
- (2) family preservation;
- (3) facilitative, supportive, and reunification services;
- (4) out-of-home placement for children removed from the home for child protective purposes; and
- (5) other activities and services approved by the commissioner that further the goals of providing safety, permanency, and well-being of American Indian children.

(e) When a tribe has initiated a project and has been approved by the commissioner to assume child welfare responsibilities for American Indian children of that tribe under this section, the affected county social service agency is relieved of responsibility for responding to reports of abuse and neglect under section 626.556 for those children during the time within which the tribal project is in effect and funded. The commissioner shall work with tribes and affected counties to develop procedures for data collection, evaluation, and clarification of ongoing role and financial responsibilities of the county and tribe for child welfare services prior to initiation of the project. Children who have not been identified by the tribe as participating in the project shall remain the responsibility of the county. Nothing in this section shall alter responsibilities of the county for law enforcement or court services.

(f) Participating tribes may conduct children's mental health screenings under section 245.4874, subdivision 1, paragraph (a), clause (13), for children who are eligible for the initiative and living on the reservation and who meet one of the following criteria:

- (1) the child must be receiving child protective services;
- (2) the child must be in foster care; or
- (3) the child's parents must have had parental rights suspended or terminated.

Tribes may access reimbursement from available state funds for conducting the screenings. Nothing in this section shall alter responsibilities of the county for providing services under section 245.487.

(g) Participating tribes may establish a local child mortality review panel. In establishing a local child mortality review panel, the tribe agrees to conduct local child mortality reviews for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes with established child mortality review panels shall have access to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide written notice to the commissioner and affected counties when a local child mortality review panel has been established and shall provide data upon request of the commissioner for purposes of sharing nonpublic data with members of the state child mortality review panel in connection to an individual case.

(h) The commissioner shall collect information on outcomes relating to child safety, permanency, and well-being of American Indian children who are served in the projects. Participating tribes must provide information to the state in a format and completeness deemed acceptable by the state to meet state and federal reporting requirements.

(i) In consultation with the White Earth Band, the commissioner shall develop and submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a plan to transfer legal responsibility for providing child protective services to White Earth Band member children residing in Hennepin County to the White Earth Band. The plan shall include a

financing proposal, definitions of key terms, statutory amendments required, and other provisions required to implement the plan. The commissioner shall submit the plan by January 15, 2012.

Sec. 8. Minnesota Statutes 2014, section 256N.02, subdivision 18, is amended to read:

Subd. 18. **Relative.** "Relative," as described in section 260C.007, subdivision 27, means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative, as described in section 260C.007, subdivision 26b, includes members means a person who is a member of the Indian child's extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

Sec. 9. Minnesota Statutes 2014, section 256N.23, subdivision 6, is amended to read:

Subd. 6. **Exclusions.** The commissioner must not enter into an adoption assistance agreement with the following individuals:

- (1) a child's biological parent or stepparent;
- (2) a child's relative under section 260C.007, subdivision 26b or 27, with whom the child resided immediately prior to child welfare involvement unless:
  - (i) the child was in the custody of a Minnesota county or tribal agency pursuant to an order under chapter 260C or equivalent provisions of tribal code and the agency had placement and care responsibility for permanency planning for the child; and
  - (ii) the child is under guardianship of the commissioner of human services according to the requirements of section 260C.325, subdivision 1 or 3, or is a ward of a Minnesota tribal court after termination of parental rights, suspension of parental rights, or a finding by the tribal court that the child cannot safely return to the care of the parent;
- (3) an individual adopting a child who is the subject of a direct adoptive placement under section 259.47 or the equivalent in tribal code;
- (4) a child's legal custodian or guardian who is now adopting the child; or
- (5) an individual who is adopting a child who is not a citizen or resident of the United States and was either adopted in another country or brought to the United States for the purposes of adoption.

Sec. 10. Minnesota Statutes 2014, section 257.85, subdivision 3, is amended to read:

Subd. 3. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "MFIP standard" means the transitional standard used to calculate assistance under the MFIP program, or, if permanent legal and physical custody of the child is given to a relative custodian residing outside of Minnesota, the analogous transitional standard or standard of need used to calculate assistance under the TANF program of the state where the relative custodian lives.

(b) "Local agency" means the county social services agency or tribal social services agency with legal custody of a child prior to the transfer of permanent legal and physical custody.

(c) "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota Juvenile Court under section 260C.515, subdivision 4.

(d) "Relative" has the meaning given in section 260C.007, subdivision 26b or 27.

(e) "Relative custodian" means a person who has permanent legal and physical custody of a child. When siblings, including half-siblings and stepsiblings, are placed together in permanent legal and physical custody, the person receiving permanent legal and physical custody of the siblings is considered a relative custodian of all of the siblings for purposes of this section.

(f) "Relative custody assistance agreement" means an agreement entered into between a local agency and a person who has been or will be awarded permanent legal and physical custody of a child.

(g) "Relative custody assistance payment" means a monthly cash grant made to a relative custodian pursuant to a relative custody assistance agreement and in an amount calculated under subdivision 7.

(h) "Remains in the physical custody of the relative custodian" means that the relative custodian is providing day-to-day care for the child and that the child lives with the relative custodian; absence from the relative custodian's home for a period of more than 120 days raises a presumption that the child no longer remains in the physical custody of the relative custodian.

Sec. 11. Minnesota Statutes 2014, section 259A.01, subdivision 25, is amended to read:

Subd. 25. **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, ~~relative includes members~~ means a person who is a member of the Indian child's extended family as defined by law or custom of the Indian child's tribe, or, in the absence of law or custom, shall be a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

Sec. 12. Minnesota Statutes 2014, section 259A.10, subdivision 6, is amended to read:

Subd. 6. **Exclusions.** The commissioner shall not enter into an adoption assistance agreement with:

(1) a child's biological parent or stepparent;

(2) a child's relative, according to section 260C.007, subdivision 26b or 27, with whom the child resided immediately prior to child welfare involvement unless:

(i) the child was in the custody of a Minnesota county or tribal agency pursuant to an order under chapter 260C or equivalent provisions of tribal code and the agency had placement and care responsibility for permanency planning for the child; and

(ii) the child is under guardianship of the commissioner of human services according to the requirements of section 260C.325, subdivision 1, paragraphs (a) and (b), or subdivision 3, paragraphs (a) and (b), or is a ward of a Minnesota tribal court after termination of parental rights, suspension of parental rights, or a finding by the tribal court that the child cannot safely return to the care of the parent;

(3) a child's legal custodian or guardian who is now adopting the child;



(4) an individual adopting a child who is the subject of a direct adoptive placement under section 259.47 or the equivalent in tribal code; or

(5) an individual who is adopting a child who is not a citizen or resident of the United States and was either adopted in another country or brought to this country for the purposes of adoption.

Sec. 13. **[260.753] PURPOSES.**

The purposes of this act are to (1) protect the long-term interests, as defined by the tribes, of Indian children, their families as defined by law or custom, and the child's tribe; and (2) preserve the Indian family and tribal identity, including an understanding that Indian children are damaged if family and child tribal identity and contact are denied. Indian children are the future of the tribes and are vital to their very existence.

Sec. 14. Minnesota Statutes 2014, section 260.755, is amended by adding a subdivision to read:

Subd. 1a. **Active efforts.** "Active efforts" means a rigorous and concerted level of effort that is ongoing throughout the involvement of the local social services agency to continuously involve the Indian child's tribe and that uses the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe to preserve the Indian child's family and prevent placement of an Indian child and, if placement occurs, to return the Indian child to the child's family at the earliest possible time. Active efforts sets a higher standard than reasonable efforts to preserve the family, prevent breakup of the family, and reunify the family, according to section 260.762. Active efforts includes reasonable efforts as required by Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679c.

Sec. 15. Minnesota Statutes 2014, section 260.755, is amended by adding a subdivision to read:

Subd. 2a. **Best interests of an Indian child.** "Best interests of an Indian child" means compliance with the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act to preserve and maintain an Indian child's family. The best interests of an Indian child support the child's sense of belonging to family, extended family, and tribe. The best interests of an Indian child are interwoven with the best interests of the Indian child's tribe.

Sec. 16. Minnesota Statutes 2014, section 260.755, subdivision 8, is amended to read:

Subd. 8. **Indian child.** "Indian child" means an unmarried person who is under age 18 and is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe.

A determination by a tribe that a child is a member of the Indian tribe or is eligible for membership in the Indian tribe is conclusive. For purposes of this chapter and chapters 256N, 260C, and 260D, Indian child also includes an unmarried person who satisfies either clause (1) or (2), is under age 21, and is in foster care pursuant to section 260C.451.

Sec. 17. Minnesota Statutes 2014, section 260.755, subdivision 14, is amended to read:

Subd. 14. **Parent.** "Parent" means the biological parent of an Indian child, or any Indian person who has lawfully adopted an Indian child, including a person who has adopted a child by tribal law or custom. It Parent includes a father as defined by tribal law or custom. Parent does not include an unmarried father whose

paternity has not been acknowledged or established. Paternity has been acknowledged when an unmarried father takes any action to hold himself out as the biological father of an Indian child.

Sec. 18. Minnesota Statutes 2014, section 260.755, is amended by adding a subdivision to read:

Subd. 17a. **Qualified expert witness.** "Qualified expert witness" means an individual who (i) has specific knowledge of the Indian child's tribe's culture and customs, or meets the criteria in section 260.771, subdivision 6, paragraph (d), and (ii) provides testimony as required by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912, regarding out-of-home placement or termination of parental rights relating to an Indian child.

Sec. 19. Minnesota Statutes 2014, section 260.761, subdivision 1, is amended to read:

Subdivision 1. ~~Determination of Indian child's tribe~~ **Inquiry of tribal lineage.** The local social services agency or private licensed child-placing agency shall ~~determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe~~ inquire of the child, the child's parents and custodians, and other appropriate persons whether there is any reason to believe that a child brought to the agency's attention may have lineage to an Indian tribe. This inquiry shall occur at the time the child comes to the attention of the local social services agency.

Sec. 20. Minnesota Statutes 2014, section 260.761, subdivision 2, is amended to read:

Subd. 2. ~~Agency and court notice of potential out-of-home placement to tribes.~~ (a) When a local social services agency or private child-placing agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, ~~the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child's tribal social services agency within seven days of the determination.~~ has information that a family assessment or investigation being conducted may involve an Indian child, the local social services agency shall notify the Indian child's tribe of the family assessment or investigation according to section 626.556, subdivision 10, paragraph (a), clause (5). Initial notice shall be provided by telephone and by e-mail or facsimile. The local social services agency shall request that the tribe or a designated tribal representative participate in evaluating the family circumstances, identifying family and tribal community resources, and developing case plans.

(b) When a local social services agency has information that a child receiving services may be an Indian child, the local social services agency shall notify the tribe by telephone and by e-mail or facsimile of the child's full name and date of birth, the full names and dates of birth of the child's biological parents, and, if known, the full names and dates of birth of the child's grandparents and of the child's Indian custodian. This notification must be provided so the tribe can determine if the child is enrolled in the tribe or eligible for membership, and must be provided within seven days. If information regarding the child's grandparents or Indian custodian is not available within the seven-day period, the local social services agency shall continue to request this information and shall notify the tribe when it is received. Notice shall be provided to all tribes to which the child may have any tribal lineage. If the identity or location of the child's parent or Indian custodian and tribe cannot be determined, the local social services agency shall provide the notice required in this paragraph to the United States secretary of the interior.

(c) In accordance with sections 260C.151 and 260C.152, when a court has reason to believe that a child placed in emergency protective care is an Indian child, the court administrator or a designee shall, as soon as possible and before a hearing takes place, notify the tribal social services agency by telephone and by e-

mail or facsimile of the date, time, and location of the emergency protective case hearing. The court shall make efforts to allow appearances by telephone for tribal representatives, parents, and Indian custodians.

(d) A local social services agency must provide the notices required under this subdivision at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in this subdivision is intended to hinder the ability of the local social services agency and the court to respond to an emergency situation. Lack of participation by a tribe shall not prevent the tribe from intervening in services and proceedings at a later date. A tribe may participate at any time. At this and any subsequent stage of its the local social services agency's involvement with an Indian child, the agency shall, upon request, give provide full cooperation to the tribal social services agency full cooperation, including access to all files disclosure of all data concerning the Indian child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social services agency that the tribal social services agency shall maintain the data according to statutory provisions applicable to the data. This subdivision applies whenever the court transfers legal custody of an Indian child under section 260B.198, subdivision 1, clause (3), item (i), (ii), or (iii), following an adjudication for a misdemeanor-level delinquent act. Nothing in this subdivision relieves the local social services agency of satisfying the notice requirements in the Indian Child Welfare Act.

**Sec. 21. [260.762] DUTY TO PREVENT OUT-OF-HOME PLACEMENT AND PROMOTE FAMILY REUNIFICATION; ACTIVE EFFORTS.**

Subdivision 1. **Active efforts.** Active efforts includes acknowledging traditional helping and healing systems of an Indian child's tribe and using these systems as the core to help and heal the Indian child and family.

Subd. 2. **Requirements for local social services agencies.** A local social services agency shall:

(1) work with the Indian child's tribe and family to develop an alternative plan to out-of-home placement;

(2) before making a decision that may affect an Indian child's safety and well-being or when contemplating out-of-home placement of an Indian child, seek guidance from the Indian child's tribe on family structure, how the family can seek help, what family and tribal resources are available, and what barriers the family faces at that time that could threaten its preservation; and

(3) request participation of the Indian child's tribe at the earliest possible time and request the tribe's active participation throughout the case.

Subd. 3. **Required findings that active efforts were provided.** A court shall not order an out-of-home or permanency placement for an Indian child unless the court finds that the local social services agency made active efforts to the Indian child's family. In determining whether the local social services agency made active efforts for purposes of out-of-home placement and permanency, the court shall make findings regarding whether the following activities were appropriate and whether the local social services agency made appropriate and meaningful services available to the family based upon that family's specific needs:

(1) whether the local social services agency made efforts at the earliest point possible to (i) identify whether a child may be an Indian child as defined in the Indian Child Welfare Act, United States Code, title 25, section 1903, and section 260.755, subdivision 8; and (ii) identify and request participation of the Indian child's tribe at the earliest point possible and throughout the investigation or assessment, case planning, provision of services, and case completion;

(2) whether the local social services agency requested that a tribally designated representative with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the tribal

community evaluate the circumstances of the Indian child's family and assist in developing a case plan that uses tribal and Indian community resources;

(3) whether the local social services agency provided concrete services and access to both tribal and nontribal services to members of the Indian child's family, including but not limited to financial assistance, food, housing, health care, transportation, in-home services, community support services, and specialized services; and whether these services are being provided in an ongoing manner throughout the agency's involvement with the family, to directly assist the family in accessing and utilizing services to maintain the Indian family, or reunify the Indian family as soon as safety can be assured if out-of-home placement has occurred;

(4) whether the local social services agency notified and consulted with the Indian child's extended family members, as identified by the child, the child's parents, or the tribe; whether extended family members were consulted to provide support to the child and parents, to inform the local social services agency and court as to cultural connections and family structure, to assist in identifying appropriate cultural services and supports for the child and parents, and to identify and serve as a placement and permanency resource for the child; and if there was difficulty contacting or engaging with extended family members, whether assistance was sought from the tribe, the Department of Human Services, or other agencies with expertise in working with Indian families;

(5) whether the local social services agency provided services and resources to relatives who are considered the primary placement option for an Indian child, as agreed by the local social services agency and the tribe, to overcome barriers to providing care to an Indian child. Services and resources shall include but are not limited to child care assistance, financial assistance, housing resources, emergency resources, and foster care licensing assistance and resources; and

(6) whether the local social services agency arranged for visitation to occur, whenever possible, in the home of the Indian child's parent, Indian custodian, or other family member or in another noninstitutional setting, in order to keep the child in close contact with parents, siblings, and other relatives regardless of the child's age and to allow the child and those with whom the child visits to have natural, unsupervised interaction when consistent with protecting the child's safety; and whether the local social services agency consulted with a tribal representative to determine and arrange for visitation in the most natural setting that ensures the child's safety, when the child's safety requires supervised visitation.

Sec. 22. Minnesota Statutes 2014, section 260.771, subdivision 3, is amended to read:

Subd. 3. **Transfer of proceedings.** (a) In a proceeding for: (1) the termination of parental rights; or (2) the involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian, or the Indian child's tribe. The transfer is subject to declination by the tribal court of the tribe.

(b) In a proceeding for the preadoptive or adoptive placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe. The transfer is subject to declination by the tribal court of the tribe. For the purposes of this subdivision, "preadoptive placement" and "adoptive placement" have the meanings give in section 260.755, subdivision 3.

(c) At any point in a proceeding for finalizing a permanency plan, the court, in the absence of good cause to the contrary and in the absence of an objection by either parent, shall transfer the proceeding to tribal

court for the purpose of achieving a customary adoption or other culturally appropriate permanency option. This transfer shall be made upon the petition of a parent whose parental rights have not been terminated, the Indian custodian, or the Indian child's tribe. The transfer is subject to declination by the tribal court of the tribe.

Sec. 23. Minnesota Statutes 2014, section 260.771, is amended by adding a subdivision to read:

Subd. 3a. **Good cause to deny transfer.** (a) Establishing good cause to deny transfer of jurisdiction to a tribal court is a fact-specific inquiry to be determined on a case-by-case basis. Socioeconomic conditions and the perceived adequacy of tribal or Bureau of Indian Affairs social services or judicial systems must not be considered in a determination that good cause exists. The party opposed to transfer of jurisdiction to a tribal court has the burden to prove by clear and convincing evidence that good cause to deny transfer exists. Opposition to a motion to transfer jurisdiction to tribal court must be in writing and must be served upon all parties.

(b) The court may find good cause to deny transfer to tribal court if:

(1) the Indian child's tribe does not have a tribal court or any other administrative body of a tribe vested with authority over child custody proceedings, as defined by the Indian Child Welfare Act, United States Code, title 25, chapter 21, to which the case can be transferred, and no other tribal court has been designated by the Indian child's tribe; or

(2) the evidence necessary to decide the case could not be adequately presented in the tribal court without undue hardship to the parties or the witnesses and the tribal court is unable to mitigate the hardship by any means permitted in the tribal court's rules. Without evidence of undue hardship, travel distance alone is not a basis for denying a transfer.

Sec. 24. Minnesota Statutes 2014, section 260.771, is amended by adding a subdivision to read:

Subd. 6. **Qualified expert witness and evidentiary requirements.** (a) In an involuntary foster care placement proceeding, the court must determine by clear and convincing evidence, including testimony of a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child as defined in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(e). In a termination of parental rights proceeding, the court must determine by evidence beyond a reasonable doubt, including testimony of a qualified expert witness, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child as defined in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(f).

(b) The local social services agency or any other party shall make diligent efforts to locate and present to the court a qualified expert witness designated by the Indian child's tribe. The qualifications of a qualified expert witness designated by the child's tribe are not subject to a challenge in Indian child custody proceedings.

(c) If a party cannot obtain testimony from a tribally designated qualified expert witness, the party shall submit to the court the diligent efforts made to obtain a tribally designated qualified expert witness.

(d) If clear and convincing evidence establishes that a party's diligent efforts cannot produce testimony from a tribally designated qualified expert witness, the party shall demonstrate to the court that a proposed qualified expert witness is, in descending order of preference:

(1) a member of the child's tribe who is recognized by the Indian child's tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices; or

(2) an Indian person from an Indian community who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and contemporary and traditional child-rearing practices of the Indian child's tribe.

If clear and convincing evidence establishes that diligent efforts have been made to obtain a qualified expert witness who meets the criteria in clause (1) or (2), but those efforts have not been successful, a party may use an expert witness, as defined by the Minnesota Rules of Evidence, rule 702, who has substantial experience in providing services to Indian families and who has substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community. The court or any party may request the assistance of the Indian child's tribe or the Bureau of Indian Affairs agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses.

(e) The court may allow alternative methods of participation and testimony in state court proceedings by a qualified expert witness, such as participation or testimony by telephone, videoconferencing, or other methods.

Sec. 25. Minnesota Statutes 2014, section 260.771, is amended by adding a subdivision to read:

**Subd. 7. Order of placement preference; deviation.** (a) The court must follow the order of placement preferences required by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915, when placing an Indian child.

(b) The court may place a child outside the order of placement preferences only if the court determines there is good cause based on:

(1) the reasonable request of the Indian child's parents, if one or both parents attest that they have reviewed the placement options that comply with the order of placement preferences;

(2) the reasonable request of the Indian child if the child is able to understand and comprehend the decision that is being made;

(3) the testimony of a qualified expert designated by the child's tribe and, if necessary, testimony from an expert witness who meets qualifications of subdivision 6, paragraph (d), clause (2), that supports placement outside the order of placement preferences due to extraordinary physical or emotional needs of the child that require highly specialized services; or

(4) the testimony by the local social services agency that a diligent search has been conducted that did not locate any available, suitable families for the child that meet the placement preference criteria.

(c) Testimony of the child's bonding or attachment to a foster family alone, without the existence of at least one of the factors in paragraph (b), shall not be considered good cause to keep an Indian child in a lower preference or nonpreference placement.

(d) A party who proposes that the required order of placement preferences not be followed bears the burden of establishing by clear and convincing evidence that good cause exists to modify the order of placement preferences.

(e) If the court finds there is good cause to place outside the order of placement preferences, the court must make written findings.

(f) A good cause finding under this subdivision must consider whether active efforts were provided to extended family members who are considered the primary placement option to assist them in becoming a placement option for the child as required by section 260.762.

(g) When a child is placed outside the order of placement preferences, good cause to continue this placement must be determined at every stage of the proceedings.

Sec. 26. Minnesota Statutes 2014, section 260B.007, subdivision 12, is amended to read:

Subd. 12. **Relative.** "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, ~~relative includes members~~ means a person who is a member of the Indian child's extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

Sec. 27. Minnesota Statutes 2014, section 260C.007, is amended by adding a subdivision to read:

Subd. 26b. **Relative of an Indian child.** "Relative of an Indian child" means a person who is a member of the Indian child's family as defined in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

Sec. 28. Minnesota Statutes 2014, section 260C.007, subdivision 27, is amended to read:

Subd. 27. **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. ~~For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.~~

Sec. 29. Minnesota Statutes 2014, section 260C.168, is amended to read:

**260C.168 COMPLIANCE WITH INDIAN CHILD WELFARE ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.**

The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 30. Minnesota Statutes 2014, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions

of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

(g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:



- (1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;
- (2) the parental rights of the parent to another child have been involuntarily terminated;
- (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);
- (4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;
- (5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;
- (6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or
- (7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.
- (h) When a petition to terminate parental rights is required under section 260C.301, subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.507, the court shall schedule a permanency hearing within 30 days of the filing of the petition.
- (i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.503, subdivision 2, paragraph (c).
- (j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215, and 260C.221.
- (k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not a parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.
- (l) When the court has ordered the child into foster care or into the home of a noncustodial parent, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification

required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

Sec. 31. Minnesota Statutes 2014, section 260C.201, subdivision 5, is amended to read:

Subd. 5. **Visitation.** If the court orders the child into foster care, the court shall review and either modify or approve the agency's plan for supervised or unsupervised visitation that contributes to the objectives of the court-ordered case plan and the maintenance of the familial relationship, and that meets the requirements of section 260C.212, subdivision 1, paragraph (c), clause (5). No parent may be denied visitation unless the court finds at the disposition hearing that the visitation would endanger the child's physical or emotional well-being, is not in the child's best interests, or is not required under section 260C.178, subdivision 3, paragraph (c) or (d). The court shall review and either modify or approve the agency plan for visitation for any relatives as defined in section 260C.007, subdivision 26b or 27, and with siblings of the child, if visitation is consistent with the best interests of the child.

Sec. 32. Minnesota Statutes 2014, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to section 260C.227 or chapter 260D.

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the foster care facility, and, where appropriate, the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178, subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents or guardian of the child, the child's guardian ad litem, a representative of the child's tribe, the responsible social services agency, and, if possible, the child.

(c) The out-of-home placement plan shall be explained to all persons involved in its implementation, including the child who has signed the plan, and shall set forth:

(1) a description of the foster care home or facility selected, including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in foster care, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) when a child cannot return to or be in the care of either parent, documentation of steps to finalize the permanency plan for the child, including:

(i) reasonable efforts to place the child for adoption. At a minimum, the documentation must include consideration of whether adoption is in the best interests of the child, child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b); and

(ii) documentation necessary to support the requirements of the kinship placement agreement under section 256N.22 when adoption is determined not to be in the child's best interests;

(7) efforts to ensure the child's educational stability while in foster care, including:

(i) efforts to ensure that the child remains in the same school in which the child was enrolled prior to placement or upon the child's move from one placement to another, including efforts to work with the local education authorities to ensure the child's educational stability; or

(ii) if it is not in the child's best interest to remain in the same school that the child was enrolled in prior to placement or move from one placement to another, efforts to ensure immediate and appropriate enrollment for the child in a new school;

(8) the educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) a statement about how the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; and

(v) any other relevant educational information;

(9) the efforts by the local agency to ensure the oversight and continuity of health care services for the foster child, including:

(i) the plan to schedule the child's initial health screens;

(ii) how the child's known medical problems and identified needs from the screens, including any known communicable diseases, as defined in section 144.4172, subdivision 2, will be monitored and treated while the child is in foster care;

(iii) how the child's medical information will be updated and shared, including the child's immunizations;

(iv) who is responsible to coordinate and respond to the child's health care needs, including the role of the parent, the agency, and the foster parent;

(v) who is responsible for oversight of the child's prescription medications;

(vi) how physicians or other appropriate medical and nonmedical professionals will be consulted and involved in assessing the health and well-being of the child and determine the appropriate medical treatment for the child; and

(vii) the responsibility to ensure that the child has access to medical care through either medical insurance or medical assistance;

(10) the health records of the child including information available regarding:

(i) the names and addresses of the child's health care and dental care providers;

(ii) a record of the child's immunizations;

(iii) the child's known medical problems, including any known communicable diseases as defined in section 144.4172, subdivision 2;

(iv) the child's medications; and

(v) any other relevant health care information such as the child's eligibility for medical insurance or medical assistance;

(11) an independent living plan for a child age 16 or older. The plan should include, but not be limited to, the following objectives:

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;

(iv) money management, including the responsibility of the agency to ensure that the youth annually receives, at no cost to the youth, a consumer report as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;

(v) planning for housing;

(vi) social and recreational skills; and

(vii) establishing and maintaining connections with the child's family and community; and

(12) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

Sec. 33. Minnesota Statutes 2014, section 260C.212, subdivision 2, is amended to read:

Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption; or

(2) with an individual who is an important friend with whom the child has resided or had significant contact.

For an Indian child, the agency shall follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(b) Among the factors the agency shall consider in determining the needs of the child are the following:

(1) the child's current functioning and behaviors;

- (2) the medical needs of the child;
- (3) the educational needs of the child;
- (4) the developmental needs of the child;
- (5) the child's history and past experience;
- (6) the child's religious and cultural needs;
- (7) the child's connection with a community, school, and faith community;
- (8) the child's interests and talents;
- (9) the child's relationship to current caretakers, parents, siblings, and relatives; ~~and~~

(10) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences; and

(11) for an Indian child, the best interests of an Indian child as defined in section 260.755, subdivision 2a.

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is documented that a joint placement would be contrary to the safety or well-being of any of the siblings or unless it is not possible after reasonable efforts by the responsible social services agency. In cases where siblings cannot be placed together, the agency is required to provide frequent visitation or other ongoing interaction between siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, the following requirements must be satisfied before the approval of a foster or adoptive placement in a related or unrelated home: (1) a completed background study under section 245C.08; and (2) a completed review of the written home study required under section 260C.215, subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or adoptive parent to ensure the placement will meet the needs of the individual child.

Sec. 34. Minnesota Statutes 2014, section 260C.511, is amended to read:

**260C.511 BEST INTERESTS OF THE CHILD.**

(a) The "best interests of the child" means all relevant factors to be considered and evaluated. In the case of an Indian child, best interests of the child includes best interests of an Indian child as defined in section 260.755, subdivision 2a.

(b) In making a permanency disposition order or termination of parental rights, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

Sec. 35. Minnesota Statutes 2014, section 268.155, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** As used in this section:

(1) "Child support obligations" means obligations that are being enforced by a child support agency in accordance with a plan described in United States Code, title 42, ~~section~~ sections 454 and 455, of the Social Security Act that has been approved by the secretary of health and human services under part D of title IV of the Social Security Act. This does not include any type of spousal maintenance or foster care payments; and

(2) "Child support agency" means the public agency responsible for child support enforcement, including federally approved comprehensive Tribal IV-D programs.

**EFFECTIVE DATE.** This section is effective October 15, 2015.

Sec. 36. Minnesota Statutes 2014, section 626.556, subdivision 10, is amended to read:

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving substantial child endangerment;

(2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child endangerment or a serious threat to the child's safety exists;

(3) may conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response; ~~and~~

(4) may conduct a family assessment on a report that was initially screened and assigned for an investigation. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and notify the local law enforcement agency if the local law enforcement agency is conducting a joint investigation; and

(5) shall provide immediate notice, according to section 260.761, subdivision 2, to an Indian child's tribe when the agency has reason to believe the family assessment or investigation may involve an Indian child. For purposes of this clause, "immediate notice" means notice provided within 24 hours.

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378,

the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property.



For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether

maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for investigating the report may make a determination of no maltreatment early in an investigation, and close the case and retain immunity, if the collected information shows no basis for a full investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver

shall occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (i), (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (i) and (k), and subdivision 3d.

Sec. 37. Minnesota Statutes 2014, section 626.556, subdivision 11d, is amended to read:

Subd. 11d. **Disclosure in child fatality or near-fatality cases.** (a) The definitions in this paragraph apply to this section.

(1) "Child fatality" means the death of a child from ~~suspected child abuse; or neglect; or maltreatment.~~

(2) "Near fatality" means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by ~~suspected child abuse; or neglect; or maltreatment.~~

(3) "Findings and information" means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report.

(b) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality; ~~or~~

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death; or

(3) a child protection investigation resulted in a determination of child abuse or neglect.

(c) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

(1) the dates, outcomes, and results of any actions taken or services rendered cause and circumstances regarding the child fatality or near fatality;

(2) the age and gender of the child;

(3) information on any previous reports of child abuse or neglect that are pertinent to the abuse or neglect that led to the child fatality or near fatality;

(4) information on any previous investigations that are pertinent to the abuse or neglect that led to the child fatality or near fatality;

(5) the results of any investigations described in clause (4);

(6) actions of and services provided by the local social services agency on behalf of a child that are pertinent to the child abuse or neglect that led to the child fatality or near fatality; and

~~(2)~~ (7) the results of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency; and

~~(3) confirmation of the receipt of all reports, accepted or not accepted, by the local welfare agency for assessment of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of the basis for the agency's determination.~~

(d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to ~~suspected abuse, or neglect, or maltreatment~~ of the child.

(e) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

(f) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this section are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

### Sec. 38. REVIVAL AND REENACTMENT.

Minnesota Statutes, section 518A.53, subdivision 7, is revived and reenacted retroactively from August 1, 2014. Income withholding implemented after July 31, 2014, and before the enactment of this section is ratified by the enactment of this section.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

**ARTICLE 2****CHEMICAL AND MENTAL HEALTH SERVICES**

Section 1. Minnesota Statutes 2014, section 168.012, subdivision 1, is amended to read:

Subdivision 1. **Vehicles exempt from tax, fees, or plate display.** (a) The following vehicles are exempt from the provisions of this chapter requiring payment of tax and registration fees, except as provided in subdivision 1c:

(1) vehicles owned and used solely in the transaction of official business by the federal government, the state, or any political subdivision;

(2) vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from those institutions;

(3) vehicles used solely in driver education programs at nonpublic high schools;

(4) vehicles owned by nonprofit charities and used exclusively to transport disabled persons for charitable, religious, or educational purposes;

(5) vehicles owned by nonprofit charities and used exclusively for disaster response and related activities;

(6) vehicles owned by ambulance services licensed under section 144E.10 that are equipped and specifically intended for emergency response or providing ambulance services; and

(7) vehicles owned by a commercial driving school licensed under section 171.34, or an employee of a commercial driving school licensed under section 171.34, and the vehicle is used exclusively for driver education and training.

(b) Provided the general appearance of the vehicle is unmistakable, the following vehicles are not required to register or display number plates:

(1) vehicles owned by the federal government;

(2) fire apparatuses, including fire-suppression support vehicles, owned or leased by the state or a political subdivision;

(3) police patrols owned or leased by the state or a political subdivision; and

(4) ambulances owned or leased by the state or a political subdivision.

(c) Unmarked vehicles used in general police work, liquor investigations, or arson investigations, and passenger automobiles, pickup trucks, and buses owned or operated by the Department of Corrections or by conservation officers of the Division of Enforcement and Field Service of the Department of Natural Resources, must be registered and must display appropriate license number plates, furnished by the registrar at cost. Original and renewal applications for these license plates authorized for use in general police work and for use by the Department of Corrections or by conservation officers must be accompanied by a certification signed by the appropriate chief of police if issued to a police vehicle, the appropriate sheriff if issued

to a sheriff's vehicle, the commissioner of corrections if issued to a Department of Corrections vehicle, or the appropriate officer in charge if issued to a vehicle of any other law enforcement agency. The certification must be on a form prescribed by the commissioner and state that the vehicle will be used exclusively for a purpose authorized by this section.

(d) Unmarked vehicles used by the Departments of Revenue and Labor and Industry, fraud unit, in conducting seizures or criminal investigations must be registered and must display passenger vehicle classification license number plates, furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must be accompanied by a certification signed by the commissioner of revenue or the commissioner of labor and industry. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the purposes authorized by this section.

(e) Unmarked vehicles used by the Division of Disease Prevention and Control of the Department of Health must be registered and must display passenger vehicle classification license number plates. These plates must be furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must be accompanied by a certification signed by the commissioner of health. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the official duties of the Division of Disease Prevention and Control.

(f) Unmarked vehicles used by staff of the Gambling Control Board in gambling investigations and reviews must be registered and must display passenger vehicle classification license number plates. These plates must be furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must be accompanied by a certification signed by the board chair. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the official duties of the Gambling Control Board.

(g) Unmarked vehicles used in general investigation, surveillance, supervision, and monitoring by the Department of Human Services' Office of Special Investigations' staff; the Minnesota sex offender program's executive director and the executive director's staff; and the Office of Inspector General's staff, including, but not limited to, county fraud prevention investigators, must be registered and must display passenger vehicle classification license number plates, furnished by the registrar at cost. Original and renewal applications for passenger vehicle license plates must be accompanied by a certification signed by the commissioner of human services. The certification must be on a form prescribed by the commissioner and state that the vehicles must be used exclusively for the official duties of the Office of Special Investigations' staff; the Minnesota sex offender program's executive director and the executive director's staff; and the Office of the Inspector General's staff, including, but not limited to, contract and county fraud prevention investigators.

(h) Each state hospital and institution for persons who are mentally ill and developmentally disabled may have one vehicle without the required identification on the sides of the vehicle. The vehicle must be registered and must display passenger vehicle classification license number plates. These plates must be furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must be accompanied by a certification signed by the hospital administrator. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the official duties of the state hospital or institution.

(i) Each county social service agency may have vehicles used for child and vulnerable adult protective services without the required identification on the sides of the vehicle. The vehicles must be registered and must display passenger vehicle classification license number plates. These plates must be furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must

be accompanied by a certification signed by the agency administrator. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the official duties of the social service agency.

(j) Unmarked vehicles used in general investigation, surveillance, supervision, and monitoring by tobacco inspector staff of the Department of Human Services' Alcohol and Drug Abuse Division for the purposes of tobacco inspections, investigations, and reviews must be registered and must display passenger vehicle classification license number plates, furnished at cost by the registrar. Original and renewal applications for passenger vehicle license plates must be accompanied by a certification signed by the commissioner of human services. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively by tobacco inspector staff for the duties specified in this paragraph.

~~(j)~~ (k) All other motor vehicles must be registered and display tax-exempt number plates, furnished by the registrar at cost, except as provided in subdivision 1c. All vehicles required to display tax-exempt number plates must have the name of the state department or political subdivision, nonpublic high school operating a driver education program, licensed commercial driving school, or other qualifying organization or entity, plainly displayed on both sides of the vehicle. This identification must be in a color giving contrast with that of the part of the vehicle on which it is placed and must endure throughout the term of the registration. The identification must not be on a removable plate or placard and must be kept clean and visible at all times; except that a removable plate or placard may be utilized on vehicles leased or loaned to a political subdivision or to a nonpublic high school driver education program.

Sec. 2. Minnesota Statutes 2014, section 245.462, subdivision 4, is amended to read:

Subd. 4. **Case management service provider.** (a) "Case management service provider" means a case manager or case manager associate employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711.

(b) A case manager must:

(1) be skilled in the process of identifying and assessing a wide range of client needs;

(2) be knowledgeable about local community resources and how to use those resources for the benefit of the client;

(3) have a bachelor's degree in one of the behavioral sciences or related fields including, but not limited to, social work, psychology, or nursing from an accredited college or university or meet the requirements of paragraph (c); and

(4) meet the supervision and continuing education requirements described in paragraphs (d), (e), and (f), as applicable.

(c) Case managers without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate as defined in this section;

(2) be a registered nurse without a bachelor's degree and have a combination of specialized training in psychiatry and work experience consisting of community interaction and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 Department of Human Service waiver provision and meet the continuing education and mentoring requirements in this section.

(d) A case manager with at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness must receive regular ongoing supervision and clinical supervision totaling 38 hours per year of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The remaining 26 hours of supervision may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours. Clinical supervision must be documented in the client record.

(e) A case manager without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must:

(1) receive clinical supervision regarding individual service delivery from a mental health professional at least one hour per week until the requirement of 2,000 hours of experience is met; and

(2) complete 40 hours of training approved by the commissioner in case management skills and the characteristics and needs of adults with serious and persistent mental illness.

(f) A case manager who is not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in mental illness and mental health services every two years.

(g) A case manager associate (CMA) must:

(1) work under the direction of a case manager or case management supervisor;

(2) be at least 21 years of age;

(3) have at least a high school diploma or its equivalent; and

(4) meet one of the following criteria:

(i) have an associate of arts degree in one of the behavioral sciences or human services;

(ii) be a certified peer specialist under section 256B.0615;

(~~ii~~) (iii) be a registered nurse without a bachelor's degree;

~~(iii)~~ (iv) within the previous ten years, have three years of life experience with serious and persistent mental illness as defined in section 245.462, subdivision 20; or as a child had severe emotional disturbance as defined in section 245.4871, subdivision 6; or have three years life experience as a primary caregiver to an adult with serious and persistent mental illness within the previous ten years;

~~(iv)~~ (v) have 6,000 hours work experience as a nondegreed state hospital technician; or

~~(v)~~ (vi) be a mental health practitioner as defined in section 245.462, subdivision 17, clause (2).

Individuals meeting one of the criteria in items (i) to ~~(iv)~~ (v), may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting the criteria in item ~~(v)~~ (vi), may qualify as a case manager after three years of supervised experience as a case manager associate.



(h) A case management associate must meet the following supervision, mentoring, and continuing education requirements:

(1) have 40 hours of preservice training described under paragraph (e), clause (2);

(2) receive at least 40 hours of continuing education in mental illness and mental health services annually; and

(3) receive at least five hours of mentoring per week from a case management mentor.

A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(i) A case management supervisor must meet the criteria for mental health professionals, as specified in section 245.462, subdivision 18.

(j) An immigrant who does not have the qualifications specified in this subdivision may provide case management services to adult immigrants with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person:

(1) is currently enrolled in and is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing from an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of this subdivision are met.

Sec. 3. Minnesota Statutes 2014, section 254B.05, subdivision 5, is amended to read:

Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for chemical dependency services and service enhancements funded under this chapter.

(b) Eligible chemical dependency treatment services include:

(1) outpatient treatment services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480, or applicable tribal license;

(2) medication-assisted therapy services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480 and 9530.6500, or applicable tribal license;

(3) medication-assisted therapy plus enhanced treatment services that meet the requirements of clause (2) and provide nine hours of clinical services each week;

(4) high, medium, and low intensity residential treatment services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480 and 9530.6505, or applicable tribal license which provide, respectively, 30, 15, and five hours of clinical services each week;

(5) hospital-based treatment services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480, or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

(6) adolescent treatment programs that are licensed as outpatient treatment programs according to Minnesota Rules, parts 9530.6405 to 9530.6485, or as residential treatment programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or applicable tribal license; and

(7) room and board facilities that meet the requirements of section 254B.05, subdivision 1a.

(c) The commissioner shall establish higher rates for programs that meet the requirements of paragraph (b) and the following additional requirements:

(1) programs that serve parents with their children if the program:

~~(i) provides on-site child care during hours of treatment activity that meets the requirements in Minnesota Rules, part 9530.6490, or section 245A.03, subdivision 2; or~~

(i) provides on-site child care during the hours of treatment activity that:

(A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter 9503; or

(B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph (a), clause (6), and meets the requirements under Minnesota Rules, part 9530.6490, subpart 4; or

(ii) arranges for off-site child care during hours of treatment activity at a facility that is licensed under chapter 245A as:

(A) a child care center under Minnesota Rules, chapter 9503; or

(B) a family child care home under Minnesota Rules, chapter 9502;

(2) culturally specific programs as defined in section 254B.01, subdivision 8 4a, if the program meets the requirements in Minnesota Rules, part 9530.6605, subpart 13;

(3) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; and

(4) programs that offer services to individuals with co-occurring mental health and chemical dependency problems if:

(i) the program meets the co-occurring requirements in Minnesota Rules, part 9530.6495;

(ii) 25 percent of the counseling staff are licensed mental health professionals, as defined in section 245.462, subdivision 18, clauses (1) to (6), or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and licensed mental health professional, except that no more than 50 percent of the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance abuse disorders and the interaction between the two; and

(vi) co-occurring counseling staff will receive eight hours of co-occurring disorder training annually.

(d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at the chemical dependency facility of the child care provider's current licensure to provide child care services. Programs that provide child care according to paragraph (c), clause (1), must be deemed in compliance with the licensing requirements in Minnesota Rules, part 9530.6490.

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) Subject to federal approval, chemical dependency services that are otherwise covered as direct face-to-face services may be provided via two-way interactive video. The use of two-way interactive video must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services. The interactive video equipment and connection must comply with Medicare standards in effect at the time the service is provided.

**EFFECTIVE DATE.** Paragraph (f) is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2014, section 256B.0943, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention to treat a diagnosed emotional disturbance, as defined in section 245.4871, subdivision 15, or a diagnosed mental illness, as defined in section 245.462, subdivision 20. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical supervision" means the overall responsibility of the mental health professional for the control and direction of individualized treatment planning, service delivery, and treatment review for each client. A mental health professional who is an enrolled Minnesota health care program provider accepts full professional responsibility for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work, and oversees or directs the supervisee's work.

(c) ~~"County board" means the county board of commissioners or board established under sections 402.01 to 402.10 or 471.59.~~ "Clinical trainee" means a mental health practitioner who meets the qualifications specified in Minnesota Rules, part 9505.0371, subpart 5, item C.

(d) "Crisis assistance" has the meaning given in section 245.4871, subdivision 9a. Crisis assistance entails the development of a written plan to assist a child's family to contend with a potential crisis and is distinct from the immediate provision of crisis intervention services.

(e) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(f) "Day treatment program" for children means a site-based structured mental health program consisting of psychotherapy for three or more individuals and individual or group skills training provided by a multi-disciplinary team, under the clinical supervision of a mental health professional.

(g) "Diagnostic assessment" has the meaning given in Minnesota Rules, part 9505.0372, subpart 1.

(h) "Direct service time" means the time that a mental health professional, clinical trainee, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family or providing covered telemedicine services. Direct service time includes time in which the provider obtains a client's history, develops a client's treatment plan, records individual treatment outcomes, or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling, or maintaining clinical records, consulting with others about the client's mental health status, preparing reports, receiving clinical supervision, and revising the client's individual treatment plan.

(i) "Direction of mental health behavioral aide" means the activities of a mental health professional or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individualized treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (5).

(j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15. ~~For persons at least age 18 but under age 21, mental illness has the meaning given in section 245.462, subdivision 20, paragraph (a).~~

(k) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or mental health practitioner, under the clinical supervision of a mental health professional, to guide the work of the mental health behavioral aide. The individual behavioral plan may be incorporated into the child's individual treatment plan so long as the behavioral plan is separately communicable to the mental health behavioral aide.

(l) "Individual treatment plan" has the meaning given in ~~section 245.4871, subdivision 21~~ Minnesota Rules, part 9505.0371, subpart 7.

(m) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a trained paraprofessional qualified as provided in subdivision 7, paragraph (b), clause (3), to assist a child retain or generalize psychosocial skills as taught previously trained by a mental health professional or mental health practitioner and as described in the child's individual treatment plan and individual behavior plan. Activities involve working directly with the child or child's family as provided in subdivision 9, paragraph (b), clause (4).

(n) "Mental health practitioner" means an individual as defined in ~~section 245.4871, subdivision 26~~ Minnesota Rules, part 9505.0370, subpart 17.

(o) "Mental health professional" means an individual as defined in ~~section 245.4871, subdivision 27, clauses (1) to (6), or tribal vendor as defined in section 256B.02, subdivision 7, paragraph (b)~~ Minnesota Rules, part 9505.0370, subpart 18.

(p) "Mental health service plan development" includes:

(1) the development, review, and revision of a child's individual treatment plan, as provided in Minnesota Rules, part 9505.0371, subpart 7, including involvement of the client or client's parents, primary caregiver, or other person authorized to consent to mental health services for the client, and including arrangement of treatment and support activities specified in the individual treatment plan; and

(2) administering standardized outcome measurement instruments, determined and updated by the commissioner, as periodically needed to evaluate the effectiveness of treatment for children receiving clinical services and reporting outcome measures, as required by the commissioner.

(q) "Mental illness," for persons at least age 18 but under age 21, has the meaning given in section 245.462, subdivision 20, paragraph (a).

(r) "Psychotherapy" means the treatment of mental or emotional disorders or maladjustment by psychological means. Psychotherapy may be provided in many modalities in accordance with Minnesota Rules, part 9505.0372, subpart 6, including patient and/or family psychotherapy; family psychotherapy; psychotherapy for crisis; group psychotherapy; or multiple-family psychotherapy. Beginning with the American Medical Association's Current Procedural Terminology, standard edition, 2014, the procedure "individual psychotherapy" is replaced with "patient and/or family psychotherapy," a substantive change that permits the therapist to work with the client's family without the client present to obtain information about the client or to explain the client's treatment plan to the family. Psychotherapy is appropriate for crisis response when a child has become dysregulated or experienced new trauma since the diagnostic assessment was completed and needs psychotherapy to address issues not currently included in the child's individual treatment plan.

(s) "Rehabilitative services" or "psychiatric rehabilitation services" means a series or multidisciplinary combination of psychiatric and psychosocial interventions to: (1) restore a child or adolescent to an age-appropriate developmental trajectory that had been disrupted by a psychiatric illness; or (2) enable the child to self-monitor, compensate for, cope with, counteract, or replace psychosocial skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Psychiatric rehabilitation services for children combine psychotherapy to address internal psychological, emotional, and intellectual processing deficits, and skills training to restore personal and social functioning. Psychiatric rehabilitation services establish a progressive series of goals with each achievement building upon a prior achievement. Continuing progress toward goals is expected, and rehabilitative potential ceases when successive improvement is not observable over a period of time.

~~(q)~~ (t) "Skills training" means individual, family, or group training, delivered by or under the ~~direction~~ supervision of a mental health professional, designed to facilitate the acquisition of psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate developmental trajectory heretofore disrupted by a psychiatric illness or to enable the child to self-monitor, compensate for, cope with, counteract, or replace skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject to the following requirements: service delivery requirements under subdivision 9, paragraph (b), clause (2).

~~(1) a mental health professional or a mental health practitioner must provide skills training;~~

~~(2) the child must always be present during skills training; however, a brief absence of the child for no more than ten percent of the session unit may be allowed to redirect or instruct family members;~~

~~(3) skills training delivered to children or their families must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;~~

~~(4) skills training delivered to the child's family must teach skills needed by parents to enhance the child's skill development and to help the child use in daily life the skills previously taught by a mental health professional or mental health practitioner and to develop or maintain a home environment that supports the child's progressive use skills;~~

~~(5) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:~~

~~(i) one mental health professional or one mental health practitioner under supervision of a licensed mental health professional must work with a group of four to eight clients; or~~

~~(ii) two mental health professionals or two mental health practitioners under supervision of a licensed mental health professional, or one professional plus one practitioner must work with a group of nine to 12 clients.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2014, section 256B.0943, subdivision 2, is amended to read:

**Subd. 2. Covered service components of children's therapeutic services and supports.** (a) Subject to federal approval, medical assistance covers medically necessary children's therapeutic services and supports as defined in this section that an eligible provider entity certified under subdivision 4 provides to a client eligible under subdivision 3.

(b) The service components of children's therapeutic services and supports are:

(1) ~~patient and/or family member~~ psychotherapy, family psychotherapy, psychotherapy for crisis, and group psychotherapy;

(2) individual, family, or group skills training provided by a mental health professional or mental health practitioner;

(3) crisis assistance;

(4) mental health behavioral aide services;

(5) direction of a mental health behavioral aide;

(6) mental health service plan development; and

(7) children's day treatment.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2014, section 256B.0943, subdivision 3, is amended to read:

Subd. 3. **Determination of client eligibility.** A client's eligibility to receive children's therapeutic services and supports under this section shall be determined based on a diagnostic assessment by a mental health professional or a mental health practitioner who meets the requirements as of a clinical trainee as defined in Minnesota Rules, part 9505.0371, subpart 5, item C, that is performed within one year before the initial start of service. The diagnostic assessment must meet the requirements for a standard or extended diagnostic assessment as defined in Minnesota Rules, part 9505.0372, subpart 1, items B and C, and:

(1) include current diagnoses on all five axes of the client's current mental health status, including any differential diagnosis, in accordance with all criteria for a complete diagnosis and diagnostic profile as specified in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, or, for children under age five, as specified in the current edition of the Diagnostic Classification of Mental Health Disorders of Infancy and Early Childhood;

(2) determine whether a child under age 18 has a diagnosis of emotional disturbance or, if the person is between the ages of 18 and 21, whether the person has a mental illness;

(3) document children's therapeutic services and supports as medically necessary to address an identified disability, functional impairment, and the individual client's needs and goals;

(4) be used in the development of the individualized treatment plan; and

~~(5) be completed annually until age 18. A client with autism spectrum disorder or pervasive developmental disorder may receive a diagnostic assessment once every three years, at the request of the parent or guardian, if a mental health professional agrees there has been little change in the condition and that an annual assessment is not needed. For individuals between age 18 and 21, unless a client's mental health condition has changed markedly since the client's most recent diagnostic assessment, annual updating is necessary. For the purpose of this section, "updating" means an adult diagnostic update as defined in Minnesota Rules, part 9505.0371, subpart 2, item E.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2014, section 256B.0943, subdivision 4, is amended to read:

Subd. 4. **Provider entity certification.** ~~(a) Effective July 1, 2003, The commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. A provider entity must be certified for the three core rehabilitation services of psychotherapy, skills training, and crisis assistance. The commissioner shall recertify a provider entity at least every three years. The commissioner shall establish a process for decertification of a provider entity and shall require corrective action, medical assistance repayment, or decertification of a provider entity that no longer meets the requirements in this section or that fails to meet the clinical quality standards or administrative standards provided by the commissioner in the application and certification process.~~

(b) For purposes of this section, a provider entity must be:

(1) an Indian health services facility or a facility owned and operated by a tribe or tribal organization operating as a 638 facility under Public Law 93-638 certified by the state;

- (2) a county-operated entity certified by the state; or
- (3) a noncounty entity certified by the state.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2014, section 256B.0943, subdivision 5, is amended to read:

**Subd. 5. Provider entity administrative infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have an administrative infrastructure that establishes authority and accountability for decision making and oversight of functions, including finance, personnel, system management, clinical practice, and ~~performance~~ individual treatment outcomes measurement. An eligible provider entity shall demonstrate the availability, by means of employment or contract, of at least one backup mental health professional in the event of the primary mental health professional's absence. The provider must have written policies and procedures that it reviews and updates every three years and distributes to staff initially and upon each subsequent update.

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

(1) personnel procedures, including a process for: (i) recruiting, hiring, training, and retention of culturally and linguistically competent providers; (ii) conducting a criminal background check on all direct service providers and volunteers; (iii) investigating, reporting, and acting on violations of ethical conduct standards; (iv) investigating, reporting, and acting on violations of data privacy policies that are compliant with federal and state laws; (v) utilizing volunteers, including screening applicants, training and supervising volunteers, and providing liability coverage for volunteers; and (vi) documenting that each mental health professional, mental health practitioner, or mental health behavioral aide meets the applicable provider qualification criteria, training criteria under subdivision 8, and clinical supervision or direction of a mental health behavioral aide requirements under subdivision 6;

(2) fiscal procedures, including internal fiscal control practices and a process for collecting revenue that is compliant with federal and state laws;

~~(3) a performance measurement system, including monitoring to determine cultural appropriateness of services identified in the individual treatment plan, as determined by the client's culture, beliefs, values, and language, and family-driven services~~ a client-specific treatment outcomes measurement system, including baseline measures, to measure a client's progress toward achieving mental health rehabilitation goals. Effective July 1, 2017, to be eligible for medical assistance payment, a provider entity must report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner; and

(4) a process to establish and maintain individual client records. The client's records must include:

- (i) the client's personal information;
- (ii) forms applicable to data privacy;
- (iii) the client's diagnostic assessment, updates, results of tests, individual treatment plan, and individual behavior plan, if necessary;
- (iv) documentation of service delivery as specified under subdivision 6;



- (v) telephone contacts;
- (vi) discharge plan; and
- (vii) if applicable, insurance information.

(c) A provider entity that uses a restrictive procedure with a client must meet the requirements of section 245.8261.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2014, 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, individualized treatment plans, 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 as necessary, the clinical policies and procedures every three years and, must distribute the policies and procedures to staff initially and upon each subsequent update, and must train staff accordingly.

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

(1) providing or obtaining a client's diagnostic assessment, including a diagnostic assessment performed by an outside or independent clinician, that identifies acute and chronic clinical disorders, co-occurring medical conditions, and sources of psychological and environmental problems, including baselines, and a functional assessment. The functional assessment component must clearly summarize the client's individual strengths and needs. When required components of the diagnostic assessment, such as baseline measures, are not provided in an outside or independent assessment or when baseline measures cannot be attained in a one-session standard diagnostic assessment, the provider entity must determine the missing information within 30 days and amend the child's diagnostic assessment or incorporate the baselines into the child's individual treatment plan;

(2) developing an individual treatment plan that:

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

(ii) identified goals and objectives of treatment, treatment strategy, schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment services and supports;

(iii) is developed after completion of the client's diagnostic assessment by a mental health professional or clinical trainee and before the provision of children's therapeutic services and supports;

(iv) is developed through a child-centered, family-driven, culturally appropriate planning process, including allowing parents and guardians to observe or participate in individual and family treatment services, assessment, and treatment planning;

(v) is reviewed at least once every 90 days and revised, if necessary to document treatment progress on each treatment objective and next goals or, if progress is not documented, to document changes in treatment; and

(vi) is signed by the clinical supervisor and by the client or by the client's parent or other person authorized by statute to consent to mental health services for the client. A client's parent may approve the client's individual treatment plan by secure electronic signature or by documented oral approval that is later verified by written signature;

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

- (i) detailed instructions on the treatment strategies to be provided;
- (ii) time allocated to each treatment strategy;
- (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) providing clinical supervision ~~of the plans for mental health practitioner-practitioners~~ and mental health behavioral aide ~~aides~~. 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. The clinical supervisor also shall document supervisee-specific supervision in the supervisee's personnel file. 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) meeting day treatment ~~and therapeutic preschool programs~~ program conditions in items (i) to (iii):

(i) ~~the clinical supervisor must be present and available on the premises more than 50 percent of the time in a five-working-day period~~ provider's standard working week 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 clinical supervisor; and

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

(4b) meeting the clinical supervision standards in items (i) to (iv) for all other services provided under CTSS:

(i) medical assistance shall reimburse for services provided by a mental health practitioner who ~~maintains a consulting relationship with~~ is delivering services that fall within the scope of the practitioner's practice and who is supervised by a mental health professional who accepts full professional responsibility;

(ii) medical assistance shall reimburse for services provided by a mental health behavioral aide who ~~maintains a consulting relationship with~~ is delivering services that fall within the scope of the aide's practice

and who is supervised by a mental health professional who accepts full professional responsibility and has an approved plan for clinical supervision of the behavioral aide. Plans will must be developed in accordance with supervision standards defined in Minnesota Rules, part 9505.0371, subpart 4, items A to D;

(iii) the mental health professional is required to be present ~~on-site~~ at the site of service delivery for observation as clinically appropriate when the mental health practitioner or mental health behavioral aide is providing CTSS services; and

(iv) when conducted, 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~~ certified to provide mental health behavioral aide services 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~~ implement 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 or demonstrate 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;

(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 each of 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 clinical supervisor and 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.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2014, section 256B.0943, subdivision 7, is amended to read:

Subd. 7. **Qualifications of individual and team providers.** (a) An individual or team provider working within the scope of the provider's practice or qualifications may provide service components of children's therapeutic services and supports that are identified as medically necessary in a client's individual treatment plan.

(b) An individual provider must be qualified as:

(1) a mental health professional as defined in subdivision 1, paragraph ~~(n)~~ (o); or

(2) a mental health practitioner or clinical trainee. The mental health practitioner or clinical trainee must work under the clinical supervision of a mental health professional; or

(3) a mental health behavioral aide working under the clinical supervision of a mental health professional to implement the rehabilitative mental health services previously introduced by a mental health professional or practitioner and identified in the client's individual treatment plan and individual behavior plan.

(A) A level I mental health behavioral aide must:

(i) be at least 18 years old;

(ii) have a high school diploma or general equivalency diploma (GED) or two years of experience as a primary caregiver to a child with severe emotional disturbance within the previous ten years; and

(iii) meet preservice and continuing education requirements under subdivision 8.

(B) A level II mental health behavioral aide must:

(i) be at least 18 years old;

(ii) have an associate or bachelor's degree or 4,000 hours of experience in delivering clinical services in the treatment of mental illness concerning children or adolescents or complete a certificate program established under subdivision 8a; and

(iii) meet preservice and continuing education requirements in subdivision 8.

(c) A day treatment multidisciplinary team must include at least one mental health professional or clinical trainee and one mental health practitioner.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2014, section 256B.0943, subdivision 9, is amended to read:

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) each individual provider's caseload size permits the provider to deliver services to both clients with severe, complex needs and clients with less intensive needs. The provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment ~~and preschool~~ programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan; and

(3) a day treatment program is provided to a group of clients by a multidisciplinary team under the clinical supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; or (iii) an entity that is certified under subdivision 4 to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available year-round at least three to five days per week, two or three hours per day, unless the normal five-day school week is shortened by a holiday, weather-related cancellation, or other district-wide reduction in a school week. A child transitioning into or out of day treatment must receive a minimum treatment of one day a week for a two-hour time block. The two-hour time block must include at least one hour of individual patient and/or family or group psychotherapy. The remainder of the structured treatment program may include individual patient and/or family or group psychotherapy, and individual or group skills training, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services. When a day treatment group that meets the minimum group size requirement temporarily falls below the minimum group size because of a member's temporary absence, medical assistance covers a group session conducted for the group members in attendance. A day treatment program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program; and.

(4) ~~a therapeutic preschool program is a structured treatment program offered to a child who is at least 33 months old, but who has not yet reached the first day of kindergarten, by a preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available two hours per day, five days per week, and 12 months of each calendar year. The structured treatment program may include individual or group psychotherapy and individual or group skills training, if included in the client's individual treatment plan. A therapeutic preschool program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program.~~

(b) To be eligible for medical assistance payment, a provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) individual patient and/or family, family, and group psychotherapy must be delivered as specified in Minnesota Rules, part 9505.0372, subpart 6. Psychotherapy to address the child's underlying mental health

disorder must be documented as part of the child's ongoing treatment. A provider must deliver, or arrange for, medically necessary psychotherapy, unless the child's parent or caregiver chooses not to receive it. When a provider delivering other services to a child under this section deems it not medically necessary to provide psychotherapy to the child for a period of 90 days or longer, the provider entity must document the medical reasons why psychotherapy is not necessary. When a provider determines that a child needs psychotherapy but psychotherapy cannot be delivered due to a shortage of licensed mental health professionals in the child's community, the provider must document the lack of access in the child's medical record;

(2) individual, family, or group skills training must be provided by a mental health professional or a mental health practitioner who ~~has a consulting relationship with~~ is delivering services that fall within the scope of the provider's practice and is supervised by a mental health professional who accepts full professional responsibility for the training~~;~~. Skills training is subject to the following requirements:

(i) a mental health professional, clinical trainee, or mental health practitioner shall provide skills training;

(ii) skills training delivered to a child or the child's family must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;

(iii) the mental health professional delivering or supervising the delivery of skills training must document any underlying psychiatric condition and must document how skills training is being used in conjunction with psychotherapy to address the underlying condition;

(iv) skills training delivered to the child's family must teach skills needed by parents to enhance the child's skill development, to help the child utilize daily life skills taught by a mental health professional, clinical trainee, or mental health practitioner, and to develop or maintain a home environment that supports the child's progressive use of skills;

(v) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:

(A) one mental health professional or one clinical trainee or mental health practitioner under supervision of a licensed mental health professional must work with a group of three to eight clients; or

(B) two mental health professionals, two clinical trainees or mental health practitioners under supervision of a licensed mental health professional, or one mental health professional or clinical trainee and one mental health practitioner must work with a group of nine to 12 clients;

(vi) a mental health professional, clinical trainee, or mental health practitioner must have taught the psychosocial skill before a mental health behavioral aide may practice that skill with the client; and

(vii) for group skills training, when a skills group that meets the minimum group size requirement temporarily falls below the minimum group size because of a group member's temporary absence, the provider may conduct the session for the group members in attendance;

(3) crisis assistance to a child and family ~~must be time-limited and designed~~ include development of a written plan that anticipates the particular factors specific to the child that may precipitate a psychiatric crisis for the child in the near future. The written plan must document actions that the family should be prepared

to take to resolve or stabilize a crisis through, such as advance arrangements for direct intervention and support services to the child and the child's family. Crisis assistance must utilize include preparing resources designed to address abrupt or substantial changes in the functioning of the child or the child's family as evidenced by a when sudden change in behavior with negative consequences for well-being, or a loss of usual coping mechanisms is observed, or the presentation of child begins to present a danger to self or others;

(4) mental health behavioral aide services must be medically necessary treatment services, identified in the child's individual treatment plan and individual behavior plan, which are performed minimally by a paraprofessional qualified according to subdivision 7, paragraph (b), clause (3), and which are designed to improve the functioning of the child in the progressive use of developmentally appropriate psychosocial skills. Activities involve working directly with the child, child-peer groupings, or child-family groupings to practice, repeat, reintroduce, and master the skills defined in subdivision 1, paragraph ~~(p)~~ (t), as previously taught by a mental health professional, clinical trainee, or mental health practitioner including:

(i) providing cues or prompts in skill-building peer-to-peer or parent-child interactions so that the child progressively recognizes and responds to the cues independently;

(ii) performing as a practice partner or role-play partner;

(iii) reinforcing the child's accomplishments;

(iv) generalizing skill-building activities in the child's multiple natural settings;

(v) assigning further practice activities; and

(vi) intervening as necessary to redirect the child's target behavior and to de-escalate behavior that puts the child or other person at risk of injury.

~~A mental health behavioral aide must document the delivery of services in written progress notes. To be eligible for medical assistance payment, mental health behavioral aide services must be delivered to a child who has been diagnosed with an emotional disturbance or a mental illness, as provided in subdivision 1, paragraph (a). The mental health behavioral aide must implement treatment strategies in the individual treatment plan and the individual behavior plan as developed by the mental health professional, clinical trainee, or mental health practitioner providing direction for the mental health behavioral aide. The mental health behavioral aide must document the delivery of services in written progress notes. Progress notes must reflect implementation of the treatment strategies, as performed by the mental health behavioral aide and the child's responses to the treatment strategies; and~~

(5) direction of a mental health behavioral aide must include the following:

~~(i) a clinical supervision plan approved by the responsible mental health professional;~~

~~(ii) (i) ongoing face-to-face observation of the mental health behavioral aide delivering services to a child by a mental health professional or mental health practitioner for at least a total of one hour during every 40 hours of service provided to a child; and~~

~~(iii) (ii) immediate accessibility of the mental health professional, clinical trainee, or mental health practitioner to the mental health behavioral aide during service provision;~~

(6) mental health service plan development must be performed in consultation with the child's family and, when appropriate, with other key participants in the child's life by the child's treating mental health pro-

fessional or clinical trainee or by a mental health practitioner and approved by the treating mental health professional. Treatment plan drafting consists of development, review, and revision by face-to-face or electronic communication. The provider must document events, including the time spent with the family and other key participants in the child's life to review, revise, and sign the individual treatment plan; and

(7) to be eligible for payment, a diagnostic assessment must be complete with regard to all required components, including multiple assessment appointments required for an extended diagnostic assessment and the written report. Dates of the multiple assessment appointments must be noted in the client's clinical record.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2014, section 256B.0943, subdivision 11, is amended to read:

Subd. 11. **Documentation and billing.** (a) A provider entity must document the services it provides under this section. The provider entity must ensure that ~~the entity's documentation standards meet the requirements of federal and state laws~~ documentation complies with Minnesota Rules, parts 9505.2175 and 9505.2197. Services billed under this section that are not documented according to this subdivision shall be subject to monetary recovery by the commissioner. ~~The provider entity may not bill for~~ Billing for covered service components under subdivision 2, paragraph (b), must not include anything other than direct service time.

(b) An individual mental health provider must promptly document the following in a client's record after providing services to the client:

(1) each occurrence of the client's mental health service, including the date, type, length, and start and stop times, scope of the service as described in the child's individual treatment plan, and outcome of the service compared to baselines and objectives;

(2) the name, dated signature, and credentials of the person who gave delivered the service;

(3) contact made with other persons interested in the client, including representatives of the courts, corrections systems, or schools. The provider must document the name and date of each contact;

(4) any contact made with the client's other mental health providers, case manager, family members, primary caregiver, legal representative, or the reason the provider did not contact the client's family members, primary caregiver, or legal representative, if applicable; and

(5) required clinical supervision directly related to the identified client's services and needs, as appropriate, with co-signatures of the supervisor and supervisee; and

(6) the date when services are discontinued and reasons for discontinuation of services.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 13. Minnesota Statutes 2014, section 256B.0946, subdivision 1, is amended to read:

Subdivision 1. **Required covered service components.** (a) Effective May 23, 2013, and subject to federal approval, medical assistance covers medically necessary intensive treatment services described under paragraph (b) that are provided by a provider entity eligible under subdivision 3 to a client eligible under subdivision 2 who is placed in a foster home licensed under Minnesota Rules, parts 2960.3000 to



2960.3340, or placed in a foster home licensed under the regulations established by a federally recognized Minnesota tribe.

(b) Intensive treatment services to children with mental illness residing in foster family settings that comprise specific required service components provided in clauses (1) to (5) are reimbursed by medical assistance when they meet the following standards:

(1) psychotherapy provided by a mental health professional as defined in Minnesota Rules, part 9505.0371, subpart 5, item A, or a clinical trainee, as defined in Minnesota Rules, part 9505.0371, subpart 5, item C;

(2) crisis assistance provided according to standards for children's therapeutic services and supports in section 256B.0943;

(3) individual, family, and group psychoeducation services, defined in subdivision 1a, paragraph (q), provided by a mental health professional or a clinical trainee;

(4) clinical care consultation, as defined in subdivision 1a, and provided by a mental health professional or a clinical trainee; and

(5) service delivery payment requirements as provided under subdivision 4.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 14. Minnesota Statutes 2014, section 256B.0947, subdivision 7a, is amended to read:

Subd. 7a. **Noncovered services.** (a) The rate for intensive rehabilitative mental health services ~~must exclude~~ does not include medical assistance payment for services ~~not covered under this section in clauses (1) to (7).~~ Services not covered under this section ~~paragraph~~ may be billed separately:

(1) inpatient psychiatric hospital treatment;

(2) partial hospitalization;

(3) children's mental health day treatment services;

(4) physician services outside of care provided by a psychiatrist serving as a member of the treatment team;

(5) room and board costs, as defined in section 256I.03, subdivision 6;

(6) home and community-based waiver services; and

(7) other mental health services identified in the child's individualized education program.

(b) The following services are not covered under this section and are not eligible for medical assistance payment ~~under the per-client, per-day payment while youth are receiving intensive rehabilitative mental health services:~~

~~(1) inpatient psychiatric hospital treatment;~~

~~(2) (1) mental health residential treatment; and~~

- ~~(3) partial hospitalization;~~
- ~~(4) physician services outside of care provided by a psychiatrist serving as a member of the treatment team;~~
- ~~(5) room and board costs, as defined in section 256I.03, subdivision 6;~~
- ~~(6) children's mental health day treatment services; and~~
- ~~(7) (2) mental health behavioral aide services, as defined in section 256B.0943, subdivision 1, paragraph (m).~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 15. **REPORT ON THE USE OF CERTIFIED PEER SPECIALISTS.**

The commissioner of human services shall study and report on the use of certified peer specialists in the mental health system. The study and report shall include an assessment of the use of certified peer specialists within existing resources, an evaluation of the benefits of using certified peer specialists in hospital settings and intensive residential treatment services (IRTS), an analysis of the existing duties of certified peer specialists, options for expanding their duties and the benefits of expanding their duties, methods for obtaining reimbursement for services they provide, an analysis of the cost of expanding reimbursement, and any necessary proposed legislation. In assessing the use of certified peer specialists in hospital settings and IRTS, the commissioner shall make recommendations on how to obtain reimbursement for wraparound services by these specialists and warm handoffs to community services that facilitate the successful transition of persons with mental illness to the next level of care. The commissioner shall include stakeholder input in the study and development of the report. The report and any necessary proposed legislation shall be submitted to the chairs and ranking minority members of the committees in the house of representatives and senate with jurisdiction over health and human services finance by February 1, 2016.

Sec. 16. **REPEALER.**

Minnesota Rules, parts 9535.2000; 9535.2100; 9535.2200; 9535.2300; 9535.2400; 9535.2500; 9535.2600; 9535.2700; 9535.2800; 9535.2900; and 9535.3000, are repealed.

## ARTICLE 3

### DIRECT CARE AND TREATMENT

Section 1. Minnesota Statutes 2014, section 253B.212, is amended by adding a subdivision to read:

**Subd. 1b. Cost of care; commitment by tribal court order; any federally recognized Indian tribe within the state of Minnesota.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care and treatment of those members of any federally recognized Indian tribe within the state, who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, developmental disability, or chemical dependency. The tribe may also contract directly with the commissioner for treatment of those members of any federally recognized Indian tribe within the state who have been committed by tribal court order to the respective tribal Department of Health for care and treatment of mental illness, developmental disability, or chemical dependency. The contract shall provide that the Indian Health Service and any federally recognized Indian tribe within the state shall not transfer any person for

admission to a regional center unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections 253B.05 to 253B.10.

Sec. 2. Minnesota Statutes 2014, section 253B.212, subdivision 2, is amended to read:

Subd. 2. **Effect given to tribal commitment order.** When, under an agreement entered into pursuant to subdivisions 1 ~~or~~, 1a, or 1b, the Indian Health Service or the placing tribe applies to a regional center for admission of a person committed to the jurisdiction of the health service by the tribal court as a person who is mentally ill, developmentally disabled, or chemically dependent, the commissioner may treat the patient with the consent of the Indian Health Service or the placing tribe.

A person admitted to a regional center pursuant to this section has all the rights accorded by section 253B.03. In addition, treatment reports, prepared in accordance with the requirements of section 253B.12, subdivision 1, shall be filed with the Indian Health Service or the placing tribe within 60 days of commencement of the patient's stay at the facility. A subsequent treatment report shall be filed with the Indian Health Service or the placing tribe within six months of the patient's admission to the facility or prior to discharge, whichever comes first. Provisional discharge or transfer of the patient may be authorized by the head of the treatment facility only with the consent of the Indian Health Service or the placing tribe. Discharge from the facility to the Indian Health Service or the placing tribe may be authorized by the head of the treatment facility after notice to and consultation with the Indian Health Service or the placing tribe.

#### ARTICLE 4

#### OPERATIONS

Section 1. Minnesota Statutes 2014, section 119B.125, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** Except as provided in subdivision 5, a county or the commissioner must authorize the provider chosen by an applicant or a participant before the county can authorize payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers. A provider must be reauthorized every two years. A legal, nonlicensed family child care provider also must be reauthorized when another person over the age of 13 joins the household, a current household member turns 13, or there is reason to believe that a household member has a factor that prevents authorization. The provider is required to report all family changes that would require reauthorization. When a provider has been authorized for payment for providing care for families in more than one county, the county responsible for reauthorization of that provider is the county of the family with a current authorization for that provider and who has used the provider for the longest length of time.

Sec. 2. Minnesota Statutes 2014, section 119B.125, subdivision 6, is amended to read:

Subd. 6. **Record-keeping requirement.** All providers receiving child care assistance payments must keep daily attendance records at the site where services are delivered for children receiving child care assistance and must make those records available immediately to the county or the commissioner upon request. The attendance records must be completed daily and include the date, the first and last name of each child in attendance, and the times when each child is dropped off and picked up. To the extent possible, the times that the child was dropped off to and picked up from the child care provider must be entered by the person dropping off or picking up the child. The daily attendance records must be retained at the site where services are delivered for six years after the date of service. A county or the commissioner may deny authorization as a child care provider to any applicant ~~or~~, rescind authorization of any provider, or establish an overpayment

claim in the system against a current or former provider, when the county or the commissioner knows or has reason to believe that the provider has not complied with the record-keeping requirement in this subdivision. A provider's failure to produce attendance records as requested on more than one occasion constitutes grounds for disqualification as a provider.

Sec. 3. Minnesota Statutes 2014, section 119B.125, is amended by adding a subdivision to read:

**Subd. 8. Overpayment claim for failure to comply with access to records requirement.** (a) In establishing an overpayment claim under subdivision 6 for failure to provide access to attendance records, the county or commissioner is limited to the six years prior to the date the county or the commissioner requested the attendance records.

(b) When the commissioner or county establishes an overpayment claim against a current or former provider, the commissioner or county must provide notice of the claim to the provider. A notice of overpayment claim must specify the reason for the overpayment, the authority for making the overpayment claim, the time period in which the overpayment occurred, the amount of the overpayment, and the provider's right to appeal.

(c) The commissioner or county may seek to recover overpayments paid to a current or former provider. When a provider has been convicted of fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent billing for a program administered by the commissioner or a county, recovery may be sought regardless of the amount of overpayment.

Sec. 4. Minnesota Statutes 2014, section 119B.125, is amended by adding a subdivision to read:

**Subd. 9. Reporting required for child's part-time attendance.** A provider must report to the county and report on the billing form as required when a child's attendance in child care falls to less than half of the child's authorized hours or days for a four-week period. If requested by the county or the commissioner, the provider must provide additional information to the county or commissioner on the attendance of specific children.

Sec. 5. **[245.095] LIMITS ON RECEIVING PUBLIC FUNDS.**

**Subdivision 1. Prohibition.** If a provider, vendor, or individual enrolled, licensed, or receiving funds under a grant contract in any program administered by the commissioner is excluded from any program administered by the commissioner, including under the commissioner's powers and authorities in section 256.01, the commissioner shall prohibit the excluded provider, vendor, or individual from enrolling or becoming licensed in any other program administered by the commissioner. The duration of this prohibition must last for the longest applicable sanction or disqualifying period in effect for the provider, vendor, or individual permitted by state or federal law.

**Subd. 2. Definitions.** (a) For purposes of this section, the following definitions have the meanings given them.

(b) "Excluded" means disenrolled, subject to license revocation or suspension, disqualified, or subject to vendor debarment under Minnesota Rules, part 1230.1150.

(c) "Individual" means a natural person providing products or services as a provider or vendor.

(d) "Provider" means an owner, controlling individual, license holder, director, or managerial official.

Sec. 6. Minnesota Statutes 2014, section 245A.02, subdivision 13, is amended to read:

Subd. 13. **Individual who is related.** "Individual who is related" means a spouse, a parent, a ~~natural~~ birth or adopted child or stepchild, a stepparent, a stepbrother, a stepsister, a niece, a nephew, an adoptive parent, a grandparent, a sibling, an aunt, an uncle, or a legal guardian.

Sec. 7. Minnesota Statutes 2014, section 245A.02, is amended by adding a subdivision to read:

Subd. 20. **Weekly.** "Weekly" means at least once every calendar week, for the purposes of chemical dependency treatment programs licensed under Minnesota Rules, parts 9530.6405 to 9530.6505.

Sec. 8. Minnesota Statutes 2014, section 245A.02, is amended by adding a subdivision to read:

Subd. 21. **Monthly.** "Monthly" means at least once every calendar month, for the purposes of chemical dependency treatment programs licensed under Minnesota Rules, parts 9430.6405 to 9530.6505.

Sec. 9. Minnesota Statutes 2014, section 245A.02, is amended by adding a subdivision to read:

Subd. 22. **Quarterly.** "Quarterly" means at least every 90 calendar days, for the purposes of chemical dependency treatment programs licensed under Minnesota Rules, parts 9530.6405 to 9530.6505.

Sec. 10. Minnesota Statutes 2014, section 245A.04, subdivision 15a, is amended to read:

Subd. 15a. **Plan for transfer of clients and records upon closure.** (a) Except for license holders who reside on the premises and child care providers, an applicant for initial or continuing licensure or certification must submit a written plan indicating how the agency program will ~~provide for~~ ensure the transfer of clients and records for both open and closed cases if the agency program closes. The plan must provide for managing private and confidential information concerning agency program clients. The plan must also provide for notifying affected clients of the closure at least 25 days prior to closure, including information on how to access their ~~medical~~ records. A controlling individual of the agency program must annually review and sign the plan.

(b) Plans for the transfer of open cases and case records must specify arrangements the agency program will make to transfer clients to another agency provider or county agency for continuation of services and to transfer the case record with the client.

(c) Plans for the transfer of closed case records must be accompanied by a signed agreement or other documentation indicating that a county or a similarly licensed agency provider has agreed to accept and maintain the agency's program's closed case records and to provide follow-up services as necessary to affected clients.

Sec. 11. Minnesota Statutes 2014, section 245A.07, subdivision 2, is amended to read:

Subd. 2. **Temporary immediate suspension.** (a) The commissioner shall act immediately to temporarily suspend a license if:

(1) the license holder's actions or failure to comply with applicable law or rule, or the actions of other individuals or conditions in the program, pose an imminent risk of harm to the health, safety, or rights of persons served by the program; or

(2) if while the program continues to operate pending an appeal of an order of revocation, the commissioner identifies one or more subsequent violations of law or rule which may adversely affect the health

or safety of persons served by the program, ~~the commissioner shall act immediately to temporarily suspend the license.~~

(b) No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under this chapter while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612, must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license. The appeal of an order immediately suspending a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within five calendar days after the license holder receives notice that the license has been immediately suspended. If a request is made by personal service, it must be received by the commissioner within five calendar days after the license holder received the order. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Sec. 12. Minnesota Statutes 2014, section 245A.07, subdivision 2a, is amended to read:

Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of receipt of the license holder's timely appeal, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail or personal service at least ten working days before the hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary immediate suspension should remain in effect pending the commissioner's final order under section 245A.08, regarding a licensing sanction issued under subdivision 3 following the immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the burden of proof in expedited hearings under this subdivision shall be limited to the commissioner's demonstration that reasonable cause exists to believe that the license holder's actions or failure to comply with applicable law or rule poses, or if the actions of other individuals or conditions in the program poses an imminent risk of harm to the health, safety, or rights of persons served by the program. "Reasonable cause" means there exist specific articulable facts or circumstances which provide the commissioner with a reasonable suspicion that there is an imminent risk of harm to the health, safety, or rights of persons served by the program. When the commissioner has determined there is reasonable cause to order the temporary immediate suspension of a license based on a violation of safe sleep requirements, as defined in section 245A.1435, the commissioner is not required to demonstrate that an infant died or was injured as a result of the safe sleep violations. For suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited hearings under this subdivision shall be limited to the commissioner's demonstration by a preponderance of evidence that, since the license was revoked, the license holder committed additional violations of law or rule which may adversely affect the health or safety of persons served by the program.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten working days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten working days from the close of the record. When an appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension within ten calendar days

of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days after a final order affirming an immediate suspension, the commissioner shall make a determination regarding whether a final licensing sanction shall be issued under subdivision 3. The license holder shall continue to be prohibited from operation of the program during this 90-day period.

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under subdivision 3 and the license holder appeals that sanction, the license holder continues to be prohibited from operation of the program pending a final commissioner's order under section 245A.08, subdivision 5, regarding the final licensing sanction.

Sec. 13. Minnesota Statutes 2014, section 245A.11, subdivision 4, is amended to read:

**Subd. 4. Location of residential programs.** In determining whether to grant a license, the commissioner shall specifically consider the population, size, land use plan, availability of community services, and the number and size of existing licensed residential programs in the town, municipality, or county in which the applicant seeks to operate a residential program. The commissioner shall not grant an initial license to any residential program if the residential program will be within 1,320 feet of an existing residential program unless one of the following conditions apply: (1) the existing residential program is located in a hospital licensed by the commissioner of health; (2) the town, municipality, or county zoning authority grants the residential program a conditional use or special use permit; (3) the program serves six or fewer persons and is not located in a city of the first class; or (4) the program is foster care, or a community residential setting as defined under section 245D.02, subdivision 4a.

Sec. 14. Minnesota Statutes 2014, section 245A.12, is amended to read:

**245A.12 VOLUNTARY RECEIVERSHIP FOR RESIDENTIAL OR NONRESIDENTIAL PROGRAMS.**

Subdivision 1. **Definitions.** For purposes of this section and section 245A.13, the following terms have the meanings given them.

(a) "Controlling individual" has the meaning in section 245A.02, subdivision 5a. When used in this section and section 245A.13, it means only those individuals controlling the residential or nonresidential program prior to the commencement of the receivership period.

(b) "Physical plant" means the building or buildings in which a residential or nonresidential program is located; all equipment affixed to the building and not easily subject to transfer as specified in the building and fixed equipment tables of the depreciation guidelines; and auxiliary buildings in the nature of sheds, garages, and storage buildings located on the same site if used for purposes related to resident or client care.

(c) "Related party" means a person who is a close relative of a provider or a provider group; an affiliate of a provider or a provider group; a close relative of an affiliate of a provider or provider group; or an affiliate of a close relative of an affiliate of a provider or provider group. For the purposes of this paragraph, the following terms have the meanings given them.

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

(2) "Person" means an individual, a corporation, a partnership, an association, a trust, an unincorporated organization, or a government or political subdivision.

(3) "Close relative of an affiliate of a provider or provider group" means an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate to a provider or a provider group is no more remote than first cousin.

(4) "Control" includes the terms "controlling," "controlled by," and "under common control with" and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(5) "Provider or provider group" means the license holder or controlling individual prior to the effective date of the receivership.

Subd. 2. **Receivership agreement.** A majority of controlling individuals of a residential or nonresidential program licensed or certified by the commissioner may at any time ask the commissioner to assume operation of the ~~residential~~ program through appointment of a receiver. On receiving the request for a receiver, the commissioner may enter into an agreement with a majority of controlling individuals and become the receiver and operate the residential or nonresidential program under conditions acceptable to both the commissioner and the majority of controlling individuals. The agreement must specify the terms and conditions of the receivership and preserve the rights of the persons being served by the ~~residential~~ program. A receivership set up under this section terminates at the time specified by the parties to the agreement.

Subd. 3. **Management agreement.** When the commissioner agrees to become the receiver of a residential or nonresidential program, the commissioner may enter into a management agreement with another entity or group to act as the managing agent during the receivership period. The managing agent will be responsible for the day-to-day operations of the ~~residential~~ program subject at all times to the review and approval of the commissioner. A reasonable fee may be paid to the managing agent for the performance of these services.

Subd. 4. **Rate adjustment.** The provisions of section 245A.13, subdivisions 7 and 8, shall also apply to voluntary receiverships.

Subd. 5. **Controlling individuals; restrictions on licensure.** No controlling individual of a residential or nonresidential program placed into receivership under this section shall apply for or receive a license or certification from the commissioner to operate a residential or nonresidential program for five years from the commencement of the receivership period. This subdivision does not apply to residential programs that are owned or operated by controlling individuals, that were in existence prior to the date of the receivership agreement, and that have not been placed into receivership.

Subd. 6. **Liability.** The controlling individuals of a residential or nonresidential program placed into receivership remain liable for any claims made against the ~~residential~~ program that arose from incidents or events that occurred prior to the commencement of the receivership period. Neither the commissioner nor the managing agent of the commissioner assumes this liability.

Subd. 7. **Liability for financial obligations.** Neither the commissioner nor the managing agent of the commissioner shall be liable for payment of any financial obligations of the residential or nonresidential program or of its controlling individuals incurred prior to the commencement of the receivership period unless such liability is expressly assumed in the receivership agreement. Those financial obligations remain the liability of the ~~residential~~ program and its controlling individuals. Financial obligations of the ~~residential~~ program incurred after the commencement of the receivership period are the responsibility of the commissioner or the managing agent of the commissioner to the extent such obligations are expressly assumed



by each in the receivership or management agreements. The controlling individuals of the residential or non-residential program remain liable for any financial obligations incurred after the commencement of the receivership period to the extent these obligations are not reimbursed in the rate paid to the residential program and are reasonable and necessary to the operation of the residential program. These financial obligations, or any other financial obligations incurred by the residential program prior to the commencement of the receivership period which are necessary to the continued operation of the residential program, may be deducted from any rental payments owed to the controlling individuals of the residential program as part of the receivership agreement.

Subd. 8. **Physical plant of the residential or nonresidential program.** Occupation of the physical plant after commencement of the receivership period shall be controlled by paragraphs (a) and (b).

(a) If the physical plant of a residential or nonresidential program placed in receivership is owned by a controlling individual or related party, the physical plant may be used by the commissioner or the managing agent for purposes of the receivership as long as the receivership period continues. A fair monthly rental for the physical plant shall be paid by the commissioner or managing agent to the owner of the physical plant. This fair monthly rental shall be determined by considering all relevant factors necessary to meet required arm's-length obligations of controlling individuals such as the mortgage payments owed on the physical plant, the real estate taxes, and special assessments. This rental shall not include any allowance for profit or be based on any formula that includes an allowance for profit.

(b) If the owner of the physical plant of a residential or nonresidential program placed in receivership is not a related party, the controlling individual shall continue as the lessee of the property. However, during the receivership period, rental payments shall be made to the owner of the physical plant by the commissioner or the managing agent on behalf of the controlling individual. Neither the commissioner nor the managing agent assumes the obligations of the lease unless expressly stated in the receivership agreement. Should the lease expire during the receivership, the commissioner or the managing agent may negotiate a new lease for the term of the receivership period.

Subd. 9. **Receivership accounting.** The commissioner may use the medical assistance account and funds for receivership cash flow and accounting purposes.

Subd. 10. **Receivership costs.** The commissioner may use the accounts and funds that would have been available for the room and board, services, and program costs of persons in the residential program for costs, cash flow, and accounting purposes related to the receivership.

Sec. 15. Minnesota Statutes 2014, section 245A.13, is amended to read:

**245A.13 INVOLUNTARY RECEIVERSHIP FOR RESIDENTIAL OR NONRESIDENTIAL PROGRAMS.**

Subdivision 1. **Application.** In addition to any other remedy provided by law, the commissioner may petition the district court in Ramsey County for an order directing the controlling individuals of the a residential or nonresidential program licensed or certified by the commissioner to show cause why the commissioner should not be appointed receiver to operate the residential program. The petition to the district court must contain proof by affidavit: (1) that the commissioner has either begun license suspension or revocation proceedings, proceedings to suspend or revoke a license or certification, has suspended or revoked a license or certification, or has decided to deny an application for licensure or certification of the residential program; or (2) it appears to the commissioner that the health, safety, or rights of the residents or persons receiving care from the program may be in jeopardy because of the manner in which the residential program

may close, the residential program's financial condition, or violations committed by the residential program of federal or state laws or rules. If the license holder, applicant, or controlling individual operates more than one residential program, the commissioner's petition must specify and be limited to the residential program for which it seeks receivership. The affidavit submitted by the commissioner must set forth alternatives to receivership that have been considered, including rate adjustments. The order to show cause is returnable not less than five days after service is completed and must provide for personal service of a copy to the residential program administrator and to the persons designated as agents by the controlling individuals to accept service on their behalf.

**Subd. 2. Appointment of receiver.** If the court finds that involuntary receivership is necessary as a means of protecting the health, safety, or rights of persons being served by the residential program, the court shall appoint the commissioner as receiver to operate the residential program. The commissioner as receiver may contract with another entity or group to act as the managing agent during the receivership period. The managing agent will be responsible for the day-to-day operations of the residential program subject at all times to the review and approval of the commissioner.

**Subd. 3. Powers and duties of the receiver.** Within 36 months after the receivership order, the receiver shall provide for the orderly transfer of the persons served by the residential program to other residential programs or make other provisions to protect their health, safety, and rights. The receiver or the managing agent shall correct or eliminate deficiencies in the residential program that the commissioner determines endanger the health, safety, or welfare of the persons being served by the residential program unless the correction or elimination of deficiencies at a residential program involves major alteration in the structure of the physical plant. If the correction or elimination of the deficiencies at a residential program requires major alterations in the structure of the physical plant, the receiver shall take actions designed to result in the immediate transfer of persons served by the residential program. During the period of the receivership, the receiver and the managing agent shall operate the residential or nonresidential program in a manner designed to preserve the health, safety, rights, adequate care, and supervision of the persons served by the residential program. The receiver or the managing agent may make contracts and incur lawful expenses. The receiver or the managing agent shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the functions of the receivership including the fee set under subdivision 4. No security interest in any real or personal property comprising the residential program or contained within it, or in any fixture of the physical plant, shall be impaired or diminished in priority by the receiver or the managing agent.

**Subd. 3a. Liability.** The provisions contained in section 245A.12, subdivision 6, shall also apply to receiverships ordered according to this section.

**Subd. 3b. Liability for financial obligations.** The provisions contained in section 245A.12, subdivision 7, also apply to receiverships ordered according to this section.

**Subd. 3c. Physical plant of the residential program.** Occupation of the physical plant under an involuntary receivership shall be governed by paragraphs (a) and (b).

(a) The physical plant owned by a controlling individual of the residential program or related party must be made available for the use of the residential program throughout the receivership period. The court shall determine a fair monthly rental for the physical plant, taking into account all relevant factors necessary to meet required arm's-length obligations of controlling individuals such as mortgage payments, real estate taxes, and special assessments. The rental fee must be paid by the receiver to the appropriate controlling individuals or related parties for each month that the receivership remains in effect. No payment made to a

controlling individual or related party by the receiver or the managing agent or any state agency during a period of the receivership shall include any allowance for profit or be based on any formula that includes an allowance for profit.

(b) If the owner of the physical plant of a residential program is not a related party, the court shall order the controlling individual to continue as the lessee of the property during the receivership period. Rental payments during the receivership period shall be made to the owner of the physical plant by the commissioner or the managing agent on behalf of the controlling individual.

Subd. 4. **Fee.** A receiver appointed under an involuntary receivership or the managing agent is entitled to a reasonable fee as determined by the court.

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

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

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

(3) the commissioner determines that all persons residing in the a residential program have been provided with alternative residential programs or that all persons receiving services in a nonresidential program have been referred to other programs; or

(4) the residential program closes court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist.

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

Subd. 7. **Rate recommendation.** The commissioner of human services may review rates of a residential or nonresidential program participating in the medical assistance program which is in receivership and that has needs or deficiencies documented by the Department of Health or the Department of Human Services. If the commissioner of human services determines that a review of the rate established under sections 256B.5012 and 256B.5013 is needed, the commissioner shall:

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

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

Subd. 8. **Adjustment to the rate.** Upon review of rates under subdivision 7, the commissioner may adjust the residential program's payment rate. The commissioner shall review the circumstances, together

with the residential program's most recent income and expense report, to determine whether or not the deficiencies or needs can be corrected or met by reallocating residential program staff, costs, revenues, or any other resources including investments. If the commissioner determines that any deficiency cannot be corrected or the need cannot be met with the payment rate currently being paid, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the residential program's actual resident client days from the most recent income and expense report or the estimated resident client days in the projected receivership period. The payment rate adjustment remains in effect during the period of the receivership or until another date set by the commissioner. Upon the subsequent sale, closure, or transfer of the residential program, the commissioner may recover amounts that were paid as payment rate adjustments under this subdivision. This recovery shall be determined through a review of actual costs and resident client days in the receivership period. The costs the commissioner finds to be allowable shall be divided by the actual resident client days for the receivership period. This rate shall be compared to the rate paid throughout the receivership period, with the difference multiplied by resident client days, being the amount to be repaid to the commissioner. Allowable costs shall be determined by the commissioner as those ordinary, necessary, and related to resident client care by prudent and cost-conscious management. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. This provision does not limit the liability of the seller to the commissioner pursuant to section 256B.0641.

**Subd. 9. Receivership accounting.** The commissioner may use the medical assistance account and funds for receivership cash flow and accounting purposes.

**Subd. 10. Receivership costs.** The commissioner may use the accounts and funds that would have been available for the room and board, services, and program costs of persons in the residential program for costs, cash flow, and accounting purposes related to the receivership.

**Subd. 11. Controlling individuals; restrictions on licensure.** No controlling individual of a residential program placed into receivership under this section may apply for or receive a license or certification to operate a residential or nonresidential program for five years from the commencement of the receivership period. This subdivision does not apply to residential programs that are owned or operated by controlling individuals that were in existence before the date of the receivership agreement, and that have not been placed into receivership.

Sec. 16. Minnesota Statutes 2014, section 245A.14, subdivision 14, is amended to read:

**Subd. 14. Attendance records for publicly funded services.** (a) A child care center licensed under this chapter and according to Minnesota Rules, chapter 9503, must maintain documentation of actual attendance for each child receiving care for which the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

- (1) the first and last name of the child;
- (2) the time of day that the child was dropped off; and
- (3) the time of day that the child was picked up.

(b) A family child care provider licensed under this chapter and according to Minnesota Rules, chapter 9502, must maintain documentation of actual attendance for each child receiving care for which the license holder is reimbursed for the care of that child by a governmental program. The records must be accessible

to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

- (1) the first and last name of the child;
- (2) the time of day that the child was dropped off; and
- (3) the time of day that the child was picked up.

(c) An adult day services program licensed under this chapter and according to Minnesota Rules, parts 9555.5105 to 9555.6265, must maintain documentation of actual attendance for each adult day service recipient for which the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

- (1) the first, middle, and last name of the recipient;
- (2) the time of day that the recipient was dropped off; and
- (3) the time of day that the recipient was picked up.

(d) The commissioner shall not issue a correction for attendance record errors that occur before August 1, 2013.

**Sec. 17. [245A.1443] CHEMICAL DEPENDENCY PROGRAMS THAT SERVE PARENTS WITH THEIR CHILDREN.**

Subdivision 1. **Application.** This section applies to chemical dependency treatment facilities that are licensed under this chapter and Minnesota Rules, chapter 9530, and that provide services in accordance with Minnesota Rules, part 9530.6490.

Subd. 2. **Requirements for providing education.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must provide education to the child's parent related to safe bathing and reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. At a minimum, the education must address:

(1) instruction that a child or infant should never be left unattended around water, a tub should be filled with only two to four inches of water for infants, and an infant should never be put into a tub when the water is running; and

(2) the risk factors related to sudden unexpected infant death and abusive head trauma from shaking infants and young children, and means of reducing the risks, including the safety precautions identified in section 245A.1435 and the dangers of co-sleeping.

(b) The license holder must document the parent's receipt of the education and keep the documentation in the parent's file. The documentation must indicate whether the parent agrees to comply with the safeguards. If the parent refuses to comply, program staff must provide additional education to the parent at appropriate intervals, at least weekly for the duration of the parent's participation in the program or until the parent agrees to comply with the safeguards.

Subd. 3. **Parental supervision of children.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must complete and document an assessment of the parent's capacity to meet

the health and safety needs of the child while on the facility premises, including identifying circumstances when the parent may be unable to adequately care for their child due to:

(1) the parent's physical or mental health;

(2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

(3) the parent being unable to provide appropriate supervision for the child; or

(4) any other information available to the license holder that indicate the parent may not be able to adequately care for the child.

(b) The license holder must have written procedures specifying the actions to be taken by staff if a parent is or becomes unable to adequately care for the parent's child.

Subd. 4. **Alternative supervision arrangements.** The license holder must have written procedures addressing whether the program permits a parent to arrange for supervision of the parent's child by another client in the program. If permitted, the facility must have a procedure that requires staff approval of the supervision arrangement before the supervision by the nonparental client occurs. The procedure for approval must include an assessment of the nonparental client's capacity to assume the supervisory responsibilities using the criteria in subdivision 3. The license holder must document the license holder's approval of the supervisory arrangement and the assessment of the nonparental client's capacity to supervise the child, and must keep this documentation in the file of the parent of the child being supervised.

Sec. 18. Minnesota Statutes 2014, section 245A.148, is amended to read:

**245A.148 FAMILY CHILD CARE DIAPERING AREA DISINFECTION.**

Notwithstanding Minnesota Rules, part 9502.0435, a family child care provider may disinfect the diaper changing surface with chlorine bleach in a manner consistent with label directions for disinfection or with a surface disinfectant that meets the following criteria:

(1) the manufacturer's label or instructions state that the product is registered with the United States Environmental Protection Agency;

(2) the manufacturer's label or instructions state that the disinfectant is effective against *Staphylococcus aureus*, *Salmonella enteritidis*, and *Pseudomonas aeruginosa*;

(3) the manufacturer's label or instructions state that the disinfectant is effective with a ten minute or less contact time;

(4) the disinfectant is clearly labeled by the manufacturer with directions for mixing and use;

(5) the disinfectant is used only in accordance with the manufacturer's directions; and

(6) the product does not include triclosan or derivatives of triclosan.

Sec. 19. Minnesota Statutes 2014, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section

245A.04 and background studies for family child care under chapter 245C; to recommend denial of applicants under section 245A.05; to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06; or to recommend suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment;

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours; and

(7) variances for community residential setting licenses under chapter 245D to requirements relating to chemical use problems of a license holder or a household member of a license holder.

Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must not grant a license holder a variance to exceed the maximum allowable family child care license capacity of 14 children.

(b) County agencies must report information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

(c) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(d) For family adult day services programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(e) A license issued under this section may be issued for up to two years.

(f) During implementation of chapter 245D, the commissioner shall consider:

(1) the role of counties in quality assurance;

(2) the duties of county licensing staff; and

(3) the possible use of joint powers agreements, according to section 471.59, with counties through which some licensing duties under chapter 245D may be delegated by the commissioner to the counties.

Any consideration related to this paragraph must meet all of the requirements of the corrective action plan ordered by the federal Centers for Medicare and Medicaid Services.

(g) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, for family child foster care programs providing out-of-home respite, as identified in section 245D.03, subdivision 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and private agencies.

Sec. 20. Minnesota Statutes 2014, section 245A.175, is amended to read:

#### **245A.175 MENTAL HEALTH TRAINING REQUIREMENT.**

Prior to a nonemergency placement of a child in a foster care home, the child foster care ~~provider, licensed after July 1, 2007, license holder and caregivers in foster family and treatment foster care settings, and all staff providing care in foster residence settings~~ must complete two hours of training that addresses the causes, symptoms, and key warning signs of mental health disorders; cultural considerations; and effective approaches for dealing with a child's behaviors. At least one hour of the annual ~~12-hour~~ training requirement for ~~the foster parents family license holder and caregivers, and foster residence staff~~ must be on children's mental health issues and treatment. Short-term substitute caregivers are exempt from these requirements. Training curriculum shall be approved by the commissioner of human services.

Sec. 21. Minnesota Statutes 2014, section 245A.1915, is amended to read:

#### **245A.1915 OPIOID ADDICTION TREATMENT EDUCATION REQUIREMENT FOR PROVIDERS LICENSED TO PROVIDE CHEMICAL DEPENDENCY TREATMENT SERVICES.**

All programs servicing persons with substance use issues licensed by the commissioner must provide educational information concerning: treatment options for opioid addiction, including the use of a medication for the use of opioid addiction; and recognition of and response to opioid overdose and the use and administration of naloxone, to clients identified as having or seeking treatment for opioid addiction. The commissioner shall develop educational materials that are supported by research and updated periodically that must be used by programs to comply with this requirement.

Sec. 22. Minnesota Statutes 2014, section 245A.192, subdivision 3, is amended to read:

Subd. 3. **Medication orders.** Prior to the program administering or dispensing a medication used for the treatment of opioid addiction:

(1) a client-specific order must be received from an appropriately credentialed physician who is enrolled as a Minnesota health care programs provider and meets all applicable provider standards;

(2) the signed order must be documented in the client's record; and

(3) ~~if the order is not directly issued by the physician, such as a verbal order, the physician that issued the order must review the documentation and sign the order in the client's record within 72 hours of the medication being administered or dispensed. The physician must document whether the medication was administered or dispensed as ordered. The license holder must report to the commissioner any medication error that endangers a patient's health, as determined by the medical director. if the physician that issued the order is not able to sign the order when issued, the unsigned order must be entered in the client record at~~



the time it was received, and the physician must review the documentation and sign the order in the client's record within 72 hours of the medication being ordered. The license holder must report to the commissioner any medication error that endangers a patient's health, as determined by the medical director.

Sec. 23. Minnesota Statutes 2014, section 245A.192, is amended by adding a subdivision to read:

Subd. 3a. **High dose requirements.** A client being administered or dispensed a dose beyond that set forth in subdivision 5, paragraph (a), clause (1), that exceeds 150 milligrams of methadone or 24 milligrams of buprenorphine daily, and for each subsequent increase, must meet face-to-face with a prescribing physician. The meeting must occur before the administering or dispensing of the increased dose.

Sec. 24. Minnesota Statutes 2014, section 245A.192, subdivision 5, is amended to read:

Subd. 5. **Criteria for unsupervised use.** (a) To limit the potential for diversion of medication used for the treatment of opioid addiction to the illicit market, any such medications dispensed to patients for unsupervised use shall be subject to the following requirements:

(1) any patient in an opioid treatment program may receive a single take-home dose for a day that the clinic is closed for business, including Sundays and state and federal holidays; and

(2) treatment program decisions on dispensing medications used to treat opioid addiction to patients for unsupervised use beyond that set forth in clause (1) shall be determined by the medical director.

(b) ~~The medical director~~ A physician with authority to prescribe must consider the criteria in this subdivision in determining whether a client may be permitted unsupervised or take-home use of such medications. The criteria must also be considered when determining whether dispensing medication for a client's unsupervised use is appropriate to increase or to extend the amount of time between visits to the program. The criteria include:

(1) absence of recent abuse of drugs including but not limited to opioids, nonnarcotics, and alcohol;

(2) regularity of program attendance;

(3) absence of serious behavioral problems at the program;

(4) absence of known recent criminal activity such as drug dealing;

(5) stability of the client's home environment and social relationships;

(6) length of time in comprehensive maintenance treatment;

(7) reasonable assurance that take-home medication will be safely stored within the client's home; and

(8) whether the rehabilitative benefit the client derived from decreasing the frequency of program attendance outweighs the potential risks of diversion or unsupervised use.

(c) The determination, including the basis of the determination, must be consistent with the criteria in this subdivision and must be documented in the client's medical record.

Sec. 25. Minnesota Statutes 2014, section 245A.192, subdivision 10, is amended to read:

Subd. 10. **Nonmedication treatment services; documentation.** (a) The program must offer at least 50 consecutive minutes of individual or group therapy treatment services as defined in Minnesota Rules, part

9530.6430, subpart 1, item A, subitem (1), per week, for the first ten weeks following admission, and at least 50 consecutive minutes per month thereafter. As clinically appropriate, the program may offer these services cumulatively and not consecutively in increments of no less than 15 minutes over the required time period, and for a total of 60 minutes of treatment services over the time period, and must document the reason for providing services cumulatively in the client's record. The program may offer additional levels of service when deemed clinically necessary.

(b) Notwithstanding the requirements of comprehensive assessments in Minnesota Rules, part 9530.6422, the assessment must be completed within 21 days of service initiation.

(c) Notwithstanding the requirements of individual treatment plans set forth in Minnesota Rules, part 9530.6425:

(1) treatment plan contents for maintenance clients are not required to include goals the client must reach to complete treatment and have services terminated;

(2) treatment plans for clients in a taper or detox status must include goals the client must reach to complete treatment and have services terminated;

(3) for the initial ten weeks after admission for all new admissions, readmissions, and transfers, progress notes must be entered in a client's file at least weekly and be recorded in each of the six dimensions upon the development of the treatment plan and thereafter. Subsequently, the counselor must document progress no less than one time monthly, recorded in the six dimensions or when clinical need warrants more frequent notations; and

(4) upon the development of the treatment plan and thereafter, treatment plan reviews must occur weekly, or after each treatment service, whichever is less frequent, for the first ten weeks of treatment for all new admissions, readmissions, and transfers after the treatment plan is developed. Following the first ten weeks of treatment, treatment plan reviews, reviews may occur monthly, unless the client has needs that warrant more frequent revisions or documentation.

Sec. 26. Minnesota Statutes 2014, section 245A.192, subdivision 11, is amended to read:

Subd. 11. **Prescription monitoring program.** (a) ~~Upon admission to a methadone clinic outpatient treatment program, clients shall be notified that the Department of Human Services and the medical director will monitor the prescription monitoring program to review the prescribed controlled drugs the clients have received. The medical director or the medical director's delegate must review data from the Minnesota Board of Pharmacy prescription monitoring program (PMP) established under section 152.126 prior to the client being ordered any controlled substance as defined under section 152.126, subdivision 1, paragraph (b), including medications used for the treatment of opioid addiction. The subsequent reviews of the PMP data must occur quarterly and be documented in the client's individual file. When the PMP data shows a recent history of multiple prescribers or multiple prescriptions for controlled substances, then subsequent reviews of the PMP data must occur monthly and be documented in the client's individual file. If, at any time, the medical director believes the use of the controlled substances places the client at risk of harm, the program must seek the client's consent to discuss the client's opioid treatment with other prescribers and must seek consent for the other prescriber to disclose to the opioid treatment program's medical director the client's condition that formed the basis of the other prescriptions. Additionally, any findings from the PMP data that are relevant to the medical director's course of treatment for the client must be documented in the client's individual file. A review of the PMP is not required for every medication dose adjustment.~~

The program must develop and maintain a policy and procedure that requires the ongoing monitoring of the data from the prescription monitoring program for each client. The policy and procedure must include how the program will meet the requirements in paragraph (b).

(b) If a medication used for the treatment of opioid addiction is administered or dispensed to a client, the license holder shall be subject to the following requirements:

(1) upon admission to a methadone clinic outpatient treatment program, clients must be notified in writing that the commissioner of human services and the medical director will monitor the prescription monitoring program to review the prescribed controlled drugs the clients have received;

(2) the medical director or the medical director's delegate must review the data from the Minnesota Board of Pharmacy prescription monitoring program (PMP) established under section 152.126 prior to the client being ordered any controlled substance, as defined under section 152.126, subdivision 1, paragraph (c), including medications used for the treatment of opioid addiction, and subsequent reviews of the PMP data must occur at least every 90 days;

(3) a copy of the PMP data reviewed must be maintained in the client file;

(4) when the PMP data contains a recent history of multiple prescribers or multiple prescriptions for controlled substances, the physician's review of the data and subsequent actions must be documented in the client's individual file within 72 hours and must contain the medical director's determination of whether or not the prescriptions place the client at risk of harm and the actions to be taken in response to the PMP findings. In addition, the provider must conduct subsequent reviews of the PMP on a monthly basis; and

(5) if at any time the medical director believes the use of the controlled substances places the client at risk of harm, the program must seek the client's consent to discuss the client's opioid treatment with other prescribers and must seek consent for the other prescriber to disclose to the opioid treatment program's medical director the client's condition that formed the basis of the other prescriptions. If the information is not obtained within seven days, the medical director must document whether or not changes to the client's medication dose or number of take-home doses are necessary until the information is obtained.

(c) The commissioner shall collaborate with the Minnesota Board of Pharmacy to develop and implement an electronic system through which the commissioner shall routinely access the data from the Minnesota Board of Pharmacy prescription monitoring program established under section 152.126 for the purpose of determining whether any client enrolled in an opioid addiction treatment program licensed according to this section has also been prescribed or dispensed a controlled substance in addition to that administered or dispensed by the opioid addiction treatment program. When the commissioner determines there have been multiple prescribers or multiple prescriptions of controlled substances, the commissioner shall:

(1) inform the medical director of the opioid treatment program only that the commissioner determined the existence of multiple prescribers or multiple prescriptions of controlled substances; and

(2) direct the medical director of the opioid treatment program to access the data directly, review the effect of the multiple prescribers or multiple prescriptions, and document the review.

(e) (d) If determined necessary, the commissioner shall seek a federal waiver of, or exception to, any applicable provision of Code of Federal Regulations, title 42, section 2.34(c), prior to implementing this subdivision.

Sec. 27. Minnesota Statutes 2014, section 245A.192, is amended by adding a subdivision to read:

**Subd. 15. A program's duty to report suspected drug diversion.** (a) To the fullest extent permitted under Code of Federal Regulations, title 42, sections 2.1 to 2.67, a program shall report to law enforcement any credible evidence that the program or its personnel knows, or reasonably should know, that is directly related to a diversion crime on the premises of the program, or a threat to commit a diversion crime.

(b) "Diversion crime," for the purposes of this section, means diverting, attempting to divert, or conspiring to divert schedule I, II, III, or IV drugs, as defined in section 152.02, on the program's premises.

(c) The program must document its compliance with the requirement in paragraph (a) in either a client's record or an incident report.

(d) Failure to comply with the duty in paragraph (a) may result in sanctions as provided in sections 245A.06 and 245A.07.

Sec. 28. Minnesota Statutes 2014, section 245A.192, is amended by adding a subdivision to read:

**Subd. 16. Variance.** The commissioner may grant a variance to the requirements of this section.

Sec. 29. Minnesota Statutes 2014, section 245A.40, subdivision 3, is amended to read:

**Subd. 3. First aid.** (a) All teachers and assistant teachers in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and at least one staff person during field trips and when transporting children in care, must satisfactorily complete first aid training within 90 days of the start of work, unless the training has been completed within the previous three years.

(b) Notwithstanding paragraph (a), which allows 90 days to complete training, at least one staff person who has satisfactorily completed first aid training must be present at all times in the center, during field trips, and when transporting children in care.

(c) The first aid training must be repeated at least every three years, documented in the person's personnel record and indicated on the center's staffing chart, and provided by an individual approved as a first aid instructor. This training may be less than eight hours.

Sec. 30. Minnesota Statutes 2014, section 245A.40, subdivision 4, is amended to read:

**Subd. 4. Cardiopulmonary resuscitation.** (a) All teachers and assistant teachers in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and at least one staff person during field trips and when transporting children in care, must satisfactorily complete training in cardiopulmonary resuscitation (CPR) that includes CPR techniques for infants and children and in the treatment of obstructed airways that includes CPR techniques for infants and children. The CPR training must be completed within 90 days of the start of work, unless the training has been completed within the previous three years. The CPR training must have been provided by an individual approved to provide CPR instruction, must be repeated at least once every three years, and must be documented in the staff person's records.

(b) Notwithstanding paragraph (a), which allows 90 days to complete training, at least one staff person who has satisfactorily completed cardiopulmonary resuscitation training must be present at all times in the center, during field trips, and when transporting children in care.

~~(b)~~ (c) CPR training may be provided for less than four hours.

~~(e)~~ (d) Persons providing CPR training must use CPR training that has been developed:

(1) by the American Heart Association or the American Red Cross and incorporates psychomotor skills to support the instruction; or

(2) using nationally recognized, evidence-based guidelines for CPR and incorporates psychomotor skills to support the instruction.

Sec. 31. Minnesota Statutes 2014, section 245A.40, subdivision 5, is amended to read:

Subd. 5. **Sudden unexpected infant death and abusive head trauma training.** (a) License holders must document that before staff persons and volunteers care for infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death. In addition, license holders must document that before staff persons care for infants or children under school age, they receive training on the risk of abusive head trauma from shaking infants and young children. The training in this subdivision may be provided as orientation training under subdivision 1 and in-service training under subdivision 7.

(b) Sudden unexpected infant death reduction training required under this subdivision must be at least one-half hour in length and must be completed at least once every year. At a minimum, the training must address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(c) Abusive head trauma training under this subdivision must be at least one-half hour in length and must be completed at least once every year. At a minimum, the training must address the risk factors related to shaking infants and young children, means to reduce the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

~~(d) The commissioner shall make available for viewing a video presentation on the dangers associated with shaking infants and young children, which may be used in conjunction with the annual training required under paragraph (c). The video presentation must be part of the orientation and annual in-service training of licensed child care center staff persons caring for children under school age. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.~~

Sec. 32. Minnesota Statutes 2014, section 245A.50, subdivision 1, is amended to read:

Subdivision 1. **Initial training.** (a) License holders, caregivers, and substitutes must comply with the training requirements in this section.

(b) Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

(c) Training requirements established under this section that must be completed prior to initial licensure must be satisfied only by a newly licensed child care provider or by a child care provider who has not held an active child care license in Minnesota in the previous 12 months. A child care provider who relocates

within the state or who voluntarily cancels a license or allows the license to lapse for a period of less than 12 months and who seeks reinstatement of the lapsed or canceled license within 12 months of the lapse or cancellation must satisfy the annual, ongoing training requirements, and is not required to satisfy the training requirements that must be completed prior to initial licensure.

Sec. 33. Minnesota Statutes 2014, section 245C.02, subdivision 2, is amended to read:

Subd. 2. **Access to persons served by a program.** "Access to persons served by a program" means physical access to persons receiving services ~~or~~, access to the persons' personal property, or access to the persons' personal, financial, or health information, without continuous, direct supervision, as defined in subdivision 8.

Sec. 34. Minnesota Statutes 2014, section 245C.04, subdivision 4, is amended to read:

Subd. 4. **Supplemental nursing services agencies.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 3, at least upon application for registration under section 144A.71, subdivision 1.

(b) Each supplemental nursing services agency must initiate background studies using the electronic system known as NETStudy before an individual begins a position allowing direct contact with persons served by the agency and annually thereafter.

(c) A supplemental nursing services agency that initiates background studies through NETStudy 2.0 is exempt from the requirement to initiate annual background studies under paragraph (b) for individuals who are on the agency's active roster.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 35. Minnesota Statutes 2014, section 245C.04, subdivision 5, is amended to read:

Subd. 5. **Personnel agencies; educational programs; professional services agencies.** (a) Agencies, programs, and individuals who initiate background studies under section 245C.03, subdivision 4, must initiate the studies annually using the electronic system known as NETStudy.

(b) Agencies, programs, and individuals who initiate background studies through NETStudy 2.0 are exempt from the requirement to initiate annual background studies under paragraph (a) for individuals who are on the agency's or program's active roster.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 36. Minnesota Statutes 2014, section 245C.04, subdivision 6, is amended to read:

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** (a) Providers required to initiate background studies under section 256B.4912 must initiate a study using the electronic system known as NETStudy before the individual begins in a position allowing direct contact with persons served by the provider.

(b) Except as provided in ~~paragraph~~ paragraphs (c) and (d), the providers must initiate a background study annually of an individual required to be studied under section 245C.03, subdivision 6.

(c) After an initial background study under this subdivision is initiated on an individual by a provider of both services licensed by the commissioner and the unlicensed services under this subdivision, a repeat annual background study is not required if:

(1) the provider maintains compliance with the requirements of section 245C.07, paragraph (a), regarding one individual with one address and telephone number as the person to receive sensitive background study information for the multiple programs that depend on the same background study, and that the individual who is designated to receive the sensitive background information is capable of determining, upon the request of the commissioner, whether a background study subject is providing direct contact services in one or more of the provider's programs or services and, if so, at which location or locations; and

(2) the individual who is the subject of the background study provides direct contact services under the provider's licensed program for at least 40 hours per year so the individual will be recognized by a probation officer or corrections agent to prompt a report to the commissioner regarding criminal convictions as required under section 245C.05, subdivision 7.

(d) A provider who initiates background studies through NETStudy 2.0 is exempt from the requirement to initiate annual background studies under paragraph (b) for individuals who are on the provider's active roster.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 37. Minnesota Statutes 2014, section 245C.05, subdivision 1, is amended to read:

Subdivision 1. **Individual studied.** (a) The individual who is the subject of the background study must provide the applicant, license holder, or other entity under section 245C.04 with sufficient information to ensure an accurate study, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) current home address, city, and state of residence;

(3) current zip code;

(4) sex;

(5) date of birth;

(6) ~~Minnesota~~ driver's license number or state identification number; and

(7) upon implementation of NETStudy 2.0, the home address, city, county, and state of residence for the past five years.

(b) Every subject of a background study conducted or initiated by counties or private agencies under this chapter must also provide the home address, city, county, and state of residence for the past five years.

(c) Every subject of a background study related to private agency adoptions or related to child foster care licensed through a private agency, who is 18 years of age or older, shall also provide the commissioner a signed consent for the release of any information received from national crime information databases to the private agency that initiated the background study.

(d) The subject of a background study shall provide fingerprints and a photograph as required in subdivision 5.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 38. Minnesota Statutes 2014, section 245C.07, is amended to read:

**245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

(a) Subject to the conditions in paragraph (d), when a license holder, applicant, or other entity owns multiple programs or services that are licensed by the Department of Human Services, Department of Health, or Department of Corrections, only one background study is required for an individual who provides direct contact services in one or more of the licensed programs or services if:

(1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and

(2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct contact services in one or more of the license holder's programs or services and, if so, at which location or locations.

(b) When a license holder maintains background study compliance for multiple licensed programs according to paragraph (a), and one or more of the licensed programs closes, the license holder shall immediately notify the commissioner which staff must be transferred to an active license so that the background studies can be electronically paired with the license holder's active program.

(c) When a background study is being initiated by a licensed program or service or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed programs or services may attach to the background study form a cover letter indicating the additional names of the programs or services, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each program or service identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those programs' or services' responsibilities for initiating a background study on that individual.

(d) If a background study was conducted on an individual related to child foster care and the requirements under paragraph (a) are met, the background study is transferable across all licensed programs. If a background study was conducted on an individual under a license other than child foster care and the requirements under paragraph (a) are met, the background study is transferable to all licensed programs except child foster care.

(e) The provisions of this section that allow a single background study in one or more licensed programs or services do not apply to background studies submitted by adoption agencies, supplemental nursing services agencies, personnel agencies, educational programs, professional services agencies, and unlicensed personal care provider organizations.

(f) For an entity operating under NETStudy 2.0, the entity's active roster must be the system used to document when a background study subject is affiliated with multiple entities. For a background study to be transferable:



(1) the background study subject must be on and moving to a roster for which the person designated to receive sensitive background study information is the same; and

(2) the same entity must own or legally control both the roster from which the transfer is occurring and the roster to which the transfer is occurring. For an entity that holds or controls multiple licenses, or unlicensed personal care provider organizations, there must be a common highest level entity that has a legally identifiable structure that can be verified through records available from the secretary of state.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 39. Minnesota Statutes 2014, section 245C.10, is amended by adding a subdivision to read:

Subd. 1a. **Expenses.** Section 181.645 does not apply to background studies completed under this chapter.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 40. Minnesota Statutes 2014, section 245C.20, subdivision 2, is amended to read:

Subd. 2. **Background studies initiated by others; personnel pool agencies, temporary personnel agencies, supplemental nursing services agencies, or professional services agencies.** When a license holder relies on a background study initiated by a personnel pool agency, a temporary personnel agency, an educational program, a supplemental nursing services agency, or a professional services agency for a person required to have a background study completed under section 245C.03, the license holder must maintain a copy of the background study results in the license holder's files.

Sec. 41. Minnesota Statutes 2014, section 245C.20, is amended by adding a subdivision to read:

Subd. 2a. **Background studies initiated by others; educational programs.** When a license holder relies on a background study initiated by an educational program for a person required to have a background study completed under section 245C.03 and the person is on the educational program's active roster, the license holder is responsible for ensuring that the background study has been completed. The license holder may satisfy the documentation requirements through a written agreement with the educational program verifying that documentation of the background study may be provided upon request and that the educational program will inform the license holder if there is a change in the person's background study status. The license holder remains responsible for ensuring that all background study requirements are met.

Sec. 42. Minnesota Statutes 2014, section 245E.01, subdivision 8, is amended to read:

Subd. 8. **Financial misconduct or misconduct.** "Financial misconduct" or "misconduct" means an entity's or individual's acts or omissions that result in fraud and abuse or error against the Department of Human Services. Financial misconduct includes acting as a recruiter offering conditional employment on behalf of a provider that has received funds from the child care assistance program.

Sec. 43. Minnesota Statutes 2014, section 245E.01, is amended by adding a subdivision to read:

Subd. 13a. **Recruiter offering conditional employment.** "Recruiter offering conditional employment" means a child care provider, center owner, director, manager, license holder, or other controlling individual or agent who, for pecuniary gain, directly procures or solicits an applicant or a prospective employee and

requires as a condition of employment that the applicant or prospective employee has one or more children who are eligible for or receive child care assistance.

Sec. 44. Minnesota Statutes 2014, section 245E.02, subdivision 1, is amended to read:

Subdivision 1. **Investigating provider or recipient financial misconduct.** The department shall investigate alleged or suspected financial misconduct by providers and errors related to payments issued by the child care assistance program under this chapter. Recipients, employees, and staff may be investigated when the evidence shows that their conduct is related to the financial misconduct of a provider, license holder, or controlling individual. When the alleged or suspected financial misconduct relates to acting as a recruiter offering conditional employment on behalf of a provider that has received funds from the child care assistance program, the department may investigate the provider, center owner, director, manager, license holder, or other controlling individual or agent, who is alleged to have acted as a recruiter offering conditional employment.

Sec. 45. Minnesota Statutes 2014, section 245E.02, is amended by adding a subdivision to read:

Subd. 3a. **Prohibited hiring practice.** It is prohibited to hire a child care center employee when, as a condition of employment, the employee is required to have one or more children who are eligible for or receive child care assistance, if:

(1) the individual hiring the employee is, or is acting at the direction of or in cooperation with, a child care center provider, center owner, director, manager, license holder, or other controlling individual; and

(2) the individual hiring the employee knows or has reason to know the purpose in hiring the employee is to obtain child care assistance program funds.

Sec. 46. Minnesota Statutes 2014, section 245E.02, subdivision 4, is amended to read:

Subd. 4. **Actions or administrative sanctions.** (a) After completing the determination under subdivision 3, the department may take one or more of the actions or sanctions specified in this subdivision.

(b) The department may take the following actions:

(1) refer the investigation to law enforcement or a county attorney for possible criminal prosecution;

(2) refer relevant information to the department's licensing division, the child care assistance program, the Department of Education, the federal child and adult care food program, or appropriate child or adult protection agency;

(3) enter into a settlement agreement with a provider, license holder, controlling individual, or recipient;  
or

(4) refer the matter for review by a prosecutorial agency with appropriate jurisdiction for possible civil action under the Minnesota False Claims Act, chapter 15C.

(c) In addition to section 256.98, the department may impose sanctions by:

(1) pursuing administrative disqualification through hearings or waivers;

(2) establishing and seeking monetary recovery or recoupment; or

(3) issuing an order of corrective action that states the practices that are violations of child care assistance program policies, laws, or regulations, and that they must be corrected; or

(4) suspending, denying, or terminating payments to a provider.

(d) Upon a finding by the commissioner that any child care provider, center owner, director, manager, license holder, or other controlling individual of a child care center has employed, used, or acted as a recruiter offering conditional employment for a child care center that has received child care assistance program funding, the commissioner shall:

(1) immediately suspend all program payments to all child care centers in which the person employing, using, or acting as a recruiter offering conditional employment is an owner, director, manager, license holder, or other controlling individual. The commissioner shall suspend program payments under this clause even if services have already been provided; and

(2) immediately and permanently revoke the licenses of all child care centers of which the person employing, using, or acting as a recruiter offering conditional employment is an owner, director, manager, license holder, or other controlling individual.

Sec. 47. Minnesota Statutes 2014, section 245E.06, subdivision 2, is amended to read:

Subd. 2. **Written notice of department sanction; sanction effective date; informal meeting.** (a) The department shall give notice in writing to a person of an administrative sanction that is to be imposed. The notice shall be sent by mail as defined in section 245E.01, subdivision 11.

(b) The notice shall state:

(1) the factual basis for the department's determination;

(2) the sanction the department intends to take;

(3) the dollar amount of the monetary recovery or recoupment, if any;

(4) how the dollar amount was computed;

(5) the right to dispute the department's determination and to provide evidence;

(6) the right to appeal the department's proposed sanction; and

(7) the option to meet informally with department staff, and to bring additional documentation or information, to resolve the issues.

(c) In cases of determinations resulting in denial or termination of payments, in addition to the requirements of paragraph (b), the notice must state:

(1) the length of the denial or termination;

(2) the requirements and procedures for reinstatement; and

(3) the provider's right to submit documents and written arguments against the denial or termination of payments for review by the department before the effective date of denial or termination.

(d) The submission of documents and written argument for review by the department under paragraph (b), clause (5) or (7), or paragraph (c), clause (3), does not stay the deadline for filing an appeal.

(e) ~~Unless timely appealed~~ Notwithstanding section 245E.03, subdivision 4, the effective date of the proposed sanction shall be 30 days after the license holder's, provider's, controlling individual's, or recipient's receipt of the notice, unless timely appealed. If a timely appeal is made, the proposed sanction shall be delayed pending the final outcome of the appeal. Implementation of a proposed sanction following the resolution of a timely appeal may be postponed if, in the opinion of the department, the delay of sanction is necessary to protect the health or safety of children in care. The department may consider the economic hardship of a person in implementing the proposed sanction, but economic hardship shall not be a determinative factor in implementing the proposed sanction.

(f) Requests for an informal meeting to attempt to resolve issues and requests for appeals must be sent or delivered to the department's Office of Inspector General, Financial Fraud and Abuse Division.

Sec. 48. Minnesota Statutes 2014, section 245E.06, subdivision 3, is amended to read:

**Subd. 3. Appeal of department sanction.** (a) If the department does not pursue a criminal action against a provider, license holder, controlling individual, or recipient for financial misconduct, but the department imposes an administrative sanction under section 245E.02, subdivision 4, paragraph (c), any individual or entity against whom the sanction was imposed may appeal the department's administrative sanction under this section pursuant to section 119B.16 or 256.045 with the additional requirements in clauses (1) to (4). An appeal must specify:

(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item, if appropriate;

(2) the computation that is believed to be correct, if appropriate;

(3) the authority in the statute or rule relied upon for each disputed item; and

(4) the name, address, and phone number of the person at the provider's place of business with whom contact may be made regarding the appeal.

(b) Notwithstanding section 245E.03, subdivision 4, an appeal is considered timely only if postmarked or received by the department's Appeals Division within 30 days after receiving a notice of department sanction.

(c) Before the appeal hearing, the department may deny or terminate authorizations or payment to the entity or individual if the department determines that the action is necessary to protect the public welfare or the interests of the child care assistance program.

Sec. 49. Minnesota Statutes 2014, section 256.01, subdivision 4, is amended to read:

**Subd. 4. Duties as state agency.** (a) The state agency shall:

(1) supervise the administration of assistance to dependent children under Laws 1937, chapter 438, by the county agencies in an integrated program with other service for dependent children maintained under the direction of the state agency;

(2) establish adequate standards for personnel employed by the counties and the state agency in the administration of Laws 1937, chapter 438, and make the necessary rules to maintain such standards;

(3) prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(4) cooperate with the federal government and its public welfare agencies in any reasonable manner as may be necessary to qualify for federal aid for temporary assistance for needy families and in conformity with title I of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and successor amendments, including the making of such reports and such forms and containing such information as the Federal Social Security Board may from time to time require, and comply with such provisions as such board may from time to time find necessary to assure the correctness and verification of such reports;

(5) on or before October 1 in each even-numbered year make a biennial report to the governor concerning the activities of the agency;

(6) enter into agreements with other departments of the state as necessary to meet all requirements of the federal government; and

(7) cooperate with the commissioner of education to enforce the requirements for program integrity and fraud prevention for investigation for child care assistance under chapter 119B.

(b) The state agency may:

(1) subpoena witnesses and administer oaths, make rules, and take such action as may be necessary or desirable for carrying out the provisions of Laws 1937, chapter 438. All rules made by the state agency shall be binding on the counties and shall be complied with by the respective county agencies;

(2) cooperate with other state agencies in establishing reciprocal agreements in instances where a child receiving Minnesota family investment program assistance moves or contemplates moving into or out of the state, in order that the child may continue to receive supervised aid from the state moved from until the child has resided for one year in the state moved to; and

(3) administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of individuals and the production of documents and other personal property necessary in connection with the administration of programs administered by, or for the purpose of any investigation, hearing, proceeding, or inquiry related to the duties and responsibilities of, the Department of Human Services.

(c) The fees for service of a subpoena in paragraph (b), clause (3), must be paid in the same manner as prescribed by law for a service of process issued by a district court. Witnesses must receive the same fees and mileage as in civil actions.

(d) The subpoena in paragraph (b), clause (3), shall be enforceable through the district court in the district where the subpoena is issued.

(e) A subpoena issued under this subdivision must state that the person to whom the subpoena is directed may not disclose the fact that the subpoena was issued or the fact that the requested records have been given to law enforcement personnel or agents of the commissioner except:

(1) insofar as the disclosure is necessary and agreed upon by the commissioner, to find and disclose the records; or

(2) pursuant to court order.

Sec. 50. **[256.041] CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL.**

Subdivision 1. **Establishment; purpose.** There is hereby established the Cultural and Ethnic Communities Leadership Council for the Department of Human Services. The purpose of the council is to advise the commissioner of human services on reducing disparities that affect racial and ethnic groups.

Subd. 2. **Members.** (a) The council must consist of:

(1) the chairs and ranking minority members of the committees in the house of representatives and the senate with jurisdiction over human services; and

(2) no fewer than 15 and no more than 25 members appointed by and serving at the pleasure of the commissioner of human services, in consultation with county, tribal, cultural, and ethnic communities; diverse program participants; and parent representatives from these communities.

(b) In making appointments under this section, the commissioner shall give priority consideration to public members of the legislative councils of color established under chapter 3.

(c) Members must be appointed to allow for representation of the following groups:

(1) racial and ethnic minority groups;

(2) the American Indian community, which must be represented by two members;

(3) culturally and linguistically specific advocacy groups and service providers;

(4) human services program participants;

(5) public and private institutions;

(6) parents of human services program participants;

(7) members of the faith community;

(8) Department of Human Services employees; and

(9) any other group the commissioner deems appropriate to facilitate the goals and duties of the council.

Subd. 3. **Guidelines.** The commissioner shall direct the development of guidelines defining the membership of the council; setting out definitions; and developing duties of the commissioner, the council, and council members regarding racial and ethnic disparities reduction. The guidelines must be developed in consultation with:

(1) the chairs of relevant committees; and

(2) county, tribal, and cultural communities and program participants from these communities.

Subd. 4. **Chair.** The commissioner shall appoint a chair.

Subd. 5. **Terms for first appointees.** The initial members appointed shall serve until January 15, 2016.

Subd. 6. **Terms.** A term shall be for two years and appointees may be reappointed to serve two additional terms. The commissioner shall make appointments to replace members vacating their positions by January 15 of each year.

Subd. 7. **Duties of commissioner.** (a) The commissioner of human services or the commissioner's designee shall:

(1) maintain the council established in this section;

(2) supervise and coordinate policies for persons from racial, ethnic, cultural, linguistic, and tribal communities who experience disparities in access and outcomes;

(3) identify human services rules or statutes affecting persons from racial, ethnic, cultural, linguistic, and tribal communities that may need to be revised;

(4) investigate and implement cost-effective models of service delivery such as careful adaptation of clinically proven services that constitute one strategy for increasing the number of culturally relevant services available to currently underserved populations; and

(5) based on recommendations of the council, review identified department policies that maintain racial, ethnic, cultural, linguistic, and tribal disparities, and make adjustments to ensure those disparities are not perpetuated.

(b) The commissioner of human services or the commissioner's designee shall consult with the council and receive recommendations from the council when meeting the requirements in this subdivision.

Subd. 8. **Duties of council.** The council shall:

(1) recommend to the commissioner for review identified policies in the Department of Human Services that maintain racial, ethnic, cultural, linguistic, and tribal disparities;

(2) identify issues regarding disparities by engaging diverse populations in human services programs;

(3) engage in mutual learning essential for achieving human services parity and optimal wellness for service recipients;

(4) raise awareness about human services disparities to the legislature and media;

(5) provide technical assistance and consultation support to counties, private nonprofit agencies, and other service providers to build their capacity to provide equitable human services for persons from racial, ethnic, cultural, linguistic, and tribal communities who experience disparities in access and outcomes;

(6) provide technical assistance to promote statewide development of culturally and linguistically appropriate, accessible, and cost-effective human services and related policies;

(7) provide training and outreach to facilitate access to culturally and linguistically appropriate, accessible, and cost-effective human services to prevent disparities;

(8) facilitate culturally appropriate and culturally sensitive admissions, continued services, discharges, and utilization review for human services agencies and institutions;

(9) form work groups to help carry out the duties of the council that include, but are not limited to, persons who provide and receive services and representatives of advocacy groups, and provide the work groups with clear guidelines, standardized parameters, and tasks for the work groups to accomplish;

(10) promote information sharing in the human services community and statewide; and

(11) by February 15 each year, prepare and submit to the chairs and ranking minority members of the committees in the house of representatives and the senate with jurisdiction over human services a report that summarizes the activities of the council, identifies the major problems and issues confronting racial and ethnic groups in accessing human services, makes recommendations to address issues, and lists the specific objectives that the council seeks to attain during the next biennium. The report must also include a list of programs, groups, and grants used to reduce disparities, and statistically valid reports of outcomes on the reduction of the disparities.

Subd. 9. **Duties of council members.** The members of the council shall:

(1) attend and participate in scheduled meetings and be prepared by reviewing meeting notes;

(2) maintain open communication channels with respective constituencies;

(3) identify and communicate issues and risks that could impact the timely completion of tasks;

(4) collaborate on disparity reduction efforts;

(5) communicate updates of the council's work progress and status on the Department of Human Services Web site; and

(6) participate in any activities the council or chair deems appropriate and necessary to facilitate the goals and duties of the council.

Subd. 10. **Expiration.** The council expires on June 30, 2020.

**EFFECTIVE DATE.** This section is effective retroactively from March 15, 2015.

Sec. 51. Minnesota Statutes 2014, section 256.98, subdivision 1, is amended to read:

Subdivision 1. **Wrongfully obtaining assistance.** A person who commits any of the following acts or omissions with intent to defeat the purposes of sections 145.891 to 145.897, the MFIP program formerly codified in sections 256.031 to 256.0361, the AFDC program formerly codified in sections 256.72 to 256.871, chapters 256B, 256D, 256J, 256K, or 256L, ~~and~~ child care assistance programs, and emergency assistance programs under section 256D.06, is guilty of theft and shall be sentenced under section 609.52, subdivision 3, clauses (1) to (5):

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance, to include child care assistance or vouchers produced according to sections 145.891 to 145.897 and MinnesotaCare services according to sections 256.9365, 256.94, and 256L.01 to 256L.15, to which the person is not entitled or assistance greater than that to which the person is entitled;

(2) knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the county agency; or



(3) obtains or attempts to obtain, alone or in collusion with others, the receipt of payments to which the individual is not entitled as a provider of subsidized child care, or by furnishing or concurring in a willfully false claim for child care assistance.

The continued receipt of assistance to which the person is not entitled or greater than that to which the person is entitled as a result of any of the acts, failure to act, or concealment described in this subdivision shall be deemed to be continuing offenses from the date that the first act or failure to act occurred.

Sec. 52. Minnesota Statutes 2014, section 256B.0625, is amended by adding a subdivision to read:

**Subd. 17b. Documentation required.** (a) As a condition for payment, nonemergency medical transportation providers must document each occurrence of a service provided to a recipient according to this subdivision. Providers must maintain odometer and other records sufficient to distinguish individual trips with specific vehicles and drivers. The documentation may be collected and maintained using electronic systems or software or in paper form but must be made available and produced upon request. Program funds paid for transportation that is not documented according to this subdivision shall be recovered by the department.

(b) A nonemergency medical transportation provider must compile transportation records that meet the following requirements:

(1) the record must be in English and must be legible according to the standard of a reasonable person;

(2) the recipient's name must be on each page of the record; and

(3) each entry in the record must document:

(i) the date on which the entry is made;

(ii) the date or dates the service is provided;

(iii) the printed last name, first name, and middle initial of the driver;

(iv) the signature of the driver attesting to the following: "I certify that I have accurately reported in this record the trip miles I actually drove and the dates and times I actually drove them. I understand that misreporting the miles driven and hours worked is fraud for which I could face criminal prosecution or civil proceedings.";

(v) the signature of the recipient or authorized party attesting to the following: "I certify that I received the reported transportation service.", or the signature of the provider of medical services certifying that the recipient was delivered to the provider;

(vi) the address, or the description if the address is not available, of both the origin and destination, and the mileage for the most direct route from the origin to the destination;

(vii) the mode of transportation in which the service is provided;

(viii) the license plate number of the vehicle used to transport the recipient;

(ix) whether the service was ambulatory or nonambulatory until the modes under subdivision 17 are implemented;

(x) the time of the pickup and the time of the drop-off with "a.m." and "p.m." designations;

(xi) the name of the extra attendant when an extra attendant is used to provide special transportation service; and

(xii) the electronic source documentation used to calculate driving directions and mileage.

**Sec. 53. [256B.0705] PERSONAL CARE ASSISTANCE SERVICES; MANDATED SERVICE VERIFICATION.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Personal care assistance services" or "PCA services" means services provided according to section 256B.0659.

(c) "Personal care assistant" or "PCA" has the meaning given in section 256B.0659, subdivision 1.

(d) "Service verification" means a random, unscheduled telephone call made for the purpose of verifying that the individual personal care assistant is present at the location where personal care assistance services are being provided and is providing services as scheduled.

Subd. 2. **Verification schedule.** An agency that submits claims for reimbursement for PCA services under this chapter must develop and implement administrative policies and procedures by which the agency verifies the services provided by a PCA. For each service recipient, the agency must conduct at least one service verification every 90 days. If more than one PCA provides services to a single service recipient, the agency must conduct a service verification for each PCA providing services before conducting a service verification for a PCA whose services were previously verified by the agency. Service verification must occur on an ongoing basis while the agency provides PCA services to the recipient. During service verification, the agency must speak with both the PCA and the service recipient or recipient's authorized representative. Only qualified professional service verifications are eligible for reimbursement. An agency may substitute a visit by a qualified professional that is eligible for reimbursement under section 256B.0659, subdivision 14 or 19.

Subd. 3. **Documentation of verification.** An agency must fully document service verifications in a legible manner and must maintain the documentation on site for at least five years from the date of documentation. For each service verification, documentation must include:

(1) the names and signatures of the service recipient or recipient's authorized representative, the PCA and any other agency staff present with the PCA during the service verification, and the staff person conducting the service verification; and

(2) the start and end time, day, month, and year of the service verification, and the corresponding PCA time sheet.

Subd. 4. **Variance.** The Office of Inspector General at the Department of Human Services may grant a variance to the service verification requirements in this section if an agency uses an electronic monitoring system or other methods that verify a PCA is present at the location where services are provided and is providing services according to the prescribed schedule. A decision to grant or deny a variance request is final and not subject to appeal under chapter 14.

Sec. 54. Minnesota Statutes 2014, section 402A.12, is amended to read:

**402A.12 ESTABLISHMENT OF A PERFORMANCE MANAGEMENT SYSTEM FOR HUMAN SERVICES.**

By January 1, 2014, the commissioner shall implement a performance management system for essential human services as described in sections 402A.16 and 402A.18 that includes initial performance measures and ~~standards thresholds~~ consistent with the recommendations of the Steering Committee on Performance and Outcome Reforms in the December 2012 report to the legislature.

Sec. 55. Minnesota Statutes 2014, section 402A.16, subdivision 2, is amended to read:

Subd. 2. **Duties.** The Human Services Performance Council shall:

(1) hold meetings at least quarterly that are in compliance with Minnesota's Open Meeting Law under chapter 13D;

(2) annually review the annual performance data submitted by counties or service delivery authorities;

(3) review and advise the commissioner on department procedures related to the implementation of the performance management system and system process requirements and on barriers to process improvement in human services delivery;

(4) advise the commissioner on the training and technical assistance needs of county or service delivery authority and department personnel;

(5) review instances in which a county or service delivery authority has not made adequate progress on a performance improvement plan and make recommendations to the commissioner under section 402A.18;

(6) consider appeals from counties or service delivery authorities that are in the remedies process and make recommendations to the commissioner on resolving the issue;

(7) convene working groups to update and develop outcomes, measures, and performance ~~standards thresholds~~ for the performance management system and, on an annual basis, present these recommendations to the commissioner, including recommendations on when a particular essential human services program has a balanced set of program measures in place;

(8) make recommendations on human services administrative rules or statutes that could be repealed in order to improve service delivery;

(9) provide information to stakeholders on the council's role and regularly collect stakeholder input on performance management system performance; and

(10) submit an annual report to the legislature and the commissioner, which includes a comprehensive report on the performance of individual counties or service delivery authorities as it relates to system measures; a list of counties or service delivery authorities that have been required to create performance improvement plans and the areas identified for improvement as part of the remedies process; a summary of performance improvement training and technical assistance activities offered to the county personnel by the department; recommendations on administrative rules or state statutes that could be repealed in order to improve service delivery; recommendations for system improvements, including updates to system outcomes, measures, and ~~standards thresholds~~; and a response from the commissioner.

Sec. 56. Minnesota Statutes 2014, section 402A.16, subdivision 4, is amended to read:

Subd. 4. **Commissioner duties.** The commissioner shall:

- (1) implement and maintain the performance management system for human services;
- (2) establish and regularly update the system's outcomes, measures, and ~~standards~~ thresholds, including the minimum performance ~~standard~~ threshold for each performance measure;
- (3) determine when a particular program has a balanced set of measures;
- (4) receive reports from counties or service delivery authorities at least annually on their performance against system measures, provide counties with data needed to assess performance and monitor progress, and provide timely feedback to counties or service delivery authorities on their performance;
- (5) implement and monitor the remedies process in section 402A.18;
- (6) report to the Human Services Performance Council on county or service delivery authority performance on a semiannual basis;
- (7) provide general training and technical assistance to counties or service delivery authorities on topics related to performance measurement and performance improvement;
- (8) provide targeted training and technical assistance to counties or service delivery authorities that supports their performance improvement plans; and
- (9) provide staff support for the Human Services Performance Council.

Sec. 57. Minnesota Statutes 2014, section 402A.18, is amended to read:

**402A.18 COMMISSIONER POWER TO REMEDY FAILURE TO MEET PERFORMANCE OUTCOMES.**

Subdivision 1. **Underperforming county; specific service.** If the commissioner determines that a county or service delivery authority is deficient in achieving minimum performance ~~standards~~ thresholds for a specific essential human services program, the commissioner may impose the following remedies and adjust state and federal program allocations accordingly:

- (1) voluntary incorporation of the administration and operation of the specific essential human services program with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies;
- (2) mandatory incorporation of the administration and operation of the specific essential human services program with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies; or
- (3) transfer of authority for program administration and operation of the specific essential human services program to the commissioner.

Subd. 2. **Underperforming county; more than one-half of services.** If the commissioner determines that a county or service delivery authority is deficient in achieving minimum performance standards thresholds for more than one-half of the defined essential human services programs, the commissioner may impose the following remedies:

(1) voluntary incorporation of the administration and operation of essential human services programs with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies;

(2) mandatory incorporation of the administration and operation of essential human services programs with an existing service delivery authority or another county. A service delivery authority or county incorporating an underperforming county shall not be financially liable for the costs associated with remedying performance outcome deficiencies; or

(3) transfer of authority for administration and operation of essential human services programs to the commissioner.

Subd. 2a. **Financial responsibility of underperforming county.** A county subject to remedies under subdivision 1 or 2 shall provide to the entity assuming administration of the essential human services program or programs the amount of nonfederal and nonstate funding needed to remedy performance outcome deficiencies.

Subd. 3. **Conditions prior to imposing remedies.** (a) The commissioner shall notify a county or service delivery authority that it must submit a performance improvement plan if:

(1) the county or service delivery authority does not meet the minimum performance standard threshold for a measure; or

(2) the county or service delivery authority does not meet the minimum performance standard threshold for one or more racial or ethnic subgroup for which there is a statistically valid population size for three or more measures, even if the county or service delivery authority met the standard threshold for the overall population.

The commissioner must approve the performance improvement plan. The county or service delivery authority may negotiate the terms of the performance improvement plan with the commissioner.

(b) When the department determines that a county or service delivery authority does not meet the minimum performance standard threshold for a given measure, the commissioner must advise the county or service delivery authority that fiscal penalties may result if the performance does not improve. The department must offer technical assistance to the county or service delivery authority. Within 30 days of the initial advisement from the department, the county or service delivery authority may claim and the department may approve an extenuating circumstance that relieves the county or service delivery authority of any further remedy. If a county or service delivery authority has a small number of participants in an essential human services program such that reliable measurement is not possible, the commissioner may approve extenuating circumstances or may average performance over three years.

(c) If there are no extenuating circumstances, the county or service delivery authority must submit a performance improvement plan to the commissioner within 60 days of the initial advisement from the

department. The term of the performance improvement plan must be two years, starting with the date the plan is approved by the commissioner. This plan must include a target level for improvement for each measure that did not meet the minimum performance ~~standard~~ threshold. The commissioner must approve the performance improvement plan within 60 days of submittal.

(d) The department must monitor the performance improvement plan for two years. After two years, if the county or service delivery authority meets the minimum performance ~~standard~~ threshold, there is no further remedy. If the county or service delivery authority fails to meet the minimum performance ~~standard~~ threshold, but meets the improvement target in the performance improvement plan, the county or service delivery authority shall modify the performance improvement plan for further improvement and the department shall continue to monitor the plan.

(e) If, after two years of monitoring, the county or service delivery authority fails to meet both the minimum performance ~~standard~~ threshold and the improvement target identified in the performance improvement plan, the next step of the remedies process shall be invoked by the commissioner. This phase of the remedies process may include:

(1) fiscal penalties for the county or service delivery authority that do not exceed one percent of the county's human services expenditures and that are negotiated in the performance improvement plan, based on what is needed to improve outcomes. Counties or service delivery authorities must reinvest the amount of the fiscal penalty into the essential human services program that was underperforming. A county or service delivery authority shall not be required to pay more than three fiscal penalties in a year; and

(2) the department's provision of technical assistance to the county or service delivery authority that is targeted to address the specific performance issues.

The commissioner shall continue monitoring the performance improvement plan for a third year.

(f) If, after the third year of monitoring, the county or service delivery authority meets the minimum performance ~~standard~~ threshold, there is no further remedy. If the county or service delivery authority fails to meet the minimum performance ~~standard~~ threshold, but meets the improvement target for the performance improvement plan, the county or service delivery authority shall modify the performance improvement plan for further improvement and the department shall continue to monitor the plan.

(g) If, after the third year of monitoring, the county or service delivery authority fails to meet the minimum performance ~~standard~~ threshold and the improvement target identified in the performance improvement plan, the Human Services Performance Council shall review the situation and recommend a course of action to the commissioner.

(h) If the commissioner has determined that a program has a balanced set of program measures and a county or service delivery authority is subject to fiscal penalties for more than one-half of the measures for that program, the commissioner may apply further remedies as described in subdivisions 1 and 2.

Sec. 58. Minnesota Statutes 2014, section 471.346, is amended to read:

**471.346 PUBLICLY OWNED AND LEASED VEHICLES IDENTIFIED.**

All motor vehicles owned or leased by a statutory or home rule charter city, county, town, school district, metropolitan or regional agency, or other political subdivision, except for unmarked vehicles used in general

police and fire work, arson investigations, ~~and~~ Department of Human Services investigations ~~including~~ conducted by central office staff, and county fraud prevention investigations conducted by county or contract fraud prevention investigators, shall have the name of the political subdivision plainly displayed on both sides of the vehicle in letters not less than 2-1/2 inches high and one-half inch wide. The identification must be in a color that contrasts with the color of the part of the vehicle on which it is placed and must remain on and be clean and visible throughout the period of which the vehicle is owned or leased by the political subdivision. The identification must not be on a removable plate or placard except on leased vehicles but the plate or placard must not be removed from a leased vehicle at any time during the term of the lease.

**Sec. 59. [609.816] WRONGFUL EMPLOYMENT AT A CHILD CARE CENTER.**

A person is guilty of a crime and may be sentenced as provided in section 609.52, subdivision 3, clauses (1) to (5), if the person:

(1) is a child care center owner, director, manager, license holder, or other controlling individual or agent of a child care center;

(2) engages in the recruitment or screening of potential employees or applicants or instructs other persons engaged in the recruitment or screening of potential employees or applicants; and

(3) requires, as a condition of obtaining or continuing employment at the child care center, in order to obtain child care assistance program funds, that the applicant, potential employee, or employee has one or more children who are eligible for or receive child care assistance.

**EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 60. Minnesota Statutes 2014, section 609.821, is amended to read:

**609.821 FINANCIAL TRANSACTION CARD FRAUD.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "Financial transaction card" means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, electronic benefit system (EBS) card, electronic benefit transfer (EBT) card, assistance transaction card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, public assistance benefits, or anything else of value, and includes the account or identification number or symbol of a financial transaction card.

(b) "Cardholder" means a person in whose name a card is issued.

(c) "Issuer" means a person, firm, or governmental agency, or a duly authorized agent or designee, that issues a financial transaction card.

(d) "Property" includes money, goods, services, public assistance benefit, or anything else of value.

(e) "Public assistance benefit" means any money, goods or services, or anything else of value, issued under chapters 256, 256B, 256D, or section 393.07, subdivision 10.

(f) "Trafficking of SNAP benefits" means:

(1) the buying, selling, stealing, or otherwise effecting an exchange of Supplemental Nutrition Assistance Program (SNAP) benefits issued and accessed via an electronic benefit transfer (EBT) card, card number and personal identification number (PIN), or manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(2) the exchange of one of the following for SNAP benefits: firearms, ammunition, explosives, or controlled substances as defined in United States Code, title 21, section 802;

(3) purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(4) purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food;

(5) intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(6) attempting to buy, sell, steal, or otherwise effect an exchange of SNAP benefits issued and accessed via an EBT card, card number and PIN number, or manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

**Subd. 2. Violations; penalties.** A person who does any of the following commits financial transaction card fraud:

(1) without the consent of the cardholder, and knowing that the cardholder has not given consent, uses or attempts to use a card to obtain the property of another, or a public assistance benefit issued for the use of another;

(2) uses or attempts to use a card knowing it to be forged, false, fictitious, or obtained in violation of clause (6);

(3) sells or transfers a card knowing that the cardholder and issuer have not authorized the person to whom the card is sold or transferred to use the card, or that the card is forged, false, fictitious, or was obtained in violation of clause (6);

(4) without a legitimate business purpose, and without the consent of the cardholders, receives or possesses, with intent to use, or with intent to sell or transfer in violation of clause (3), two or more cards issued in the name of another, or two or more cards knowing the cards to be forged, false, fictitious, or obtained in violation of clause (6);

(5) being authorized by an issuer to furnish money, goods, services, or anything else of value, knowingly and with an intent to defraud the issuer or the cardholder:

(i) furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card knowing it to be forged, expired, or revoked, or knowing that it is presented by a person without authority to use the card; or



(ii) represents in writing to the issuer that the person has furnished money, goods, services, or anything else of value which has not in fact been furnished;

(6) upon applying for a financial transaction card to an issuer, or for a public assistance benefit which is distributed by means of a financial transaction card:

(i) knowingly gives a false name or occupation;

(ii) knowingly and substantially overvalues assets or substantially undervalues indebtedness for the purpose of inducing the issuer to issue a financial transaction card; or

(iii) knowingly makes a false statement or representation for the purpose of inducing an issuer to issue a financial transaction card used to obtain a public assistance benefit;

(7) with intent to defraud, falsely notifies the issuer or any other person of a theft, loss, disappearance, or nonreceipt of a financial transaction card; or

(8) without the consent of the cardholder and knowing that the cardholder has not given consent, falsely alters, makes, or signs any written document pertaining to a card transaction to obtain or attempt to obtain the property of another; or

(9) engages in trafficking of SNAP benefits.

Subd. 3. **Sentence.** (a) A person who commits financial transaction card fraud may be sentenced as follows:

(1) for a violation of subdivision 2, clause (1), (2), (5), ~~or (8)~~, or (9):

(i) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the value of the property the person obtained or attempted to obtain was more than \$35,000, or the aggregate amount of the transactions under this subdivision was more than \$35,000; or

(ii) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property the person obtained or attempted to obtain was more than \$2,500, or the aggregate amount of the transactions under this subdivision was more than \$2,500; or

(iii) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the property the person obtained or attempted to obtain was more than \$250 but not more than \$2,500, or the aggregate amount of the transactions under this subdivision was more than \$250 but not more than \$2,500; or

(iv) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the property the person obtained or attempted to obtain was not more than \$250, or the aggregate amount of the transactions under this subdivision was not more than \$250, and the person has previously been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.631, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(v) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property the person obtained or attempted to obtain was not more than \$250, or the aggregate amount of the transactions under this subdivision was not more than \$250;

(2) for a violation of subdivision 2, clause (3) or (4), to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both; or

(3) for a violation of subdivision 2, clause (6) or (7):

(i) if no property, other than a financial transaction card, has been obtained by the defendant by means of the false statement or false report, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or

(ii) if property, other than a financial transaction card, is so obtained, in the manner provided in clause (1).

(b) In any prosecution under paragraph (a), clause (1), the value of the transactions made or attempted within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the card transactions occurred for all of the transactions aggregated under this paragraph.

**EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 61. **REVISOR'S INSTRUCTION.**

In each statutory section listed in column A, the revisor of statutes shall delete the statutory reference in column B and insert the statutory reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>119B.08, subdivision 1</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>241.021, subdivision 2</u>	<u>256.01, subdivision 2, clause (2)</u>	<u>256.01, subdivision 2, paragraph (a), clause (2)</u>
<u>245.03, subdivision 2</u>	<u>256.01, subdivision 2, paragraph (1), clause (f)</u>	<u>256.01, subdivision 2, paragraph (a), clause (6)</u>
<u>245.482, subdivision 1</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>245.495</u>	<u>256.01, subdivision 2, clause (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>245.495</u>	<u>256.01, subdivision 2, clause (15)</u>	<u>256.01, subdivision 2, paragraph (o)</u>
<u>245.73, subdivision 4</u>	<u>256.01, subdivision 2, clause (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>

<u>252.275, subdivision 7</u>	<u>256.01, subdivision 2, clause (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>252.32, subdivision 3a</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>256.975, subdivision 9</u>	<u>256.01, subdivision 2, clause (23)</u>	<u>256.01, subdivision 2, paragraph (v)</u>
<u>256B.05, subdivision 1</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>256B.0625, subdivision 20</u>	<u>256.01, subdivision 2, clause (15)</u>	<u>256.01, subdivision 2, paragraph (o)</u>
<u>256B.20</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>256B.50, subdivision 1e</u>	<u>256.01, subdivision 2, clause (15)</u>	<u>256.01, subdivision 2, paragraph (o)</u>
<u>256D.04</u>	<u>256.01, subdivision 2, paragraph (16)</u>	<u>256.01, subdivision 2, paragraph (p)</u>
<u>256D.04</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>256E.12, subdivision 3</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>256F.10, subdivision 6</u>	<u>256.01, subdivision 2, clause (15)</u>	<u>256.01, subdivision 2, paragraph (o)</u>
<u>256F.10, subdivision 7</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>256J.626, subdivision 8</u>	<u>256.01, subdivision 2, clause (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>
<u>260.810, subdivision 2</u>	<u>256.01, subdivision 2, paragraph (17)</u>	<u>256.01, subdivision 2, paragraph (q)</u>

Sec. 62. **REPEALER.**

Minnesota Statutes 2014, section 245E.07, subdivision 3, is repealed.

**ARTICLE 5**

**HEALTH CARE**

Section 1. Minnesota Statutes 2014, section 62J.495, subdivision 1, is amended to read:

Subdivision 1. **Implementation.** By January 1, 2015, all hospitals and health care providers, as defined in section 62J.03, subdivision 8, must have in place an interoperable electronic health records system within their hospital system or clinical practice setting. The commissioner of health, in consultation with the e-

Health Advisory Committee, shall develop a statewide plan to meet this goal, including uniform standards to be used for the interoperable system for sharing and synchronizing patient data across systems. The standards must be compatible with federal efforts. The uniform standards must be developed by January 1, 2009, and updated on an ongoing basis. The commissioner shall include an update on standards development as part of an annual report to the legislature. Individual health care providers in private practice with no other providers and health care providers that do not accept reimbursement from a group purchaser, as defined in section 62J.03, subdivision 6, are excluded from the requirements of this section.

Sec. 2. Minnesota Statutes 2014, section 256B.0625, subdivision 31, is amended to read:

Subd. 31. **Medical supplies and equipment.** (a) Medical assistance covers medical supplies and equipment. Separate payment outside of the facility's payment rate shall be made for wheelchairs and wheelchair accessories for recipients who are residents of intermediate care facilities for the developmentally disabled. Reimbursement for wheelchairs and wheelchair accessories for ICF/DD recipients shall be subject to the same conditions and limitations as coverage for recipients who do not reside in institutions. A wheelchair purchased outside of the facility's payment rate is the property of the recipient. The commissioner may set reimbursement rates for specified categories of medical supplies at levels below the Medicare payment rate.

(b) Vendors of durable medical equipment, prosthetics, orthotics, or medical supplies must enroll as a Medicare provider.

(c) When necessary to ensure access to durable medical equipment, prosthetics, orthotics, or medical supplies, the commissioner may exempt a vendor from the Medicare enrollment requirement if:

(1) the vendor supplies only one type of durable medical equipment, prosthetic, orthotic, or medical supply;

(2) the vendor serves ten or fewer medical assistance recipients per year;

(3) the commissioner finds that other vendors are not available to provide same or similar durable medical equipment, prosthetics, orthotics, or medical supplies; and

(4) the vendor complies with all screening requirements in this chapter and Code of Federal Regulations, title 42, part 455. The commissioner may also exempt a vendor from the Medicare enrollment requirement if the vendor is accredited by a Centers for Medicare and Medicaid Services approved national accreditation organization as complying with the Medicare program's supplier and quality standards and the vendor serves primarily pediatric patients.

(d) Durable medical equipment means a device or equipment that:

(1) can withstand repeated use;

(2) is generally not useful in the absence of an illness, injury, or disability; and

(3) is provided to correct or accommodate a physiological disorder or physical condition or is generally used primarily for a medical purpose.

(e) Electronic tablets may be considered durable medical equipment if the electronic tablet will be used as an augmentative and alternative communication system as defined under subdivision 31a, paragraph

(a). To be covered by medical assistance, the device must be locked in order to prevent use not related to communication.

(f) Notwithstanding the requirement in paragraph (e) that an electronic tablet must be locked to prevent use not as an augmentative communication device, a recipient of waiver services may use an electronic tablet for a use not related to communication when the recipient has been authorized under the waiver to receive one or more additional applications that can be loaded onto the electronic tablet, such that allowing the additional use prevents the purchase of a separate electronic tablet with waiver funds.

### **Sec. 3. OBSOLETE RULES REGARDING PRIOR AUTHORIZATIONS FOR MEDICAL SUPPLIES AND EQUIPMENT.**

(a) The commissioner of human services shall amend Minnesota Rules, part 9505.0310, subpart 3, to remove the following medical supplies and equipment from the list for which prior authorization is required as a condition of medical assistance payment: a nondurable medical supply that costs more than the performance agreement limit; and durable medical equipment, prostheses, and orthoses if the cost of their purchase, projected cumulative rental for the period of the recipient's expected use, or repairs exceeds the performance agreement limit.

(b) The commissioner of human services shall amend Minnesota Rules, part 9505.0365, subpart 3, to remove the requirement that prior authorization for an ambulatory aid is required for an aid that costs in excess of the limits specified in the provider's performance agreement.

(c) The commissioner may use the good cause exemption in Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section. Minnesota Statutes, section 14.386, does not apply except as provided in Minnesota Statutes, section 14.388.

### **Sec. 4. ALTERNATIVE PAYMENT METHODOLOGY.**

The commissioner of human services shall develop a recommendation for a new alternative payment methodology for federally qualified health centers and rural health clinics that covers the cost of all medical assistance services provided by federally qualified health centers or rural health clinics, and is in accordance with current Medicare cost principles as applicable to federally qualified health centers and rural health clinics. The recommendation for a new alternative payment methodology must:

(1) be made in consultation with the state's federally qualified health centers and rural health clinics;

(2) include regular rebasing of costs; and

(3) take into consideration aspects of the current Medicare payment methodology to federally qualified health centers and rural health clinics.

The commissioner shall present the recommendation for a new alternative payment methodology to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 15, 2016.

### **Sec. 5. REPEALER.**

Minnesota Rules, parts 9505.0175, subpart 32; 9505.0365, subpart 2; 9505.1696, subpart 10; and 9505.1709, are repealed.

## ARTICLE 6

### CONTINUING CARE

Section 1. Minnesota Statutes 2014, section 144.0724, subdivision 12, is amended to read:

Subd. 12. **Appeal of nursing facility level of care determination.** (a) A resident or prospective resident whose level of care determination results in a denial of long-term care services can appeal the determination as outlined in section 256B.0911, subdivision 3a, paragraph (h), clause (9).

(b) The commissioner of human services shall ensure that notice of changes in eligibility due to a nursing facility level of care determination is provided to each affected recipient or the recipient's guardian at least 30 days before the effective date of the change. The notice shall include the following information:

- (1) how to obtain further information on the changes;
- (2) how to receive assistance in obtaining other services;
- (3) a list of community resources; and
- (4) appeal rights.

A recipient who meets the criteria in section 256B.0922, subdivision 2, paragraph (a), clauses (1) and (2), may request continued services pending appeal within the time period allowed to request an appeal under section 256.045, subdivision 3, paragraph ~~(h)~~ (i). This paragraph is in effect for appeals filed between January 1, 2015, and December 31, 2016.

Sec. 2. Minnesota Statutes 2014, section 148E.065, subdivision 4a, is amended to read:

Subd. 4a. **City, county, and state social workers.** (a) Beginning July 1, 2016, the licensure of city, county, and state agency social workers is voluntary, except an individual who is newly employed by a city or state agency after July 1, 2016, must be licensed if the individual who provides social work services, as those services are defined in section 148E.010, subdivision 11, paragraph (b), is presented to the public by any title incorporating the words "social work" or "social worker."

~~(b) City, county, and state agencies employing social workers and staff who are designated to perform mandated duties under sections 256.01, subdivision 24, and 256.975, subdivisions 7 to 7e, are not required to employ licensed social workers.~~

Sec. 3. Minnesota Statutes 2014, section 245C.10, subdivision 10, is amended to read:

Subd. 10. **Community first services and supports organizations.** The commissioner shall recover the cost of background studies initiated by an agency-provider delivering services under section 256B.85, subdivision 11, or a financial management services ~~contractor~~ provider providing service functions under section 256B.85, subdivision 13, through a fee of no more than \$20 per study, charged to the organization responsible for submitting the background study form. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 4. Minnesota Statutes 2014, section 245D.10, subdivision 3, is amended to read:

Subd. 3. **Service suspension and service termination.** (a) The license holder must establish policies and procedures for temporary service suspension ~~and service termination~~ that promote continuity of care

and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must limit temporary service suspension to situations in which:

(1) the person's conduct poses an imminent risk of physical harm to self or others and either positive support strategies have been implemented to resolve the issues leading to the temporary service suspension but have not been effective and additional positive support strategies would not achieve and maintain safety, or less restrictive measures would not resolve the issues leading to the suspension;

(2) the person has emergent medical issues that exceed the license holder's ability to meet the person's needs; or

(3) the program has not been paid for services.

(c) Prior to giving notice of temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service suspension. Action taken by the license holder must include, at a minimum:

(1) consultation with the person's support team or expanded support team to identify and resolve issues leading to issuance of the notice; and

(2) a request to the case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to temporary suspensions issued under paragraph (b), clause (3).

If, based on the best interests of the person, the circumstances at the time of the notice were such that the license holder was unable to take the action specified in clauses (1) and (2), the license holder must document the specific circumstances and the reason for being unable to do so.

~~(b)~~ (d) The policy notice of temporary service suspension must include meet the following requirements:

(1) the license holder must notify the person or the person's legal representative and case manager in writing of the intended termination or temporary service suspension, and the person's right to seek a temporary order staying the termination of service according to the procedures in section 256.045, subdivision 4a, or 6, paragraph (e). If the temporary service suspension is from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), the license holder must also notify the commissioner in writing;

(2) notice of the proposed termination of services, including those situations that began with a temporary service suspension, must be given at least 60 days before the proposed termination is to become effective when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all other services licensed under this chapter. This notice may be given in conjunction with a notice of temporary service suspension;

(3) notice of temporary service suspension must be given on the first day of the service suspension; and

(3) the notice must include the reason for the action, a summary of actions taken to minimize or eliminate the need for temporary service suspension as required under this paragraph, and why these measures failed to prevent the suspension.

(e) During the temporary suspension period, the license holder must:

~~(4) the license holder must (1) provide information requested by the person or case manager when services are temporarily suspended or upon notice of termination;~~

~~(5) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service suspension or termination;~~

~~(6) during the temporary service suspension or service termination notice period, the license holder must (2) work with the support team or expanded support team to develop reasonable alternatives to protect the person and others and to support continuity of care; and~~

~~(7) the license holder must (3) maintain information about the service suspension or termination, including the written termination notice of temporary service suspension, in the service recipient record; and~~

~~(8) the license holder must restrict temporary service suspension to situations in which the person's conduct poses an imminent risk of physical harm to self or others and less restrictive or positive support strategies would not achieve and maintain safety.~~

(f) If, based on a review by the person's support team or expanded support team, that team determines the person no longer poses an imminent risk of physical harm to self or others, the person has a right to return to receiving services. If, at the time of the service suspension or at any time during the suspension, the person is receiving treatment related to the conduct that resulted in the service suspension, the support team or expanded support team must consider the recommendation of the licensed health professional, mental health professional, or other licensed professional involved in the person's care or treatment when determining whether the person no longer poses an imminent risk of physical harm to self or others and can return to the program. If the support team or expanded support team makes a determination that is contrary to the recommendation of a licensed professional treating the person, the license holder must document the specific reasons why a contrary decision was made.

Sec. 5. Minnesota Statutes 2014, section 245D.10, is amended by adding a subdivision to read:

Subd. 3a. **Service termination.** (a) The license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must permit each person to remain in the program and must not terminate services unless:

(1) the termination is necessary for the person's welfare and the person's needs cannot be met in the facility;

(2) the safety of the person or others in the program is endangered and positive support strategies were attempted and have not achieved and effectively maintained safety for the person or others;

(3) the health of the person or others in the program would otherwise be endangered;

(4) the program has not been paid for services;

(5) the program ceases to operate; or



(6) the person has been terminated by the lead agency from waiver eligibility.

(c) Prior to giving notice of service termination, the license holder must document actions taken to minimize or eliminate the need for termination. Action taken by the license holder must include, at a minimum:

(1) consultation with the person's support team or expanded support team to identify and resolve issues leading to issuance of the notice; and

(2) a request to the case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to notices of service termination issued under paragraph (b), clause (4).

If, based on the best interests of the person, the circumstances at the time of the notice were such that the license holder was unable to take the action specified in clauses (1) and (2), the license holder must document the specific circumstances and the reason for being unable to do so.

(d) The notice of service termination must meet the following requirements:

(1) the license holder must notify the person or the person's legal representative and the case manager in writing of the intended service termination. If the service termination is from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), the license holder must also notify the commissioner in writing; and

(2) the notice must include:

(i) the reason for the action;

(ii) except for a service termination under paragraph (b), clause (5), a summary of actions taken to minimize or eliminate the need for service termination or temporary service suspension as required under paragraph (c), and why these measures failed to prevent the termination or suspension;

(iii) the person's right to appeal the termination of services under section 256.045, subdivision 3, paragraph (a); and

(iv) the person's right to seek a temporary order staying the termination of services according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

(e) Notice of the proposed termination of service, including those situations that began with a temporary service suspension, must be given at least 60 days prior to termination when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all other services licensed under this chapter. This notice may be given in conjunction with a notice of temporary service suspension under subdivision 3.

(f) During the service termination notice period, the license holder must:

(1) work with the support team or expanded support team to develop reasonable alternatives to protect the person and others and to support continuity of care;

(2) provide information requested by the person or case manager; and

(3) maintain information about the service termination, including the written notice of intended service termination, in the service recipient record.

Sec. 6. Minnesota Statutes 2014, section 256.01, subdivision 4, is amended to read:

Subd. 4. **Duties as state agency.** (a) The state agency shall:

(1) supervise the administration of assistance to dependent children under Laws 1937, chapter 438, by the county agencies in an integrated program with other service for dependent children maintained under the direction of the state agency;

(2) establish adequate standards for personnel employed by the counties and the state agency in the administration of Laws 1937, chapter 438, and make the necessary rules to maintain such standards;

(3) prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(4) cooperate with the federal government and its public welfare agencies in any reasonable manner as may be necessary to qualify for federal aid for temporary assistance for needy families and in conformity with title I of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and successor amendments, including the making of such reports and such forms and containing such information as the Federal Social Security Board may from time to time require, and comply with such provisions as such board may from time to time find necessary to assure the correctness and verification of such reports;

(5) on or before October 1 in each even-numbered year make a biennial report to the governor concerning the activities of the agency;

(6) enter into agreements with other departments of the state as necessary to meet all requirements of the federal government; and

(7) cooperate with the commissioner of education to enforce the requirements for program integrity and fraud prevention for investigation for child care assistance under chapter 119B; and

(8) require that the county or tribal case manager for any person who is notified that their services will be terminated under section 245D.10, subdivision 3a, from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), develop an initial action plan within five business days of being notified of the termination; request technical assistance from the state agency; and proceed to promptly work to resolve the issues that led to the termination or arrange for alternative services as expeditiously as possible within the 60-day notice period.

(b) The state agency may:

(1) subpoena witnesses and administer oaths, make rules, and take such action as may be necessary or desirable for carrying out the provisions of Laws 1937, chapter 438. All rules made by the state agency shall be binding on the counties and shall be complied with by the respective county agencies;

(2) cooperate with other state agencies in establishing reciprocal agreements in instances where a child receiving Minnesota family investment program assistance moves or contemplates moving into or out of the state, in order that the child may continue to receive supervised aid from the state moved from until the child has resided for one year in the state moved to; and

(3) administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of individuals and the production of documents and other personal property necessary in connection with the administration of programs administered by the Department of Human Services.

(c) The fees for service of a subpoena in paragraph (b), clause (3), must be paid in the same manner as prescribed by law for a service of process issued by a district court. Witnesses must receive the same fees and mileage as in civil actions.

(d) The subpoena in paragraph (b), clause (3), shall be enforceable through the district court in the district where the subpoena is issued.

Sec. 7. Minnesota Statutes 2014, 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 investigative 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) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) 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;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23, 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 (9) and a disqualification under this clause in which the

basis for a disqualification is serious or recurring maltreatment, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services judge 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; ~~or~~

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a; or

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), 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 paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing.

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

(d) The scope of hearings involving claims to foster care payments under paragraph (a), 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.

(e) The scope of hearings under paragraph (a), clause (12), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), and whether the requirements of section 245D.10, subdivision 3a, paragraph (c), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

~~(e)~~ (f) 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.

~~(f)~~ (g) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

~~(g)~~ (h) 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.

~~(h)~~ (i) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization 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, as defined in section 256.0451, subdivision 13, why the request was not submitted within the 30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

Sec. 8. Minnesota Statutes 2014, section 256.045, subdivision 6, is amended to read:

Subd. 6. **Additional powers of commissioner; subpoenas.** (a) The commissioner of human services, or the commissioner of health for matters within the commissioner's jurisdiction under subdivision 3b, 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 judge for a hearing held under subdivision 3, 3a, 3b, 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, 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:

(1) 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;

(2) for the period of time necessary for the case management provider to implement the commissioner's order; or

(3) for appeals under subdivision 3, paragraph (a), clause (12), when the individual is seeking a temporary stay of demission on the basis that the county has not yet finalized an alternative arrangement for a residential facility, a program, or services that will meet the assessed needs of the individual by the effective date of the service termination, a temporary stay of demission may be issued for no more than 30 calendar days to allow for such arrangements to be finalized.

Sec. 9. Minnesota Statutes 2014, section 256.975, subdivision 7, is amended to read:

Subd. 7. **Consumer information and assistance and long-term care options counseling; Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a statewide service to aid older Min-

nesotans and their families in making informed choices about long-term care options and health care benefits. Language services to persons with limited English language skills may be made available. The service, known as Senior LinkAge Line, shall serve older adults as the designated Aging and Disability Resource Center under United States Code, title 42, section 3001, the Older Americans Act Amendments of 2006 in partnership with the Disability Linkage Line under section 256.01, subdivision 24, and must be available during business hours through a statewide toll-free number and the Internet. The Minnesota Board on Aging shall consult with, and when appropriate work through, the area agencies on aging counties, and other entities that serve aging and disabled populations of all ages, to provide and maintain the telephone infrastructure and related support for the Aging and Disability Resource Center partners which agree by memorandum to access the infrastructure, including the designated providers of the Senior LinkAge Line and the Disability Linkage Line.

(b) The service must provide long-term care options counseling by assisting older adults, caregivers, and providers in accessing information and options counseling about choices in long-term care services that are purchased through private providers or available through public options. The service must:

(1) develop and provide for regular updating of a comprehensive database that includes detailed listings in both consumer- and provider-oriented formats that can provide search results down to the neighborhood level;

(2) make the database accessible on the Internet and through other telecommunication and media-related tools;

(3) link callers to interactive long-term care screening tools and make these tools available through the Internet by integrating the tools with the database;

(4) develop community education materials with a focus on planning for long-term care and evaluating independent living, housing, and service options;

(5) conduct an outreach campaign to assist older adults and their caregivers in finding information on the Internet and through other means of communication;

(6) implement a messaging system for overflow callers and respond to these callers by the next business day;

(7) link callers with county human services and other providers to receive more in-depth assistance and consultation related to long-term care options;

(8) link callers with quality profiles for nursing facilities and other home and community-based services providers developed by the commissioners of health and human services;

(9) develop an outreach plan to seniors and their caregivers with a particular focus on establishing a clear presence in places that seniors recognize and:

(i) place a significant emphasis on improved outreach and service to seniors and their caregivers by establishing annual plans by neighborhood, city, and county, as necessary, to address the unique needs of geographic areas in the state where there are dense populations of seniors;

(ii) establish an efficient workforce management approach and assign community living specialist staff and volunteers to geographic areas as well as aging and disability resource center sites so that seniors and

their caregivers and professionals recognize the Senior LinkAge Line as the place to call for aging services and information;

(iii) recognize the size and complexity of the metropolitan area service system by working with metropolitan counties to establish a clear partnership with them, including seeking county advice on the establishment of local aging and disabilities resource center sites; and

(iv) maintain dashboards with metrics that demonstrate how the service is expanding and extending or enhancing its outreach efforts in dispersed or hard to reach locations in varied population centers;

(10) incorporate information about the availability of housing options, as well as registered housing with services and consumer rights within the MinnesotaHelp.info network long-term care database to facilitate consumer comparison of services and costs among housing with services establishments and with other in-home services and to support financial self-sufficiency as long as possible. Housing with services establishments and their arranged home care providers shall provide information that will facilitate price comparisons, including delineation of charges for rent and for services available. The commissioners of health and human services shall align the data elements required by section 144G.06, the Uniform Consumer Information Guide, and this section to provide consumers standardized information and ease of comparison of long-term care options. The commissioner of human services shall provide the data to the Minnesota Board on Aging for inclusion in the MinnesotaHelp.info network long-term care database;

(11) provide long-term care options counseling. Long-term care options counselors shall:

(i) for individuals not eligible for case management under a public program or public funding source, provide interactive decision support under which consumers, family members, or other helpers are supported in their deliberations to determine appropriate long-term care choices in the context of the consumer's needs, preferences, values, and individual circumstances, including implementing a community support plan;

(ii) provide Web-based educational information and collateral written materials to familiarize consumers, family members, or other helpers with the long-term care basics, issues to be considered, and the range of options available in the community;

(iii) provide long-term care futures planning, which means providing assistance to individuals who anticipate having long-term care needs to develop a plan for the more distant future; and

(iv) provide expertise in benefits and financing options for long-term care, including Medicare, long-term care insurance, tax or employer-based incentives, reverse mortgages, private pay options, and ways to access low or no-cost services or benefits through volunteer-based or charitable programs;

(12) using risk management and support planning protocols, provide long-term care options counseling to current residents of nursing homes deemed appropriate for discharge by the commissioner, former residents of nursing homes who were discharged to community settings, and older adults who request service after consultation with the Senior LinkAge Line under clause (13). The Senior LinkAge Line shall also receive referrals from the residents or staff of nursing homes. The Senior LinkAge Line shall identify and contact residents deemed appropriate for discharge by developing targeting criteria in consultation with the commissioner who shall provide designated Senior LinkAge Line contact centers with a list of nursing home residents that meet the criteria as being appropriate for discharge planning via a secure Web portal. Senior LinkAge Line shall provide these residents, if they indicate a preference to receive long-term care options counseling, with initial assessment and, if appropriate, a referral to:

(i) long-term care consultation services under section 256B.0911;

(ii) designated care coordinators of contracted entities under section 256B.035 for persons who are enrolled in a managed care plan; or

(iii) the long-term care consultation team for those who are eligible for relocation service coordination due to high-risk factors or psychological or physical disability; and

(13) develop referral protocols and processes that will assist certified health care homes and hospitals to identify at-risk older adults and determine when to refer these individuals to the Senior LinkAge Line for long-term care options counseling under this section. The commissioner is directed to work with the commissioner of health to develop protocols that would comply with the health care home designation criteria and protocols available at the time of hospital discharge. The commissioner shall keep a record of the number of people who choose long-term care options counseling as a result of this section.

(c) Nursing homes shall provide contact information to the Senior LinkAge Line for residents identified in paragraph (b), clause (12), to provide long-term care options counseling pursuant to paragraph (b), clause (11). The contact information for residents shall include all information reasonably necessary to contact residents, including first and last names, permanent and temporary addresses, telephone numbers, and e-mail addresses.

Sec. 10. Minnesota Statutes 2014, section 256B.0911, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

(a) Until additional requirements apply under paragraph (b), "long-term care consultation services" means:

(1) intake for and access to assistance in identifying services needed to maintain an individual in the most inclusive environment;

(2) providing recommendations for and referrals to cost-effective community services that are available to the individual;

(3) development of an individual's person-centered community support plan;

(4) providing information regarding eligibility for Minnesota health care programs;

(5) face-to-face long-term care consultation assessments, which may be completed in a hospital, nursing facility, intermediate care facility for persons with developmental disabilities (ICF/DDs), regional treatment centers, or the person's current or planned residence;

(6) determination of home and community-based waiver and other service eligibility as required under sections 256B.0913, 256B.0915, and 256B.49, including level of care determination for individuals who need an institutional level of care as determined under subdivision 4e, based on assessment and community support plan development, appropriate referrals to obtain necessary diagnostic information, and including an eligibility determination for consumer-directed community supports;

(7) providing recommendations for institutional placement when there are no cost-effective community services available;



(8) providing access to assistance to transition people back to community settings after institutional admission; and

(9) providing information about competitive employment, with or without supports, for school-age youth and working-age adults and referrals to the Disability Linkage Line and Disability Benefits 101 to ensure that an informed choice about competitive employment can be made. For the purposes of this subdivision, "competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(b) Upon statewide implementation of lead agency requirements in subdivisions 2b, 2c, and 3a, "long-term care consultation services" also means:

(1) service eligibility determination for state plan home care services identified in:

(i) section 256B.0625, subdivisions 7, 19a, and 19c; ~~or~~

(ii) consumer support grants under section 256.476; or

(iii) section 256B.85;

(2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024, determination of eligibility for case management services available under sections 256B.0621, subdivision 2, paragraph (4), and 256B.0924 and Minnesota Rules, part 9525.0016;

(3) determination of institutional level of care, home and community-based service waiver, and other service eligibility as required under section 256B.092, determination of eligibility for family support grants under section 252.32, semi-independent living services under section 252.275, and day training and habilitation services under section 256B.092; and

(4) obtaining necessary diagnostic information to determine eligibility under clauses (2) and (3).

(c) "Long-term care options counseling" means the services provided by the linkage lines as mandated by sections 256.01, subdivision 24, and 256.975, subdivision 7, and also includes telephone assistance and follow up once a long-term care consultation assessment has been completed.

(d) "Minnesota health care programs" means the medical assistance program under chapter 256B and the alternative care program under section 256B.0913.

(e) "Lead agencies" means counties administering or tribes and health plans under contract with the commissioner to administer long-term care consultation assessment and support planning services.

Sec. 11. Minnesota Statutes 2014, section 256B.0911, subdivision 2b, is amended to read:

Subd. 2b. **MnCHOICES certified assessors.** (a) Each lead agency shall use certified assessors who have completed MnCHOICES training and the certification processes determined by the commissioner in subdivision 2c. Certified assessors shall demonstrate best practices in assessment and support planning including person-centered planning principals and have a common set of skills that must ensure consistency and equitable access to services statewide. A lead agency may choose, according to departmental policies,

to contract with a qualified, certified assessor to conduct assessments and reassessments on behalf of the lead agency.

(b) MnCHOICES certified assessors are persons with a minimum of a bachelor's degree in social work, nursing with a public health nursing certificate, or other closely related field with at least one year of home and community-based experience, or a registered nurse ~~without public health certification~~ with at least two years of home and community-based experience ~~that who~~ has received training and certification specific to assessment and consultation for long-term care services in the state.

Sec. 12. Minnesota Statutes 2014, section 256B.0911, subdivision 3, is amended to read:

Subd. 3. **Long-term care consultation team.** (a) A long-term care consultation team shall be established by the county board of commissioners. Two or more counties may collaborate to establish a joint local consultation team or teams.

~~(b) Certified assessors must be part of a multidisciplinary long-term care consultation. Each lead agency shall establish and maintain a team of professionals that includes public health nurses, social workers, and other professionals as defined in~~ certified assessors qualified under subdivision 2b, paragraph (b). Each team member is responsible for providing consultation with other team members upon request. The team is responsible for providing long-term care consultation services to all persons located in the county who request the services, regardless of eligibility for Minnesota health care programs. The team of certified assessors must include, at a minimum:

(1) a social worker; and

(2) a public health nurse or registered nurse.

(c) The commissioner shall allow arrangements and make recommendations that encourage counties and tribes to collaborate to establish joint local long-term care consultation teams to ensure that long-term care consultations are done within the timelines and parameters of the service. This includes integrated service models as required in subdivision 1, paragraph (b).

(d) Tribes and health plans under contract with the commissioner must provide long-term care consultation services as specified in the contract.

(e) The lead agency must provide the commissioner with an administrative contact for communication purposes.

Sec. 13. Minnesota Statutes 2014, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment in order to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team within 20 calendar days after the date on which an assessment was requested or recommended. Upon statewide implementation of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person requesting personal care assistance services and home care nursing. The commissioner shall provide at least a 90-day notice to lead agencies prior to the effective date of this requirement. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

~~(b) The lead agency may utilize a team of either the social worker or public health nurse, or both. Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified assessors to conduct~~

the assessment. ~~The consultation team members must confer regarding the most appropriate care for each individual screened or assessed.~~ For a person with complex health care needs, a public health or registered nurse from the team must be consulted.

(c) ~~The MnCHOICES assessment provided by the commissioner to lead agencies must be used to complete a comprehensive and include a~~ person-centered assessment ~~of~~. The assessment must include the health, psychological, functional, environmental, and social needs of referred individuals ~~and provide information the individual necessary to develop a community support plan that meets the consumers individual's needs, using an assessment form provided by the commissioner and preferences.~~

(d) The assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative, and other individuals as requested by the person, who can provide information on the needs, strengths, and preferences of the person necessary to develop a community support plan that ensures the person's health and safety, but who is not a provider of service or has any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living services under section 256B.0915, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment ~~will~~ must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment. For a person who is to be assessed for waiver services under section 256B.092 or 256B.49, with the permission of the person being assessed or the person's designated legal representative, the person's current provider of services may submit a written report outlining recommendations regarding the person's care needs prepared by a direct service employee with at least 20 hours of service to that client. The person conducting the assessment or reassessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment and the person or the person's legal representative, and must be considered prior to the finalization of the assessment or reassessment.

(e) ~~If the person chooses to use community-based services,~~ The person or the person's legal representative must be provided with a written community support plan within 40 calendar days of the assessment visit, regardless of whether the individual is eligible for Minnesota health care programs. The written community support plan must include:

- (1) a summary of assessed needs as defined in paragraphs (c) and (d);
- (2) the individual's options and choices to meet identified needs, including all available options for case management services and providers;
- (3) identification of health and safety risks and how those risks will be addressed, including personal risk management strategies;
- (4) referral information; and
- (5) informal caregiver supports, if applicable.

For a person determined eligible for state plan home care under subdivision 1a, paragraph (b), clause (1), the person or person's representative must also receive a copy of the home care service plan developed by the certified assessor.

(f) A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to long-term care options counseling services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(g) The person has the right to make the final decision between institutional placement and community placement after the recommendations have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d).

(h) The lead agency must give the person receiving assessment or support planning, or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

(1) written recommendations for community-based services and consumer-directed options;

(2) documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this clause, "cost-effective" means community services and living arrangements that cost the same as or less than institutional care. For an individual found to meet eligibility criteria for home and community-based service programs under section 256B.0915 or 256B.49, "cost-effectiveness" has the meaning found in the federally approved waiver plan for each program;

(3) the need for and purpose of preadmission screening conducted by long-term care options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects nursing facility placement. If the individual selects nursing facility placement, the lead agency shall forward information needed to complete the level of care determinations and screening for developmental disability and mental illness collected during the assessment to the long-term care options counselor using forms provided by the commissioner;

(4) the role of long-term care consultation assessment and support planning in eligibility determination for waiver and alternative care programs, and state plan home care, case management, and other services as defined in subdivision 1a, paragraphs (a), clause (6), and (b);

(5) information about Minnesota health care programs;

(6) the person's freedom to accept or reject the recommendations of the team;

(7) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;

(8) the certified assessor's decision regarding the person's need for institutional level of care as determined under criteria established in subdivision 4e and the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clause (6), and (b); and

(9) the person's right to appeal the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and (8), and (b), and incorporating the decision regarding the need for institutional level of care or the lead agency's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

(i) Face-to-face assessment completed as part of eligibility determination for the alternative care, elderly waiver, community alternatives for disabled individuals, community alternative care, and brain injury waiver programs under sections 256B.0913, 256B.0915, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment.

(j) The effective eligibility start date for programs in paragraph (i) can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care

program eligibility start date, assessment and support plan information must be updated and documented in the department's Medicaid Management Information System (MMIS). Notwithstanding retroactive medical assistance coverage of state plan services, the effective date of eligibility for programs included in paragraph (i) cannot be prior to the date the most recent updated assessment is completed.

Sec. 14. Minnesota Statutes 2014, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person is a citizen of the United States or a United States national;

~~(1)~~ (2) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility, as determined under section 256B.0911, subdivision 4e, but for the provision of services under the alternative care program;

~~(2)~~ (3) the person is age 65 or older;

~~(3)~~ (4) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

~~(4)~~ (5) the person is not ineligible for the payment of long-term care services by the medical assistance program due to an asset transfer penalty under section 256B.0595 or equity interest in the home exceeding \$500,000 as stated in section 256B.056;

~~(5)~~ (6) the person needs long-term care services that are not funded through other state or federal funding, or other health insurance or other third-party insurance such as long-term care insurance;

~~(6)~~ (7) except for individuals described in clause ~~(7)~~ (8), the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the monthly limit described under section 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If care-related supplies and equipment or environmental modifications and adaptations are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph;

~~(7)~~ (8) for individuals assigned a case mix classification A as described under section 256B.0915, subdivision 3a, paragraph (a), with (i) no dependencies in activities of daily living, or (ii) up to two dependencies in bathing, dressing, grooming, walking, and eating when the dependency score in eating is three or greater as determined by an assessment performed under section 256B.0911, the monthly cost of alternative care services funded by the program cannot exceed \$593 per month for all new participants enrolled in the program on or after July 1, 2011. This monthly limit shall be applied to all other participants who meet this criteria at reassessment. This monthly limit shall be increased annually as described in section 256B.0915, subdivision 3a, paragraph (a). This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased exceed the difference

between the client's monthly service limit defined in this clause and the limit described in clause ~~(6)~~ (7) for case mix classification A; and

~~(8)~~ (9) the person is making timely payments of the assessed monthly fee.

A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

- (i) the appointment of a representative payee;
- (ii) automatic payment from a financial account;
- (iii) the establishment of greater family involvement in the financial management of payments; or
- (iv) another method acceptable to the lead agency to ensure prompt fee payments.

The lead agency may extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(b) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(c) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are provided in support of the discharge planning process for a nursing home resident or certified boarding care home resident to assist with a relocation process to a community-based setting.

(d) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

Sec. 15. Minnesota Statutes 2014, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. **Services covered under alternative care.** Alternative care funding may be used for payment of costs of:

- (1) ~~adult day care services and adult day services bath~~;
- (2) ~~home health aide care~~;
- (3) homemaker services;
- (4) personal care;

- (5) case management and conversion case management;
- (6) respite care;
- (7) ~~care-related~~ specialized supplies and equipment;
- (8) ~~meals delivered to the home~~ home-delivered meals;
- (9) nonmedical transportation;
- (10) nursing services;
- (11) chore services;
- (12) companion services;
- (13) nutrition services;
- (14) ~~training for direct informal caregivers~~ family caregiver training and education;
- (15) coaching and counseling;
- ~~(15)~~ (16) telehome care to provide services in their own homes in conjunction with in-home visits;

~~(16)~~ (17) consumer-directed community ~~services~~ supports under the alternative care programs which are available statewide and limited to the average monthly expenditures representative of all alternative care program participants for the same case mix resident class assigned in the most recent fiscal year for which complete expenditure data is available;

~~(17)~~ (18) environmental ~~modifications~~ accessibility and adaptations; and

~~(18)~~ (19) discretionary services, for which lead agencies may make payment from their alternative care program allocation for services not otherwise defined in this section or section 256B.0625, following approval by the commissioner.

Total annual payments for discretionary services for all clients served by a lead agency must not exceed 25 percent of that lead agency's annual alternative care program base allocation, except that when alternative care services receive federal financial participation under the 1115 waiver demonstration, funding shall be allocated in accordance with subdivision 17.

Sec. 16. Minnesota Statutes 2014, section 256B.0913, subdivision 5a, is amended to read:

Subd. 5a. **Services; service definitions; service standards.** (a) Unless specified in statute, the services, service definitions, and standards for alternative care services shall be the same as the services, service definitions, and standards specified in the federally approved elderly waiver plan, except alternative care does not cover transitional support services, assisted living services, adult foster care services, and residential care and benefits defined under section 256B.0625 that meet primary and acute health care needs.

(b) The lead agency must ensure that the funds are not used to supplant or supplement services available through other public assistance or services programs, including supplementation of client co-pays, deductibles, premiums, or other cost-sharing arrangements for health-related benefits and services or en-

titlement programs and services that are available to the person, but in which they have elected not to enroll. The lead agency must ensure that the benefit department recovery system in the Medicaid Management Information System (MMIS) has the necessary information on any other health insurance or third-party insurance policy to which the client may have access. Supplies and equipment may be purchased from a vendor not certified to participate in the Medicaid program if the cost for the item is less than that of a Medicaid vendor.

(c) Personal care services must meet the service standards defined in the federally approved elderly waiver plan, except that a lead agency may authorize services to be provided by a client's relative who meets the relative hardship waiver requirements or a relative who meets the criteria and is also the responsible party under an individual service plan that ensures the client's health and safety and supervision of the personal care services by a qualified professional as defined in section 256B.0625, subdivision 19c. Relative hardship is established by the lead agency when the client's care causes a relative caregiver to do any of the following: resign from a paying job, reduce work hours resulting in lost wages, obtain a leave of absence resulting in lost wages, incur substantial client-related expenses, provide services to address authorized, unstaffed direct care time, or meet special needs of the client unmet in the formal service plan.

(d) Alternative care covers sign language interpreter services and spoken language interpreter services for recipients eligible for alternative care when the services are necessary to help deaf and hard-of-hearing recipients or recipients with limited English proficiency obtain covered services. Coverage for face-to-face spoken language interpreter services shall be provided only if the spoken language interpreter used by the enrolled health care provider is listed in the registry or roster established under section 144.058.

Sec. 17. Minnesota Statutes 2014, section 256B.0913, subdivision 6, is amended to read:

Subd. 6. **Alternative care program administration.** (a) The alternative care program is administered by the county agency. This agency is the lead agency responsible for the local administration of the alternative care program as described in this section. However, it may contract with the public health nursing service to be the lead agency. The commissioner may contract with federally recognized Indian tribes with a reservation in Minnesota to serve as the lead agency responsible for the local administration of the alternative care program as described in the contract. When the commissioner determines that an overpayment has been made by the state, the commissioner shall recover the overpayment.

(b) Alternative care pilot projects operate according to this section and the provisions of Laws 1993, First Special Session chapter 1, article 5, section 133, under agreement with the commissioner. Each pilot project agreement period shall begin no later than the first payment cycle of the state fiscal year and continue through the last payment cycle of the state fiscal year.

Sec. 18. Minnesota Statutes 2014, section 256B.0913, subdivision 10, is amended to read:

Subd. 10. **Allocation formula.** (a) By July 15 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2, except that when alternative care services receive federal financial participation under the 1115 waiver demonstration, funding shall be allocated in accordance with subdivision 17.

(b) The adjusted base for each lead agency is the lead agency's current fiscal year base allocation plus any targeted funds approved during the current fiscal year. Calculations for paragraphs (c) and (d) are to be made as follows: for each lead agency, the determination of alternative care program expenditures shall be based on payments for services rendered from April 1 through March 31 in the base year, to the extent



that claims have been submitted and paid by June 1 of that year, except that when alternative care services receive federal financial participation under the 1115 waiver demonstration, funding shall be allocated in accordance with subdivision 17.

(c) If the alternative care program expenditures as defined in paragraph (b) are 95 percent or more of the lead agency's adjusted base allocation, the allocation for the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation is included in the state budget.

(d) If the alternative care program expenditures as defined in paragraph (b) are less than 95 percent of the lead agency's adjusted base allocation, the allocation for the next fiscal year is the adjusted base allocation less the amount of unspent funds below the 95 percent level.

(e) If the annual legislative appropriation for the alternative care program is inadequate to fund the combined lead agency allocations for a biennium, the commissioner shall distribute to each lead agency the entire annual appropriation as that lead agency's percentage of the computed base as calculated in paragraphs (c) and (d).

(f) On agreement between the commissioner and the lead agency, the commissioner may have discretion to reallocate alternative care base allocations distributed to lead agencies in which the base amount exceeds program expenditures.

Sec. 19. Minnesota Statutes 2014, section 256B.0913, subdivision 11, is amended to read:

Subd. 11. **Targeted funding.** (a) The purpose of targeted funding is to make additional money available to lead agencies with the greatest need. Targeted funds are not intended to be distributed equitably among all lead agencies, but rather, allocated to those with long-term care strategies that meet state goals.

(b) The funds available for targeted funding shall be the total appropriation for each fiscal year minus lead agency allocations determined under subdivision 10 as adjusted for any inflation increases provided in appropriations for the biennium, except that when alternative care services receive federal financial participation under the 1115 waiver demonstration, funding shall be allocated in accordance with subdivision 17.

(c) The commissioner shall allocate targeted funds to lead agencies that demonstrate to the satisfaction of the commissioner that they have developed feasible plans to increase alternative care spending, except that when alternative care services receive federal financial participation under the 1115 waiver demonstration, funding shall be allocated in accordance with subdivision 17. In making targeted funding allocations, the commissioner shall use the following priorities:

(1) lead agencies that received a lower allocation in fiscal year 1991 than in fiscal year 1990. Counties remain in this priority until they have been restored to their fiscal year 1990 level plus inflation;

(2) lead agencies that sustain a base allocation reduction for failure to spend 95 percent of the allocation if they demonstrate that the base reduction should be restored;

(3) lead agencies that propose projects to divert community residents from nursing home placement or convert nursing home residents to community living; and

(4) lead agencies that can otherwise justify program growth by demonstrating the existence of waiting lists, demographically justified needs, or other unmet needs.

(d) Lead agencies that would receive targeted funds according to paragraph (c) must demonstrate to the commissioner's satisfaction that the funds would be appropriately spent by showing how the funds would be used to further the state's alternative care goals as described in subdivision 1, and that the county has the administrative and service delivery capability to use them.

(e) The commissioner shall make applications available for targeted funds by November 1 of each year, except that when alternative care services receive federal financial participation under the 1115 waiver demonstration, funding shall be allocated in accordance with subdivision 17. The lead agencies selected for targeted funds shall be notified of the amount of their additional funding. Targeted funds allocated to a lead agency in one year shall be treated as part of the lead agency's base allocation for that year in determining allocations for subsequent years. No reallocations between lead agencies shall be made.

Sec. 20. Minnesota Statutes 2014, section 256B.0913, subdivision 12, is amended to read:

Subd. 12. **Client fees.** (a) A fee is required for all alternative care eligible clients to help pay for the cost of participating in the program. The amount of the fee for the alternative care client shall be determined as follows:

(1) when the alternative care client's income less recurring and predictable medical expenses is less than 100 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the fee is being computed, and total assets are less than \$10,000, the fee is zero;

(2) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 100 percent but less than 150 percent of the federal poverty guideline effective on July 1 of the state fiscal year in which the fee is being computed, and total assets are less than \$10,000, the fee is five percent of the cost of alternative care services;

(3) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 150 percent but less than 200 percent of the federal poverty guidelines effective on July 1 of the state fiscal year in which the fee is being computed and assets are less than \$10,000, the fee is 15 percent of the cost of alternative care services;

(4) when the alternative care client's income less recurring and predictable medical expenses is equal to or greater than 200 percent of the federal poverty guidelines effective on July 1 of the state fiscal year in which the fee is being computed and assets are less than \$10,000, the fee is 30 percent of the cost of alternative care services; and

(5) when the alternative care client's assets are equal to or greater than \$10,000, the fee is 30 percent of the cost of alternative care services.

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

All alternative care services shall be included in the estimated costs for the purpose of determining the fee.

Fees are due and payable each month alternative care services are received unless the actual cost of the services is less than the fee, in which case the fee is the lesser amount.

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

- (1) a person is residing in a nursing facility;
- (2) a married couple is requesting an asset assessment under the spousal impoverishment provisions;
- (3) a person is found eligible for alternative care, but is not yet receiving alternative care services including case management services; or
- (4) a person has chosen to participate in a consumer-directed service plan ~~for which the cost is no greater than the total cost of the person's alternative care service plan less the monthly fee amount that would otherwise be assessed;~~ or
- (5) a person is receiving temporary alternative care services.

(c) The commissioner will bill and collect the fee from the client. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the lead agency with the client's Social Security number at the time of application. The lead agency shall supply the commissioner with the client's Social Security number and other information the commissioner requires to collect the fee from the client. The commissioner shall collect unpaid fees using the Revenue Recapture Act in chapter 270A and other methods available to the commissioner. The commissioner may require lead agencies to inform clients of the collection procedures that may be used by the state if a fee is not paid.

Sec. 21. Minnesota Statutes 2014, section 256B.0913, is amended by adding a subdivision to read:

Subd. 17. **Allocation under 1115 waiver demonstration.** When alternative care services receive federal financial participation under the 1115 waiver demonstration, alternative care funding shall be distributed in accordance with the projected demand for services based on service and financial eligibility. Discretionary alternative care services not listed in subdivision 5 or section 256B.0625 require approval from the commissioner.

Sec. 22. Minnesota Statutes 2014, section 256B.85, is amended to read:

**256B.85 COMMUNITY FIRST SERVICES AND SUPPORTS.**

Subdivision 1. **Basis and scope.** (a) Upon federal approval, the commissioner shall establish a ~~medical assistance~~ state plan option for the provision of home and community-based personal assistance service and supports called "community first services and supports (CFSS)."

(b) CFSS is a participant-controlled method of selecting and providing services and supports that allows the participant maximum control of the services and supports. Participants may choose the degree to which they direct and manage their supports by choosing to have a significant and meaningful role in the management of services and supports including by directly employing support workers with the necessary supports to perform that function.

(c) CFSS is available statewide to eligible ~~individuals~~ people to assist with accomplishing activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related procedures and tasks through hands-on assistance to accomplish the task or constant supervision and cueing to accomplish the task; and to assist with acquiring, maintaining, and enhancing the skills necessary to accomplish ADLs, IADLs, and health-related procedures and tasks. CFSS allows payment for certain supports and goods such

as environmental modifications and technology that are intended to replace or decrease the need for human assistance.

(d) Upon federal approval, CFSS will replace the personal care assistance program under sections 256.476, 256B.0625, subdivisions 19a and 19c, and 256B.0659.

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Activities of daily living" or "ADLs" means eating, toileting, grooming, dressing, bathing, mobility, positioning, and transferring.

(c) "Agency-provider model" means a method of CFSS under which a qualified agency provides services and supports through the agency's own employees and policies. The agency must allow the participant to have a significant role in the selection and dismissal of support workers of their choice for the delivery of their specific services and supports.

(d) "Behavior" means a description of a need for services and supports used to determine the home care rating and additional service units. The presence of Level I behavior is used to determine the home care rating. ~~"Level I behavior" means physical aggression towards self or others or destruction of property that requires the immediate response of another person. If qualified for a home care rating as described in subdivision 8, additional service units can be added as described in subdivision 8, paragraph (f), for the following behaviors:~~

~~(1) Level I behavior;~~

~~(2) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or~~

~~(3) increased need for assistance for participants who are verbally aggressive or resistive to care so that time needed to perform activities of daily living is increased.~~

(e) "Budget model" means a service delivery method of CFSS that allows the use of a service budget and assistance from a financial management services (FMS) ~~contractor~~ provider for a participant to directly employ support workers and purchase supports and goods.

(f) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that has been ordered by a physician, and is specified in a community services and support plan, including:

(1) tube feedings requiring:

(i) a gastrojejunostomy tube; or

(ii) continuous tube feeding lasting longer than 12 hours per day;

(2) wounds described as:

(i) stage III or stage IV;

(ii) multiple wounds;

(iii) requiring sterile or clean dressing changes or a wound vac; or

- (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized care;
- (3) parenteral therapy described as:
  - (i) IV therapy more than two times per week lasting longer than four hours for each treatment; or
  - (ii) total parenteral nutrition (TPN) daily;
- (4) respiratory interventions, including:
  - (i) oxygen required more than eight hours per day;
  - (ii) respiratory vest more than one time per day;
  - (iii) bronchial drainage treatments more than two times per day;
  - (iv) sterile or clean suctioning more than six times per day;
  - (v) dependence on another to apply respiratory ventilation augmentation devices such as BiPAP and CPAP; and
  - (vi) ventilator dependence under section ~~256B.0652~~ 256B.0651;
- (5) insertion and maintenance of catheter, including:
  - (i) sterile catheter changes more than one time per month;
  - (ii) clean intermittent catheterization, and including self-catheterization more than six times per day; or
  - (iii) bladder irrigations;
- (6) bowel program more than two times per week requiring more than 30 minutes to perform each time;
- (7) neurological intervention, including:
  - (i) seizures more than two times per week and requiring significant physical assistance to maintain safety; or
  - (ii) swallowing disorders diagnosed by a physician and requiring specialized assistance from another on a daily basis; and
- (8) other congenital or acquired diseases creating a need for significantly increased direct hands-on assistance and interventions in six to eight activities of daily living.
- (g) "Community first services and supports" or "CFSS" means the assistance and supports program under this section needed for accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks through hands-on assistance to accomplish the task or constant supervision and cueing to accomplish the task, or the purchase of goods as defined in subdivision 7, clause (3), that replace the need for human assistance.
- (h) "Community first services and supports service delivery plan" or "CFSS service delivery plan" means a written document detailing the services and supports chosen by the participant to meet assessed

needs that are within the approved CFSS service authorization amount, as determined in subdivision 8. Services and supports are based on the community support plan identified in section 256B.0911 and coordinated services-service and support plan and budget identified in section 256B.0915, subdivision 6, if applicable, that is determined by the participant to meet the assessed needs, using a person-centered planning process.

(i) "Consultation services" means a Minnesota health care program enrolled provider organization that is under contract with the department and has the knowledge, skills, and ability to assist CFSS participants in using either the agency-provider model under subdivision 11 or the budget model under subdivision 13. provides assistance to the participant in making informed choices about CFSS services in general and self-directed tasks in particular, and in developing a person-centered CFSS service delivery plan to achieve quality service outcomes.

(j) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

(k) "Dependency" in activities of daily living means a person requires hands-on assistance or constant supervision and cueing to accomplish one or more of the activities of daily living every day or on the days during the week that the activity is performed; however, a child may not be found to be dependent in an activity of daily living if, because of the child's age, an adult would either perform the activity for the child or assist the child with the activity and the assistance needed is the assistance appropriate for a typical child of the same age.

(l) "Extended CFSS" means CFSS services and supports provided under CFSS that are included in a the CFSS service delivery plan through one of the home and community-based services waivers and as approved and authorized under sections 256B.0915; 256B.092, subdivision 5; and 256B.49, which exceed the amount, duration, and frequency of the state plan CFSS services for participants.

(m) "Financial management services ~~contractor or vendor~~ provider" or "FMS ~~contractor~~ provider" means a qualified organization required for participants using the budget model under subdivision 13 that ~~has a written contract~~ is an enrolled provider with the department to provide vendor fiscal/employer agent financial management services (FMS). ~~Services include but are not limited to: filing and payment of federal and state payroll taxes on behalf of the participant; initiating criminal background checks; billing for approved CFSS services with authorized funds; monitoring expenditures; accounting for and disbursing CFSS funds; providing assistance in obtaining and filing for liability, workers' compensation, and unemployment coverage; and providing participant instruction and technical assistance to the participant in fulfilling employer-related requirements in accordance with Section 3504 of the Internal Revenue Code and related regulations and interpretations, including Code of Federal Regulations, title 26, section 31.3504-1.~~

(n) "Health-related procedures and tasks" means procedures and tasks related to the specific assessed health needs of an individual a participant that can be taught or assigned by a state-licensed health care or mental health professional and performed by a support worker.

(o) "Instrumental activities of daily living" means activities related to living independently in the community, including but not limited to: meal planning, preparation, and cooking; shopping for food, clothing, or other essential items; laundry; housecleaning; assistance with medications; managing finances; communicating needs and preferences during activities; arranging supports; and assistance with traveling around and participating in the community.

(p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, paragraph (e).

~~(p)~~ (q) "Legal representative" means parent of a minor, a court-appointed guardian, or another representative with legal authority to make decisions about services and supports for the participant. Other representatives with legal authority to make decisions include but are not limited to a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.

(r) "Level I behavior" means physical aggression towards self or others or destruction of property that requires the immediate response of another person.

~~(q)~~ (s) "Medication assistance" means providing verbal or visual reminders to take regularly scheduled medication, and includes any of the following supports listed in clauses (1) to (3) and other types of assistance, except that a support worker may not determine medication dose or time for medication or inject medications into veins, muscles, or skin:

(1) under the direction of the participant or the participant's representative, bringing medications to the participant including medications given through a nebulizer, opening a container of previously set-up medications, emptying the container into the participant's hand, opening and giving the medication in the original container to the participant, or bringing to the participant liquids or food to accompany the medication;

(2) organizing medications as directed by the participant or the participant's representative; and

(3) providing verbal or visual reminders to perform regularly scheduled medications.

(t) "Participant" means a person who is eligible for CFSS.

~~(r)~~ (u) "Participant's representative" means a parent, family member, advocate, or other adult authorized by the participant or participant's legal representative, if any, to serve as a representative in connection with the provision of CFSS. This authorization must be in writing or by another method that clearly indicates the participant's free choice and may be withdrawn at any time. The participant's representative must have no financial interest in the provision of any services included in the participant's CFSS service delivery plan and must be capable of providing the support necessary to assist the participant in the use of CFSS. If through the assessment process described in subdivision 5 a participant is determined to be in need of a participant's representative, one must be selected. If the participant is unable to assist in the selection of a participant's representative, the legal representative shall appoint one. Two persons may be designated as a participant's representative for reasons such as divided households and court-ordered custodies. Duties of a participant's representatives may include:

(1) being available while services are provided in a method agreed upon by the participant or the participant's legal representative and documented in the participant's CFSS service delivery plan;

(2) monitoring CFSS services to ensure the participant's CFSS service delivery plan is being followed; and

(3) reviewing and signing CFSS time sheets after services are provided to provide verification of the CFSS services.

~~(s)~~ (v) "Person-centered planning process" means a process that is directed by the participant to plan for CFSS services and supports. The person-centered planning process must:

~~(1) include people chosen by the participant;~~

~~(2) provide necessary information and support to ensure that the participant directs the process to the maximum extent possible, and is enabled to make informed choices and decisions;~~

~~(3) be timely and occur at time and locations of convenience to the participant;~~

~~(4) reflect cultural considerations of the participant;~~

~~(5) include strategies for solving conflict or disagreement within the process, including clear conflict-of-interest guidelines for all planning;~~

~~(6) provide the participant choices of the services and supports they receive and the staff providing those services and supports;~~

~~(7) include a method for the participant to request updates to the plan; and~~

~~(8) record the alternative home and community-based settings that were considered by the participant.~~

(w) "Service budget" means the authorized dollar amount used for the budget model or for the purchase of goods.

~~(t)~~ (x) "Shared services" means the provision of CFSS services by the same CFSS support worker to two or three participants who voluntarily enter into an agreement to receive services at the same time and in the same setting by the same employer.

~~(u)~~ (y) "Support worker" means a qualified and trained employee of the agency-provider as required by subdivision 11b or of the participant employer under the budget model as required by subdivision 14 who has direct contact with the participant and provides services as specified within the participant's CFSS service delivery plan.

(z) "Unit" means the increment of service based on hours or minutes identified in the service agreement.

(aa) "Vendor fiscal employer agent" means an agency that provides financial management services.

~~(v)~~ (bb) "Wages and benefits" means the hourly wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, contributions to employee retirement accounts, or other forms of employee compensation and benefits.

~~(w)~~ (cc) "Worker training and development" means services provided according to subdivision 18a for developing workers' skills as required by the participant's individual CFSS service delivery plan that are arranged for or provided by the agency-provider or purchased by the participant employer. These services include training, education, direct observation and supervision, and evaluation and coaching of job skills and tasks, including supervision of health-related tasks or behavioral supports.

Subd. 3. **Eligibility.** (a) CFSS is available to a person who meets one of the following:

(1) is an enrollee of medical assistance as determined under section 256B.055, 256B.056, or 256B.057, subdivisions 5 and 9;

(2) is a participant in the alternative care program under section 256B.0913;



(3) is a waiver participant as defined under section 256B.0915, 256B.092, 256B.093, or 256B.49; or

(4) has medical services identified in a ~~participant's~~ person's individualized education program and is eligible for services as determined in section 256B.0625, subdivision 26.

(b) In addition to meeting the eligibility criteria in paragraph (a), a person must also meet all of the following:

(1) require assistance and be determined dependent in one activity of daily living or Level I behavior based on assessment under section 256B.0911; and

(2) is not a participant under a family support grant under section 252.32.

**Subd. 4. Eligibility for other services.** Selection of CFSS by a participant must not restrict access to other medically necessary care and services furnished under the state plan ~~medical assistance~~ benefit or other services available through alternative care.

**Subd. 5. Assessment requirements.** (a) The assessment of functional need must:

(1) be conducted by a certified assessor according to the criteria established in section 256B.0911, subdivision 3a;

(2) be conducted face-to-face, initially and at least annually thereafter, or when there is a significant change in the participant's condition or a change in the need for services and supports, or at the request of the participant when the participant experiences a change in condition or needs a change in the services or supports; and

(3) be completed using the format established by the commissioner.

(b) The results of the assessment and any recommendations and authorizations for CFSS must be determined and communicated in writing by the lead agency's certified assessor as defined in section 256B.0911 to the participant and the agency-provider or FMS ~~contractor~~ provider chosen by the participant within 40 calendar days and must include the participant's right to appeal under section 256.045, subdivision 3.

(c) The lead agency assessor may authorize a temporary authorization for CFSS services to be provided under the agency-provider model. Authorization for a temporary level of CFSS services under the agency-provider model is limited to the time specified by the commissioner, but shall not exceed 45 days. The level of services authorized under this paragraph shall have no bearing on a future authorization. Participants approved for a temporary authorization shall access the consultation service to complete their orientation and selection of a service model.

**Subd. 6. Community first services and support supports service delivery plan.** (a) The CFSS service delivery plan must be developed and evaluated through a person-centered planning process by the participant, or the participant's representative or legal representative who may be assisted by a consultation services provider. The CFSS service delivery plan must reflect the services and supports that are important to the participant and for the participant to meet the needs assessed by the certified assessor and identified in the ~~community support plan under section 256B.0911, subdivision 3, or the coordinated services~~ service and support plan identified in section 256B.0915, subdivision 6, ~~if applicable~~. The CFSS service delivery plan must be reviewed by the participant, the consultation services provider, and the agency-provider or

FMS ~~contractor~~ provider prior to starting services and at least annually upon reassessment, or when there is a significant change in the participant's condition, or a change in the need for services and supports.

(b) The commissioner shall establish the format and criteria for the CFSS service delivery plan.

(c) The CFSS service delivery plan must be person-centered and:

(1) specify the consultation services provider, agency-provider, or FMS ~~contractor~~ provider selected by the participant;

(2) reflect the setting in which the participant resides that is chosen by the participant;

(3) reflect the participant's strengths and preferences;

(4) include the means methods and supports used to address the ~~clinical and support~~ needs as identified through an assessment of functional needs;

(5) include ~~individually~~ the participant's identified goals and desired outcomes;

(6) reflect the services and supports, paid and unpaid, that will assist the participant to achieve identified goals, including the costs of the services and supports, and the providers of those services and supports, including natural supports;

(7) identify the amount and frequency of face-to-face supports and amount and frequency of remote supports and technology that will be used;

(8) identify risk factors and measures in place to minimize them, including individualized backup plans;

(9) be understandable to the participant and the individuals providing support;

(10) identify the individual or entity responsible for monitoring the plan;

(11) be finalized and agreed to in writing by the participant and signed by all individuals and providers responsible for its implementation;

(12) be distributed to the participant and other people involved in the plan;

(13) prevent the provision of unnecessary or inappropriate care;

(14) include a detailed budget for expenditures for budget model participants or participants under the agency-provider model if purchasing goods; and

(15) include a plan for worker training and development provided according to subdivision 18a detailing what service components will be used, when the service components will be used, how they will be provided, and how these service components relate to the participant's individual needs and CFSS support worker services.

(d) The total units of agency-provider services or the service budget amount for the budget model include both annual totals and a monthly average amount that cover the number of months of the service authorization agreement. The amount used each month may vary, but additional funds must not be provided above the annual service authorization amount, determined according to subdivision 8, unless a change in

condition is assessed and authorized by the certified assessor and documented in the ~~community support plan~~, coordinated services service and supports support plan; and CFSS service delivery plan.

(e) In assisting with the development or modification of the CFSS service delivery plan during the authorization time period, the consultation services provider shall:

(1) consult with the FMS ~~contractor~~ provider on the spending budget when applicable; and

(2) consult with the participant or participant's representative, agency-provider, and case manager/care coordinator.

(f) The CFSS service delivery plan must be approved by the consultation services provider for participants without a case ~~manager/care manager~~ or care coordinator who is responsible for authorizing services. A case ~~manager/care manager~~ or care coordinator must approve the plan for a waiver or alternative care program participant.

**Subd. 6a. Person-centered planning process.** The person-centered planning process must:

(1) include people chosen by the participant;

(2) provide necessary information and support to ensure that the participant directs the process to the maximum extent possible, and is enabled to make informed choices and decisions;

(3) be timely and occur at times and locations convenient to the participant;

(4) reflect cultural considerations of the participant;

(5) include within the process strategies for solving conflict or disagreement, including clear conflict-of-interest guidelines as identified in Code of Federal Regulations, title 42, section 441.500, for all planning;

(6) provide the participant choices of the services and supports the participant receives and the staff providing those services and supports;

(7) include a method for the participant to request updates to the plan; and

(8) record the alternative home and community-based settings that were considered by the participant.

**Subd. 7. Community first services and supports; covered services.** ~~Within the service unit authorization or service budget amount,~~ Services and supports covered under CFSS include:

(1) assistance to accomplish activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related procedures and tasks through hands-on assistance to accomplish the task or constant supervision and cueing to accomplish the task;

(2) assistance to acquire, maintain, or enhance the skills necessary for the participant to accomplish activities of daily living, instrumental activities of daily living, or health-related tasks;

(3) expenditures for items, services, supports, environmental modifications, or goods, including assistive technology. These expenditures must:

(i) relate to a need identified in a participant's CFSS service delivery plan; and

(ii) increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance for the participant's assessed needs;

(4) observation and redirection for behavior or symptoms where there is a need for assistance. ~~An assessment of behaviors must meet the criteria in this clause. A participant qualifies as having a need for assistance due to behaviors if the participant's behavior requires assistance at least four times per week and shows one or more of the following behaviors:~~

~~(i) physical aggression towards self or others, or destruction of property that requires the immediate response of another person;~~

~~(ii) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or~~

~~(iii) increased need for assistance for participants who are verbally aggressive or resistive to care so that time needed to perform activities of daily living is increased;~~

(5) back-up systems or mechanisms, such as the use of pagers or other electronic devices, to ensure continuity of the participant's services and supports;

(6) services provided by a consultation services provider as defined under subdivision 17, that is under contract with the department and enrolled as a Minnesota health care program provider ~~as defined under subdivision 17;~~

(7) services provided by an FMS ~~contractor under contract~~ provider as defined under subdivision 13a, that is an enrolled provider with the department as defined under subdivision 13;

(8) CFSS services provided by a qualified support worker who is a parent, stepparent, or legal guardian of a participant under age 18, or who is the participant's spouse. These support workers shall not provide any medical assistance home and community-based services in excess of 40 hours per seven-day period regardless of the number of parents providing services, combination of parents and spouses providing services, or number of children who receive medical assistance services; and

(9) worker training and development services ~~as defined in subdivision 2, paragraph (w), and described in subdivision 18a.~~

**Subd. 8. Determination of CFSS service methodology authorization amount.** (a) All community first services and supports must be authorized by the commissioner or the commissioner's designee before services begin, ~~except for the assessments established in section 256B.0911.~~ The authorization for CFSS must be completed as soon as possible following an assessment but no later than 40 calendar days from the date of the assessment.

(b) The amount of CFSS authorized must be based on the participant's home care rating described in paragraphs (d) and (e) and any additional service units for which the participant qualifies as described in paragraph (f).

(c) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner identifying the following for a participant:

(1) the total number of dependencies of activities of daily living ~~as defined in subdivision 2, paragraph (b);~~

(2) the presence of complex health-related needs as defined in subdivision 2, paragraph (f); and

(3) the presence of Level I behavior as defined in subdivision 2, paragraph (d).

(d) The methodology to determine the total service units for CFSS for each home care rating is based on the median paid units per day for each home care rating from fiscal year 2007 data for the PCA program.

(e) Each home care rating is designated by the letters P through Z and EN and has the following base number of service units assigned:

(1) P home care rating requires Level I behavior or one to three dependencies in ADLs and qualifies one the person for five service units;

(2) Q home care rating requires Level I behavior and one to three dependencies in ADLs and qualifies one the person for six service units;

(3) R home care rating requires a complex health-related need and one to three dependencies in ADLs and qualifies one the person for seven service units;

(4) S home care rating requires four to six dependencies in ADLs and qualifies one the person for ten service units;

(5) T home care rating requires four to six dependencies in ADLs and Level I behavior and qualifies one the person for 11 service units;

(6) U home care rating requires four to six dependencies in ADLs and a complex health-related need and qualifies one the person for 14 service units;

(7) V home care rating requires seven to eight dependencies in ADLs and qualifies one the person for 17 service units;

(8) W home care rating requires seven to eight dependencies in ADLs and Level I behavior and qualifies one the person for 20 service units;

(9) Z home care rating requires seven to eight dependencies in ADLs and a complex health-related need and qualifies one the person for 30 service units; and

(10) EN home care rating includes ventilator dependency as defined in section 256B.0651, subdivision 1, paragraph (g). Participants A person who meet meets the definition of ventilator-dependent and the EN home care rating and utilize a combination of CFSS and other home care nursing services are is limited to a total of 96 service units per day for those services in combination. Additional units may be authorized when a participant's person's assessment indicates a need for two staff to perform activities. Additional time is limited to 16 service units per day.

(f) Additional service units are provided through the assessment and identification of the following:

(1) 30 additional minutes per day for a dependency in each critical activity of daily living as defined in subdivision 2, paragraph (j);

(2) 30 additional minutes per day for each complex health-related function as defined in subdivision 2, paragraph (f) need; and

(3) ~~30 additional minutes per day for each behavior issue as defined in subdivision 2, paragraph (d) when the behavior requires assistance at least four times per week for one or more of the following behaviors:~~

(i) level I behavior;

(ii) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or

(iii) increased need for assistance for participants who are verbally aggressive or resistive to care so that the time needed to perform activities of daily living is increased.

(g) The service budget for budget model participants shall be based on:

(1) assessed units as determined by the home care rating; and

(2) an adjustment needed for administrative expenses.

Subd. 9. **Noncovered services.** (a) Services or supports that are not eligible for payment under this section include those that:

(1) are not authorized by the certified assessor or included in the ~~written~~ CFSS service delivery plan;

(2) are provided prior to the authorization of services and the approval of the ~~written~~ CFSS service delivery plan;

(3) are duplicative of other paid services in the ~~written~~ CFSS service delivery plan;

(4) supplant natural unpaid supports that appropriately meet a need in the CFSS service delivery plan, are provided voluntarily to the participant, and are selected by the participant in lieu of other services and supports;

(5) are not effective means to meet the participant's needs; and

(6) are available through other funding sources, including, but not limited to, funding through title IV-E of the Social Security Act.

(b) Additional services, goods, or supports that are not covered include:

(1) those that are not for the direct benefit of the participant, except that services for caregivers such as training to improve the ability to provide CFSS are considered to directly benefit the participant if chosen by the participant and approved in the support plan;

(2) any fees incurred by the participant, such as Minnesota health care programs fees and co-pays, legal fees, or costs related to advocate agencies;

(3) insurance, except for insurance costs related to employee coverage;

(4) room and board costs for the participant;

(5) services, supports, or goods that are not related to the assessed needs;

(6) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

- (7) assistive technology devices and assistive technology services other than those for back-up systems or mechanisms to ensure continuity of service and supports listed in subdivision 7;
- (8) medical supplies and equipment covered under medical assistance;
- (9) environmental modifications, except as specified in subdivision 7;
- (10) expenses for travel, lodging, or meals related to training the participant or the participant's representative or legal representative;
- (11) experimental treatments;
- (12) any service or good covered by other ~~medical assistance~~ state plan services, including prescription and over-the-counter medications, compounds, and solutions and related fees, including premiums and co-payments;
- (13) membership dues or costs, except when the service is necessary and appropriate to treat a health condition or to improve or maintain the participant's health condition. The condition must be identified in the participant's CFSS service delivery plan and monitored by a Minnesota health care program enrolled physician;
- (14) vacation expenses other than the cost of direct services;
- (15) vehicle maintenance or modifications not related to the disability, health condition, or physical need;
- (16) tickets and related costs to attend sporting or other recreational or entertainment events;
- (17) services provided and billed by a provider who is not an enrolled CFSS provider;
- (18) CFSS provided by a participant's representative or paid legal guardian;
- (19) services that are used solely as a child care or babysitting service;
- (20) services that are the responsibility or in the daily rate of a residential or program license holder under the terms of a service agreement and administrative rules;
- (21) sterile procedures;
- (22) giving of injections into veins, muscles, or skin;
- (23) homemaker services that are not an integral part of the assessed CFSS service;
- (24) home maintenance or chore services;
- (25) home care services, including hospice services if elected by the participant, covered by Medicare or any other insurance held by the participant;
- (26) services to other members of the participant's household;
- (27) services not specified as covered under medical assistance as CFSS;

(28) application of restraints or implementation of deprivation procedures;

(29) assessments by CFSS provider organizations or by independently enrolled registered nurses;

(30) services provided in lieu of legally required staffing in a residential or child care setting; and

(31) services provided by the residential or program license holder in a residence for more than four ~~persons~~ participants.

Subd. 10. **Agency-provider and FMS contractor provider qualifications, general requirements, and duties.** (a) ~~Agency-providers delivering services under the agency-provider model under~~ identified in subdivision 11 or and FMS contractors under providers identified in subdivision ~~13~~ 13a shall:

(1) enroll as a medical assistance Minnesota health care programs provider and meet all applicable provider standards and requirements;

(2) demonstrate compliance with federal and state laws and policies for CFSS as determined by the commissioner;

(3) comply with background study requirements under chapter 245C and maintain documentation of background study requests and results;

(4) verify and maintain records of all services and expenditures by the participant, including hours worked by support workers;

(5) not engage in any agency-initiated direct contact or marketing in person, by telephone, or other electronic means to potential participants, guardians, family members, or participants' representatives;

(6) directly provide services and not use a subcontractor or reporting agent;

(7) meet the financial requirements established by the commissioner for financial solvency;

(8) have never had a lead agency contract or provider agreement discontinued due to fraud, or have never had an owner, board member, or manager fail a state or FBI-based criminal background check while enrolled or seeking enrollment as a Minnesota health care programs provider; and

~~(9) have established business practices that include written policies and procedures, internal controls, and a system that demonstrates the organization's ability to deliver quality CFSS; and~~

~~(10)~~ (9) have an office located in Minnesota.

(b) In conducting general duties, agency-providers and FMS ~~contractors~~ providers shall:

(1) pay support workers based upon actual hours of services provided;

(2) pay for worker training and development services based upon actual hours of services provided or the unit cost of the training session purchased;

(3) withhold and pay all applicable federal and state payroll taxes;

(4) make arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;



(5) enter into a written agreement with the participant, participant's representative, or legal representative that assigns roles and responsibilities to be performed before services, supports, or goods are provided using a format established by the commissioner;

(6) report maltreatment as required under sections 626.556 and 626.557; and

~~(7) provide the participant with a copy of the service-related rights under subdivision 20 at the start of services and supports; and~~

~~(8)~~ (7) comply with any data requests from the department consistent with the Minnesota Government Data Practices Act under chapter 13.

Subd. 11. **Agency-provider model.** (a) The agency-provider model includes services provided by support workers and staff providing worker training and development services who are employed by an agency-provider that is licensed according to chapter 245A or meets other the criteria established by the commissioner, including required training.

(b) The agency-provider shall allow the participant to have a significant role in the selection and dismissal of the support workers for the delivery of the services and supports specified in the participant's CFSS service delivery plan.

(c) A participant may use authorized units of CFSS services as needed within a service authorization agreement that is not greater than 12 months. Using authorized units in a flexible manner in either the agency-provider model or the budget model does not increase the total amount of services and supports authorized for a participant or included in the participant's CFSS service delivery plan.

(d) A participant may share CFSS services. Two or three CFSS participants may share services at the same time provided by the same support worker.

(e) The agency-provider must use a minimum of 72.5 percent of the revenue generated by the medical assistance payment for CFSS for support worker wages and benefits. The agency-provider must document how this requirement is being met. The revenue generated by the worker training and development services and the reasonable costs associated with the worker training and development services must not be used in making this calculation.

(f) The agency-provider model must be used by individuals who ~~have been~~ are restricted by the Minnesota restricted recipient program under Minnesota Rules, parts 9505.2160 to 9505.2245.

(g) Participants purchasing goods under this model, along with support worker services, must:

(1) specify the goods in the CFSS service delivery plan and detailed budget for expenditures that must be approved by the consultation services provider ~~or the~~ case manager/care manager, or care coordinator; and

(2) use the ~~FMS contractor~~ provider for the billing and payment of such goods.

Subd. 11a. **Agency-provider model; evaluation of CFSS services.** (a) The agency-provider is responsible to work with the participant and the participant's representative, if any, in the evaluation of the CFSS goals and CFSS service delivery plan. The agency-provider must complete an evaluation of CFSS services within 90 days of service initiation and at least quarterly thereafter. Quarterly evaluations during the first year must be completed in person. Following the first year of service, at least one quarterly evaluation each year must be completed in person. An in-person evaluation must also be completed within 30 calendar

days of the discovery or receipt of information of any changes in the participant's condition for which CFSS is provided.

(b) Each CFSS evaluation required in paragraph (a) must evaluate and document the required elements in clauses (1) to (5):

(1) whether the CFSS service delivery plan accurately identifies the participant's current service needs;

(2) whether services are supporting accomplishment of the goals identified in the CFSS service delivery plan;

(3) whether workers are competent in providing services identified in the CFSS service delivery plan;

(4) whether the agency-provider, the participant, or the participant's representative, if any, has any additional concerns with the CFSS service delivery plan, goals, service delivery, or worker competency not identified in clauses (1) to (3); and

(5) based on the evaluation required in clauses (1) to (4), whether revisions are needed to the CFSS service delivery plan or goals or how CFSS is used or delivered, whether there is a need for additional worker training, or whether any other actions are needed to support the participant's use of CFSS and who will take the action.

If changes are needed based on the results of the evaluation, a revised CFSS service delivery plan must be completed and provided to the participant or participant's representative, if any, within 30 calendar days of the evaluation.

**Subd. 11b. Agency-provider model; support worker competency.** (a) The agency-provider must ensure that support workers are competent to meet the participant's assessed needs, goals, and additional requirements as written in the CFSS service delivery plan. Within 30 days of any support worker beginning to provide services for a participant, the agency-provider must evaluate the competency of the worker through direct observation of the support worker's performance of the job functions in a setting where the participant is using CFSS.

(b) The agency-provider must verify and maintain evidence of support worker competency, including documentation of the support worker's:

(1) education and experience relevant to the job responsibilities assigned to the support worker and the needs of the participant;

(2) relevant training received from sources other than the agency-provider;

(3) orientation and instruction to implement services and supports to participant needs and preferences as identified in the CFSS service delivery plan; and

(4) periodic performance reviews completed by the agency-provider at least annually, including any evaluations required under subdivision 11a, paragraph (a).

If a support worker is a minor, all evaluations of worker competency must be completed in person and in a setting where the participant is using CFSS.

(c) The agency-provider must develop a worker training and development plan with the participant to ensure support worker competency. The worker training and development plan must be updated when:

- (1) the support worker begins providing services;
- (2) there is any change in condition or a modification to the CFSS service delivery plan; or
- (3) a performance review indicates that additional training is needed.

Subd. 12. **Requirements for enrollment of CFSS agency-providers.** (a) All CFSS agency-providers must provide, at the time of enrollment, reenrollment, and revalidation as a CFSS agency-provider in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

(1) the CFSS agency-provider's current contact information including address, telephone number, and e-mail address;

(2) proof of surety bond coverage. Upon new enrollment, or if the agency-provider's Medicaid revenue in the previous calendar year is less than or equal to \$300,000, the agency-provider must purchase a surety bond of \$50,000. If the agency-provider's Medicaid revenue in the previous calendar year is greater than \$300,000, the agency-provider must purchase a surety bond of \$100,000. The surety bond must be in a form approved by the commissioner, must be renewed annually, and must allow for recovery of costs and fees in pursuing a claim on the bond;

(3) proof of fidelity bond coverage in the amount of \$20,000;

(4) proof of workers' compensation insurance coverage;

(5) proof of liability insurance;

(6) a description of the CFSS agency-provider's organization identifying the names of all owners, managing employees, staff, board of directors, and the affiliations of the directors and owners to other service providers;

(7) a copy of the CFSS agency-provider's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety, including the process for notification and resolution of ~~consumer~~ participant grievances, incident response, identification and prevention of communicable diseases, and employee misconduct;

(8) copies of all other forms the CFSS agency-provider uses in the course of daily business including, but not limited to:

(i) a copy of the CFSS agency-provider's time sheet ~~if the time sheet varies from the standard time sheet for CFSS services approved by the commissioner, and a letter requesting approval of the CFSS agency-provider's nonstandard time sheet;~~ and

(ii) a copy of the participant's individual CFSS service delivery plan;

(9) a list of all training and classes that the CFSS agency-provider requires of its staff providing CFSS services;

(10) documentation that the CFSS agency-provider and staff have successfully completed all the training required by this section;

(11) documentation of the agency-provider's marketing practices;

(12) disclosure of ownership, leasing, or management of all residential properties that are used or could be used for providing home care services;

(13) documentation that the agency-provider will use at least the following percentages of revenue generated from the medical assistance rate paid for CFSS services for CFSS support worker wages and benefits: 72.5 percent of revenue from CFSS providers. The revenue generated by the worker training and development services and the reasonable costs associated with the worker training and development services shall not be used in making this calculation; and

(14) documentation that the agency-provider does not burden participants' free exercise of their right to choose service providers by requiring CFSS support workers to sign an agreement not to work with any particular CFSS participant or for another CFSS agency-provider after leaving the agency and that the agency is not taking action on any such agreements or requirements regardless of the date signed.

(b) CFSS agency-providers shall provide to the commissioner the information specified in paragraph (a).

(c) All CFSS agency-providers shall require all employees in management and supervisory positions and owners of the agency who are active in the day-to-day management and operations of the agency to complete mandatory training as determined by the commissioner. Employees in management and supervisory positions and owners who are active in the day-to-day operations of an agency who have completed the required training as an employee with a CFSS agency-provider do not need to repeat the required training if they are hired by another agency, if they have completed the training within the past three years. CFSS agency-provider billing staff shall complete training about CFSS program financial management. Any new owners or employees in management and supervisory positions involved in the day-to-day operations are required to complete mandatory training as a requisite of working for the agency.

(d) The commissioner shall send annual review notifications to agency-providers 30 days prior to renewal. The notification must:

- (1) list the materials and information the agency-provider is required to submit;
- (2) provide instructions on submitting information to the commissioner; and
- (3) provide a due date by which the commissioner must receive the requested information.

Agency-providers shall submit ~~the all~~ required documentation for annual review within 30 days of notification from the commissioner. ~~If no documentation is submitted, the agency-provider enrollment number must be terminated or suspended~~ If an agency-provider fails to submit all the required documentation, the commissioner may take action under subdivision 23a.

**Subd. 12a. CFSS agency-provider requirements; policies for complaint process and incident response.** (a) The CFSS agency-provider must establish policies and procedures that promote service recipient rights by providing a simple complaint process for participants served by the program and their authorized representatives to bring a grievance. The complaint process must:

- (1) provide staff assistance with the complaint process when requested;
- (2) allow the participant to bring the complaint to the highest level of authority in the program if the grievance cannot be resolved by other staff members, and provide the name, address, and telephone number of that person;

(3) provide the addresses and telephone numbers of outside agencies to assist the participant;

(4) require a prompt response to all complaints affecting a participant's health and safety and a timely response to all other complaints;

(5) require an evaluation of whether:

(i) related policies and procedures were followed and adequate;

(ii) there is a need for additional staff training;

(iii) the complaint is similar to past complaints with the persons, staff, or services involved; and

(iv) there is a need for corrective action by the agency-provider to protect the health and safety of participants receiving services;

(6) provide a written summary of the complaint and a notice of the complaint resolution to the participant and, if applicable, case manager or care coordinator; and

(7) require that the complaint summary and resolution notice be maintained in the participant's service record.

(b) The CFSS agency-provider must establish policies and procedures for responding to incidents that occur while services are being provided. When a participant has a legal representative or a participant's representative, incidents must be reported to these representatives. For the purposes of this paragraph, "incident" means an occurrence that involves a participant and requires a response that is not a part of the ordinary provision of the services to that participant, and includes:

(1) serious injury of a participant as determined by section 245.91, subdivision 6;

(2) a participant's death;

(3) any medical emergency, unexpected serious illness, or significant unexpected change in a participant's illness or medical condition that requires a call to 911, physician treatment, or hospitalization;

(4) any mental health crisis that requires a call to 911 or a mental health crisis intervention team;

(5) an act or situation involving a participant that requires a call to 911, law enforcement, or the fire department;

(6) a participant's unexplained absence;

(7) behavior that creates an imminent risk of harm to the participant or another; and

(8) a report of alleged or suspected child or vulnerable adult maltreatment under section 626.556 or 626.557.

**Subd. 12b. CFSS agency-provider requirements; notice regarding termination of services.** (a) An agency-provider must provide written notice when it intends to terminate services with a participant at least ten calendar days before the proposed service termination is to become effective, except in cases where:

(1) the participant engages in conduct that significantly alters the terms of the CFSS service delivery plan with the agency-provider;

(2) the participant or other persons at the setting where services are being provided engage in conduct that creates an imminent risk of harm to the support worker or other agency-provider staff; or

(3) an emergency or a significant change in the participant's condition occurs within a 24-hour period that results in the participant's service needs exceeding the participant's identified needs in the current CFSS service delivery plan so that the agency-provider cannot safely meet the participant's needs.

(b) When a participant initiates a request to terminate CFSS services with the agency-provider, the agency-provider must give the participant a written acknowledgement of the participant's service termination request that includes the date the request was received by the agency-provider and the requested date of termination.

(c) The agency-provider must participate in a coordinated transfer of the participant to a new agency-provider to ensure continuity of care.

Subd. 13. **Budget model.** (a) Under the budget model participants may exercise responsibility and control over the services and supports described and budgeted within the CFSS service delivery plan. Participants must use services specified in subdivision 13a provided by an FMS contractor ~~as defined in subdivision 2, paragraph (m)~~ provider. Under this model, participants may use their approved service budget allocation to:

(1) directly employ support workers, and pay wages, federal and state payroll taxes, and premiums for workers' compensation, liability, and health insurance coverage; and

(2) obtain supports and goods as defined in subdivision 7.

(b) Participants who are unable to fulfill any of the functions listed in paragraph (a) may authorize a legal representative or participant's representative to do so on their behalf.

(c) The commissioner shall disenroll or exclude participants from the budget model and transfer them to the agency-provider model under, but not limited to, the following circumstances:

(1) when a participant has been restricted by the Minnesota restricted recipient program, in which case the participant may be excluded for a specified time period under Minnesota Rules, parts 9505.2160 to 9505.2245;

(2) when a participant exits the budget model during the participant's service plan year. Upon transfer, the participant shall not access the budget model for the remainder of that service plan year; or

(3) when the department determines that the participant or participant's representative or legal representative ~~cannot manage participant is unable to fulfill the responsibilities under the budget model, as specified in subdivision 14. The commissioner must develop policies for determining if a participant is unable to manage responsibilities under the budget model.~~

(d) A participant may appeal in writing to the department under section 256.045, subdivision 3, to contest the department's decision under paragraph (c), clause (3), to disenroll or exclude the participant from the budget model.

Subd. 13a. **Financial management services.** (a) Services provided by an FMS provider include but are not limited to: filing and payment of federal and state payroll taxes on behalf of the participant; initiating

and complying with background study requirements under chapter 245C and maintaining documentation of background study requests and results; billing for approved CFSS services with authorized funds; monitoring expenditures; accounting for and disbursing CFSS funds; providing assistance in obtaining and filing for liability, workers' compensation, and unemployment coverage; and providing participant instruction and technical assistance to the participant in fulfilling employer-related requirements in accordance with section 3504 of the Internal Revenue Code and related regulations and interpretations, including Code of Federal Regulations, title 26, section 31.3504-1.

~~(e) The FMS contractor shall not provide CFSS services and supports under the agency-provider service model.~~

(b) Agency-provider services shall not be provided by the FMS provider.

~~(f)~~ (c) The FMS contractor provider shall provide service functions as determined by the commissioner for budget model participants that include but are not limited to:

(1) assistance with the development of the detailed budget for expenditures portion of the CFSS service delivery plan as requested by the consultation services provider or participant;

~~(2) billing and making payments for budget model expenditures;~~

~~(3) assisting participants in fulfilling employer-related requirements according to section 3504 of the Internal Revenue Code and related regulations and interpretations, including Code of Federal Regulations, title 26, section 31.3504-1, which includes assistance with filing and paying payroll taxes, and obtaining worker compensation coverage;~~

~~(4)~~ (2) data recording and reporting of participant spending;

~~(5)~~ (3) other duties established in the contract with by the department, including with respect to providing assistance to the participant, participant's representative, or legal representative in performing their employer responsibilities regarding support workers. The support worker shall not be considered the employee of the FMS contractor provider; and

~~(6)~~ (4) billing, payment, and accounting of approved expenditures for goods for agency-provider participants.

(d) The FMS provider shall obtain an assurance statement from the participant employer agreeing to follow state and federal regulations and CFSS policies regarding employment of support workers.

~~(g)~~ (e) The FMS contractor provider shall:

(1) not limit or restrict the participant's choice of service or support providers or service delivery models consistent with any applicable state and federal requirements;

(2) provide the participant, consultation services provider, and the case manager or care coordinator, if applicable, with a monthly written summary of the spending for services and supports that were billed against the spending budget;

(3) be knowledgeable of state and federal employment regulations, including those under the Fair Labor Standards Act of 1938, and comply with the requirements under section 3504 of the Internal Revenue Code and related regulations and interpretations, including Code of Federal Regulations, title 26, section

31.3504-1, regarding agency employer tax liability for vendor ~~or fiscal employer~~ fiscal/employer agent, and any requirements necessary to process employer and employee deductions, provide appropriate and timely submission of employer tax liabilities, and maintain documentation to support medical assistance claims;

(4) have current and adequate liability insurance and bonding and sufficient cash flow as determined by the commissioner and have on staff or under contract a certified public accountant or an individual with a baccalaureate degree in accounting;

(5) assume fiscal accountability for state funds designated for the program and be held liable for any overpayments or violations of applicable statutes or rules, including but not limited to the Minnesota False Claims Act, chapter 15C; and

(6) maintain documentation of receipts, invoices, and bills to track all services and supports expenditures for any goods purchased and maintain time records of support workers. The documentation and time records must be maintained for a minimum of five years from the claim date and be available for audit or review upon request by the commissioner. Claims submitted by the FMS ~~contractor~~ provider to the commissioner for payment must correspond with services, amounts, and time periods as authorized in the participant's service budget and service plan and must contain specific identifying information as determined by the commissioner.

~~(h)~~ (f) The commissioner of human services shall:

(1) establish rates and payment methodology for the FMS ~~contractor~~ provider;

(2) identify a process to ensure quality and performance standards for the FMS ~~contractor~~ provider and ensure statewide access to FMS ~~contractors~~ providers; and

(3) establish a uniform protocol for delivering and administering CFSS services to be used by eligible FMS ~~contractors~~ providers.

Subd. 14. **Participant's responsibilities under budget model.** ~~(a) A participant using the budget model must use an FMS contractor or vendor that is under contract with the department. Upon a determination of eligibility and completion of the assessment and community support plan, the participant shall choose a FMS contractor from a list of eligible vendors maintained by the department. The participant or participant's representative is responsible for:~~

(1) orienting support workers to individual needs and preferences and providing direction during the delivery of services;

(2) tracking the services provided and all expenditures for goods or other supports;

(3) preparing, verifying, and submitting time sheets according to the requirements in subdivision 15;

(4) reporting any problems resulting from the failure of the CFSS service delivery plan to be implemented or the quality of services rendered by the support worker to the agency-provider, consultation services provider, FMS provider, and case manager or care coordinator if applicable;

(5) notifying the agency-provider or the FMS provider within ten days of any changes in circumstances affecting the CFSS service delivery plan, including but not limited to changes in the participant's place of residence or hospitalization; and



(6) under the agency-provider model, participating in the evaluation of CFSS services and support workers according to subdivision 11a.

(b) When the participant, participant's representative, or legal representative chooses to be the employer of the support worker, they are responsible for the hiring and supervision of the support worker, including but not limited to recruiting, interviewing, training, scheduling, and discharging the support worker consistent with federal and state laws and regulations. For a participant using the budget model, the participant or participant's representative is responsible for:

(1) using an FMS provider that is enrolled with the department. Upon a determination of eligibility and completion of the assessment and coordinated service and support plan, the participant shall choose an FMS provider from a list of eligible providers maintained by the department;

(2) complying with policies and procedures of the FMS provider as required to meet state and federal regulations for CFSS and the employment of support workers;

(3) the hiring and supervision of the support worker, including but not limited to recruiting, interviewing, training, scheduling, and discharging the support worker consistent with federal and state laws and regulations;

(4) notifying the FMS provider of any changes in the employment status of each support worker;

(5) ensuring that support workers are competent to meet the participant's assessed needs and additional requirements as written in the CFSS service delivery plan;

(6) determining the competency of the support worker through evaluation within 30 days of any support worker beginning to provide services and with any change in the participant's condition or modification to the CFSS service delivery plan;

(7) verifying and maintaining evidence of support worker competency, including documentation of the support worker's:

(i) education and experience relevant to the job responsibilities assigned to the support worker and the needs of the participant;

(ii) training received from sources other than the participant;

(iii) orientation and instruction to implement defined services and supports to meet participant needs and preferences as detailed in the CFSS service delivery plan; and

(iv) periodic written performance reviews completed by the participant at least annually based on the direct observation of the support worker's ability to perform the job functions;

(8) developing and communicating to each support worker a worker training and development plan to ensure the support worker is competent when:

(i) the support worker begins providing services;

(ii) there is any change in the participant's condition or modification to the CFSS service delivery plan; or

(iii) a performance review indicates that additional training is needed; and

(9) participating in the evaluation of CFSS services.

~~(c) In addition to the employer responsibilities in paragraph (b), the participant, participant's representative, or legal representative is responsible for:~~

~~(1) tracking the services provided and all expenditures for goods or other supports;~~

~~(2) preparing and submitting time sheets, signed by both the participant and support worker, to the FMS contractor on a regular basis and in a timely manner according to the FMS contractor's procedures;~~

~~(3) notifying the FMS contractor within ten days of any changes in circumstances affecting the CFSS service plan or in the participant's place of residence including, but not limited to, any hospitalization of the participant or change in the participant's address, telephone number, or employment;~~

~~(4) notifying the FMS contractor of any changes in the employment status of each participant support worker; and~~

~~(5) reporting any problems resulting from the quality of services rendered by the support worker to the FMS contractor. If the participant is unable to resolve any problems resulting from the quality of service rendered by the support worker with the assistance of the FMS contractor, the participant shall report the situation to the department.~~

**Subd. 15. Documentation of support services provided; time sheets.** ~~(a) Support CFSS services provided to a participant by a support worker employed by either an agency-provider or the participant acting as the employer must be documented daily by each support worker, on a time sheet form approved by the commissioner. All documentation may be Web-based, electronic, or paper documentation. The completed form must be submitted on a regular basis to the provider or the participant and the FMS contractor selected by the participant to provide assistance with meeting the participant's employer obligations and kept in the participant's record. Time sheets may be created, submitted, and maintained electronically. Time sheets must be submitted by the support worker to the:~~

~~(1) agency-provider when the participant is using the agency-provider model. The agency-provider must maintain a record of the time sheet and provide a copy of the time sheet to the participant; or~~

~~(2) participant and the participant's FMS provider when the participant is using the budget model. The participant and the FMS provider must maintain a record of the time sheet.~~

~~(b) The activity documentation on the time sheet must correspond to the written service delivery plan and be reviewed by the agency-provider or the participant and the FMS contractor when the participant is the employer of the support worker. participant's assessed needs within the scope of CFSS covered services. The accuracy of the time sheets must be verified by the:~~

~~(1) agency-provider when the participant is using the agency-provider model; or~~

~~(2) participant employer and the participant's FMS provider when the participant is using the budget model.~~

~~(c) The time sheet must be on a form approved by the commissioner documenting document the time the support worker provides services to the participant. The following eriteria elements must be included in the time sheet:~~

~~(1) the support worker's full name of the support worker and individual provider number;~~

(2) ~~agency-provider~~ the agency-provider's name and telephone numbers, if when responsible for the CFSS service delivery services under the written service plan;

(3) the participant's full name of the participant;

(4) ~~consecutive~~ the dates within the pay period established by the agency-provider or FMS provider, including month, day, and year, and arrival and departure times with a.m. or p.m. notations for days worked within the established pay period;

(5) the covered services provided to the participant on each date of service;

~~(5) signatures of~~ (6) a signature line for the participant or the participant's representative and a statement that the participant's or participant's representative's signature is verification of the time sheet's accuracy;

~~(6)~~ (7) the personal signature of the support worker;

~~(7)~~ (8) any shared care provided, if applicable;

~~(8)~~ (9) a statement that it is a federal crime to provide false information on CFSS billings for medical assistance payments; and

~~(9)~~ (10) dates and location of participant stays in a hospital, care facility, or incarceration occurring within the established pay period.

Subd. 16. **Support workers requirements.** (a) Support workers shall:

(1) enroll with the department as a support worker after a background study under chapter 245C has been completed and the support worker has received a notice from the commissioner that the support worker:

(i) ~~the support worker~~ is not disqualified under section 245C.14; or

(ii) is disqualified, but ~~the support worker~~ has received a set-aside of the disqualification under section 245C.22;

(2) have the ability to effectively communicate with the participant or the participant's representative;

(3) have the skills and ability to provide the services and supports according to the participant's CFSS service delivery plan and respond appropriately to the participant's needs;

~~(4) not be a participant of CFSS, unless the support services provided by the support worker differ from those provided to the support worker;~~

~~(5)~~ (4) complete the basic standardized CFSS training as determined by the commissioner before completing enrollment. The training must be available in languages other than English and to those who need accommodations due to disabilities. CFSS support worker training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of support workers including information about basic body mechanics, emergency preparedness, orientation to positive behavioral practices, orientation to responding to a mental health crisis, fraud issues, time cards and documentation, and an overview of person-centered planning and self-direction. Upon completion of the training components, the support worker must pass the certification test to provide assistance to participants;

- ~~(6)~~ (5) complete employer-directed training and orientation on the participant's individual needs; ~~and~~
- ~~(7)~~ (6) maintain the privacy and confidentiality of the participant; and
- (7) not independently determine the medication dose or time for medications for the participant.

(b) The commissioner may deny or terminate a support worker's provider enrollment and provider number if the support worker:

(1) ~~lacks the skills, knowledge, or ability to adequately or safely perform the required work~~ does not meet the requirements in paragraph (a);

(2) fails to provide the authorized services required by the ~~participant~~ employer;

(3) has been intoxicated by alcohol or drugs while providing authorized services to the participant or while in the participant's home;

(4) has manufactured or distributed drugs while providing authorized services to the participant or while in the participant's home; or

(5) has been excluded as a provider by the commissioner of human services, or by the United States Department of Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare, or any other federal health care program.

(c) A support worker may appeal in writing to the commissioner to contest the decision to terminate the support worker's provider enrollment and provider number.

(d) A support worker must not provide or be paid for more than 275 hours of CFSS per month, regardless of the number of participants the support worker serves or the number of agency-providers or participant employers by which the support worker is employed. The department shall not disallow the number of hours per day a support worker works unless it violates other law.

Subd. 16a. **Exception to support worker requirements for continuity of services.** The support worker for a participant may be allowed to enroll with a different CFSS agency-provider or FMS ~~contractor~~ provider upon initiation, rather than completion, of a new background study according to chapter 245C, if the following conditions are met:

(1) the commissioner determines that the support worker's change in enrollment or affiliation is needed to ensure continuity of services and protect the health and safety of the participant;

(2) the chosen agency-provider or FMS ~~contractor~~ provider has been continuously enrolled as a CFSS agency-provider or FMS ~~contractor~~ provider for at least two years or since the inception of the CFSS program, whichever is shorter;

(3) the participant served by the support worker chooses to transfer to the CFSS agency-provider or the FMS ~~contractor~~ provider to which the support worker is transferring;

(4) the support worker has been continuously enrolled with the former CFSS agency-provider or FMS ~~contractor~~ provider since the support worker's last background study was completed; and

(5) the support worker continues to meet requirements of subdivision 16, excluding paragraph (a), clause (1).

Subd. 17. **Consultation services description and duties.** ~~(a) Consultation services means providing assistance to the participant in making informed choices regarding CFSS services in general, and self-directed tasks in particular, and in developing a person-centered service delivery plan to achieve quality service outcomes.~~

~~(b) Consultation services is a required service that may include but is not limited to that includes:~~

~~(1) entering into a written agreement with the participant, participant's representative, or legal representative that includes but is not limited to the details of services, service delivery methods, dates of services, and contact information;~~

~~(1) (2) providing an initial and annual orientation to CFSS information and policies, including selecting a service model;~~

~~(3) assisting with accessing FMS providers or agency-providers;~~

~~(2) (4) providing assistance with the development, implementation, management, documentation, and evaluation of the person-centered CFSS service delivery plan;~~

~~(3) consultation on recruiting, selecting, training, managing, directing, evaluating, and supervising support workers;~~

~~(4) reviewing the use of and access to informal and community supports, goods, or resources;~~

~~(5) approving the CFSS service delivery plan for a participant without a case manager or care coordinator who is responsible for authorizing services;~~

~~(6) maintaining documentation of the approved CFSS service delivery plan;~~

~~(7) distributing copies of the final CFSS service delivery plan to the participant and to the agency-provider or FMS provider, case manager or care coordinator, and other designated parties;~~

~~(5) assistance with fulfilling (8) assisting to fulfill responsibilities and requirements of CFSS, including modifying CFSS service delivery plans and changing service models; and~~

~~(6) assistance with accessing FMS contractors or agency-providers.~~

~~(c) Duties of a consultation services provider shall include but are not limited to:~~

~~(1) review and finalization of the CFSS service delivery plan by the consultation services provider organization;~~

~~(2) distribution of copies of the final service delivery plan to the participant and to the agency-provider or FMS contractor, case manager/care coordinator, and other designated parties;~~

~~(9) if requested, providing consultation or recruiting, selecting, training, managing, directing, supervising, and evaluating support workers;~~

~~(3) an evaluation of (10) evaluating services upon receiving information from an FMS contractor provider indicating spending or participant employer concerns;~~

~~(11) reviewing the use of and access to informal and community supports, goods, or resources;~~

~~(4)~~ (12) a semiannual review of services if the participant does not have a case ~~manager/care manager~~ or care coordinator and when the support worker is a paid parent of a minor participant or the participant's spouse;

~~(5)~~ (13) collecting and reporting of data as required by the department; and

~~(6)~~ (14) providing the participant with a copy of the service-related rights participant protections under subdivision 20 at the start of consultation services;

(15) providing assistance to resolve issues of noncompliance with the requirements of CFSS;

(16) providing recommendations to the commissioner for changes to services when support to participants to resolve issues of noncompliance have been unsuccessful; and

(17) other duties as assigned by the commissioner.

Subd. 17a. **Consultation services provider qualifications and requirements.** ~~The commissioner shall develop the qualifications and requirements for providers of consultation services under subdivision 17. These~~ Consultation services providers must satisfy at least meet the following qualifications and requirements:

(1) meet the requirements under subdivision 10, paragraph (a) excluding clauses (4) and (5);

~~(+)~~ (2) are under contract with the department;

(2) ~~(3)~~ are not the FMS contractor as defined in subdivision 2, paragraph (m) provider, the lead agency, or the CFSS or home and community-based services waiver vendor or agency-provider or vendor to the participant, or a lead agency;

~~(3)~~ (4) meet the service standards as established by the commissioner;

~~(4)~~ (5) employ lead professional staff with a minimum of three years of experience in providing services such as support planning, support broker, case management or care coordination, or consultation services and consumer education to participants using a self-directed program using FMS under medical assistance;

~~(5)~~ are knowledgeable about CFSS roles and responsibilities including those of the certified assessor, FMS contractor, agency-provider, and case manager/care coordinator;

(6) comply with medical assistance provider requirements;

(7) understand the CFSS program and its policies;

(8) are knowledgeable about self-directed principles and the application of the person-centered planning process;

(9) have general knowledge of the FMS contractor provider duties and participant employment the vendor fiscal/employer agent model, including all applicable federal, state, and local laws and regulations regarding tax, labor, employment, and liability and workers' compensation coverage for household workers; and

(10) have all employees, including lead professional staff, staff in management and supervisory positions, and owners of the agency who are active in the day-to-day management and operations of the agency, complete training as specified in the contract with the department.

Subd. 18. **Service unit and budget allocation requirements and limits.** (a) For the agency-provider model, services ~~will be~~ are authorized in units of service. The total service unit amount must be established based upon the assessed need for CFSS services, and must not exceed the maximum number of units available as determined under subdivision 8.

(b) For the budget model, the service budget allocation allowed for services and supports is defined in subdivision 8, paragraph (g).

Subd. 18a. **Worker training and development services.** (a) The commissioner shall develop the scope of tasks and functions, service standards, and service limits for worker training and development services.

(b) Worker training and development ~~services costs~~ are in addition to the participant's assessed service units or service budget. Services provided according to this subdivision must:

(1) help support workers obtain and expand the skills and knowledge necessary to ensure competency in providing quality services as needed and defined in the participant's CFSS service delivery plan and as required under subdivisions 11b and 14;

(2) be provided or arranged for by the agency-provider under subdivision 11, or purchased by the participant employer under the budget model ~~under~~ as identified in subdivision 13; and

(3) be described in the participant's CFSS service delivery plan and documented in the participant's file.

(c) Services covered under worker training and development shall include:

(1) support worker training on the participant's individual assessed needs, ~~and condition, or both,~~ provided individually or in a group setting by a skilled and knowledgeable trainer beyond any training the participant or participant's representative provides;

(2) tuition for professional classes and workshops for the participant's support workers that relate to the participant's assessed needs, ~~and condition, or both;~~ and

(3) direct observation, monitoring, coaching, and documentation of support worker job skills and tasks, beyond any training the participant or participant's representative provides, including supervision of health-related tasks or behavioral supports that is conducted by an appropriate professional based on the participant's assessed needs. These services must be provided ~~within 14 days of~~ at the start of services or the start of a new support worker except as provided in paragraph (d) and must be specified in the participant's CFSS service delivery plan; and

(4) ~~reporting service and support concerns to the appropriate provider~~ the activities to evaluate CFSS services and ensure support worker competency described in subdivisions 11a and 11b.

(d) The services in paragraph (c), clause (3), are not required to be provided for a new support worker providing services for a participant due to staffing failures, unless the support worker is expected to provide ongoing backup staffing coverage.

(e) Worker training and development services shall not include:

(1) general agency training, worker orientation, or training on CFSS self-directed models;

(2) payment for preparation or development time for the trainer or presenter;

(3) payment of the support worker's salary or compensation during the training;

(4) training or supervision provided by the participant, the participant's support worker, or the participant's informal supports, including the participant's representative; or

(5) services in excess of 96 units per annual service authorization agreement, unless approved by the department.

~~Subd. 19. **Support system.** (a) The commissioner shall provide information, consultation, training, and assistance to ensure the participant is able to manage the services and supports and budgets, if applicable. This support shall include individual consultation on how to select and employ workers, manage responsibilities under CFSS, and evaluate personal outcomes.~~

~~(b) The commissioner shall provide assistance with the development of risk management agreements.~~

~~Subd. 20. **Service-related rights Participant protections.** (a) All CFSS participants have the protections identified in this subdivision.~~

~~(a) (b) Participants or participant's representatives must be provided with adequate information, counseling, training, and assistance, as needed, to ensure that the participant is able to choose and manage services, models, and budgets. This information must be provided by the consultation services provider at the time of the initial or annual orientation to CFSS, at the time of reassessment, or when requested by the participant or participant's representative. This support shall include information regarding must explain:~~

~~(1) person-centered planning;~~

~~(2) the range and scope of individual participant choices, including the differences between the agency-provider model and the budget model, available CFSS providers, and other services available in the community to meet the participant's needs;~~

~~(3) the process for changing plans, services, and budgets;~~

~~(4) the grievance process;~~

~~(5) individual rights;~~

~~(6) (4) identifying and assessing appropriate services; and~~

~~(7) (5) risks to and responsibilities; and of the participant under the budget model.~~

~~(8) risk management.~~

~~(b) (c) The commissioner consultation services provider must ensure that the participant has a copy of the most recent community support plan and service delivery plan chooses freely between the agency-provider model and the budget model and among available agency-providers and that the participant may change agency-providers after services have begun.~~

~~(e) (d) A participant who appeals a reduction in previously authorized CFSS services may continue previously authorized services pending an appeal in accordance with section 256.045.~~

~~(d) (e) If the units of service or budget allocation for CFSS are reduced, denied, or terminated, the commissioner must provide notice of the reasons for the reduction in the participant's notice of denial, termination, or reduction.~~



(e) (f) If all or part of a CFSS service delivery plan is denied approval by the consultation services provider, the commissioner consultation services provider must provide a notice that describes the basis of the denial.

Subd. 20a. **Notice of participant rights from an agency-provider.** A participant receiving CFSS from an agency-provider has the rights identified in this subdivision and in subdivisions 20b and 20c. The agency-provider must:

(1) within five working days of service initiation and annually thereafter, provide each participant or participant's representative with a written notice that identifies the service recipient rights in subdivisions 20b and 20c, and an explanation of those rights;

(2) make reasonable accommodations to provide this information in other formats or languages as needed to facilitate understanding of the rights by the participant and the participant's legal representative, if any;

(3) maintain documentation of the receipt of a copy and an explanation of the rights by the participant or participant's representative; and

(4) ensure the exercise and protection of the participant's rights in the services provided by the agency-provider and as authorized in the CFSS service delivery plan.

Subd. 20b. **Service-related rights under an agency-provider.** A participant receiving CFSS from an agency-provider has service-related rights to:

(1) participate in and approve the initial development and ongoing modification and evaluation of CFSS services provided to the participant;

(2) refuse or terminate services and be informed of the consequences of refusing or terminating services;

(3) before services are initiated, be told the limits to the services available from the agency-provider, including the agency-provider's knowledge, skill, and ability to meet the participant's needs identified in the CFSS service delivery plan;

(4) a coordinated transfer of services when there will be a change in the agency-provider;

(5) before services are initiated, be told what the agency-provider charges for the services;

(6) before services are initiated, be told to what extent payment may be expected from health insurance, public programs, or other sources, if known; and what charges the participant may be responsible for paying;

(7) receive services from an individual who is competent and trained, who has professional certification or licensure, as required, and who meets additional qualifications identified in the participant's CFSS service delivery plan;

(8) have the participant's preferences for support workers identified and documented, and have those preferences met when possible; and

(9) before services are initiated, be told the choices that are available from the agency-provider for meeting the participant's assessed needs identified in the CFSS service delivery plan, including but not

limited to which support worker staff will be providing services and the proposed frequency and schedule of visits.

Subd. 20c. **Protection-related rights under an agency-provider or through an FMS provider.** A participant receiving CFSS from an agency-provider or through an FMS provider has protection-related rights to:

(1) access records and recorded information about the participant in accordance with applicable state and federal law, regulation, or rule;

(2) know how to contact an individual associated with the agency-provider or FMS provider who is responsible for handling problems, know the agency-provider's or FMS provider's policies and procedures for resolving grievances, and have the agency-provider or FMS provider investigate and attempt to resolve the grievance or complaint;

(3) know the name, telephone number, and address of the state or county agency, the Office of the Ombudsman for Long-Term Care, and the state protection and advocacy service to contact for additional information or assistance;

(4) have personal, financial, and medical information kept private, and be advised of disclosure of this information by the agency-provider or FMS provider and the agency-provider's or FMS provider's policies and procedures regarding data privacy;

(5) be treated with courtesy and respect, and have the participant's property treated with respect;

(6) be free from maltreatment; and

(7) assert these rights personally, or have them asserted by the participant's representative or by anyone authorized by the participant to act on behalf of the participant, without retaliation.

**Subd. 21. Development and Implementation Council.** The commissioner shall establish a Development and Implementation Council of which the majority of members are ~~individuals~~ participants with disabilities, elderly ~~individuals~~ participants, and their representatives. The commissioner shall consult and collaborate with the council when developing and implementing this section for at least the first five years of operation. ~~The commissioner, in consultation with the council, shall provide recommendations on how to improve the quality and integrity of CFSS, reduce the paper documentation required in subdivisions 10, 12, and 15, make use of electronic means of documentation and online reporting in order to reduce administrative costs, and improve training to the legislative chairs of the health and human services policy and finance committees by February 1, 2014.~~

**Subd. 22. Quality assurance and risk management system.** (a) The commissioner shall establish quality assurance and risk management measures for use in developing and implementing CFSS, including those that:

(1) recognize the roles and responsibilities of those involved in obtaining CFSS; and

(2) ensure the appropriateness of such plans and budgets based upon a recipient's resources and capabilities.

Risk management measures must include background studies and backup and emergency plans, including disaster planning.

(b) The commissioner shall provide ongoing technical assistance and resource and educational materials for CFSS participants.

~~(c) The commissioner shall develop performance assessment measures, such as a participant's satisfaction with the services and supports, and ongoing monitoring of health and well-being shall be identified and data reporting requirements in consultation with the council established in subdivision 21.~~

~~(d) Data reporting requirements will be developed in consultation with the council established in subdivision 21.~~

Subd. 23. **Commissioner's access.** (a) When the commissioner is investigating a possible overpayment of Medicaid funds, the commissioner must be given immediate access without prior notice to the agency-provider, consultation services provider, or FMS contractor's provider's office during regular business hours and to documentation and records related to services provided and submission of claims for services provided. Denying the commissioner access to records is cause for immediate suspension of payment and terminating the agency-provider's enrollment or FMS provider's enrollment according to section 256B.064 or terminating the FMS contract consultation services provider contract.

(b) The commissioner has the authority to request proof of compliance with laws, rules, and policies from agency-providers, consultation services providers, FMS providers, and participants.

(c) When relevant to an investigation conducted by the commissioner, the commissioner must be given access to the business office, documents, and records of the agency-provider, consultation services provider, or FMS provider, including records maintained in electronic format; participants served by the program; and staff during regular business hours. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is investigating an alleged violation of applicable laws or rules. The commissioner may request and shall receive assistance from lead agencies and other state, county, and municipal agencies and departments. The commissioner's access includes being allowed to photocopy, photograph, and make audio and video recordings at the commissioner's expense.

Subd. 23a. **Sanctions; information for participants upon termination of services.** (a) The commissioner may withhold payment from the provider or suspend or terminate the provider enrollment number if the provider fails to comply fully with applicable laws or rules. The provider has the right to appeal the decision of the commissioner under section 256B.064.

(b) Notwithstanding subdivision 13, paragraph (c), if a participant employer fails to comply fully with applicable laws or rules, the commissioner may disenroll the participant from the budget model. A participant may appeal in writing to the department under section 256.045, subdivision 3, to contest the department's decision to disenroll the participant from the budget model.

(c) Agency-providers of CFSS services or FMS providers must provide each participant with a copy of participant protections in subdivision 20c at least 30 days prior to terminating services to a participant, if the termination results from sanctions under this subdivision or section 256B.064, such as a payment withhold or a suspension or termination of the provider enrollment number. If a CFSS agency-provider or FMS provider determines it is unable to continue providing services to a participant because of an action under this subdivision or section 256B.064, the agency-provider or FMS provider must notify the participant, the participant's representative, and the commissioner 30 days prior to terminating services to the participant, and must assist the commissioner and lead agency in supporting the participant in transitioning to another CFSS agency-provider or FMS provider of the participant's choice.

(d) In the event the commissioner withholds payment from a CFSS agency-provider or FMS provider, or suspends or terminates a provider enrollment number of a CFSS agency-provider or FMS provider under this subdivision or section 256B.064, the commissioner may inform the Office of Ombudsman for Long-Term Care and the lead agencies for all participants with active service agreements with the agency-provider or FMS provider. At the commissioner's request, the lead agencies must contact participants to ensure that the participants are continuing to receive needed care, and that the participants have been given free choice of agency-provider or FMS provider if they transfer to another CFSS agency-provider or FMS provider. In addition, the commissioner or the commissioner's delegate may directly notify participants who receive care from the agency-provider or FMS provider that payments have been withheld or that the provider's participation in medical assistance has been suspended or terminated, if the commissioner determines that the notification is necessary to protect the welfare of the participants.

Subd. 24. **CFSS agency-providers and FMS providers; background studies.** CFSS agency-providers and FMS providers enrolled to provide CFSS services under the medical assistance program shall comply with the following:

(1) owners who have a five percent interest or more and all managing employees are subject to a background study as provided in chapter 245C. This applies to currently enrolled ~~CFSS agency-providers~~ providers and those agencies seeking enrollment as a ~~CFSS agency-provider~~. "Managing employee" has the same meaning as given in Code of Federal Regulations, title 42, section 455 ~~455.101~~. An organization is barred from enrollment if:

(i) the organization has not initiated background studies on owners and managing employees; or

(ii) the organization has initiated background studies on owners and managing employees, but the commissioner has sent the organization a notice that an owner or managing employee of the organization has been disqualified under section 245C.14, and the owner or managing employee has not received a set-aside of the disqualification under section 245C.22;

(2) a background study must be initiated and completed for all staff who will have direct contact with the participant to provide worker training and development; and

(3) a background study must be initiated and completed for all support workers.

~~Subd. 25. **Commissioner recommendations required.** In consultation with the Development and Implementation Council described in subdivision 21 and other stakeholders, the commissioner shall develop recommendations for revisions to subdivisions 12, 15, and 16 that promote self-direction in the following areas:~~

~~(1) CFSS provider and support worker enrollment, qualification, and disqualification criteria;~~

~~(2) documentation requirements that are consistent with state and federal requirements; and~~

~~(3) provisions to maintain program integrity and assure fiscal accountability for goods and services purchased through CFSS.~~

~~The recommendations shall be provided to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance by November 15, 2013.~~

Subd. 26. **Oversight plan.** In consultation with the Development and Implementation Council described in subdivision 21 and other stakeholders, the commissioner shall develop recommendations for the oversight of CFSS.

**EFFECTIVE DATE.** The amendments to this section are effective upon federal approval. The service will begin 90 days after federal approval. The commissioner of human services shall notify the revisor of statutes when this occurs.

Sec. 23. Minnesota Statutes 2014, section 626.557, subdivision 9a, is amended to read:

Subd. 9a. **Evaluation and referral of reports made to common entry point unit.** (a) The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for emergency adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) the common entry point shall refer all reports of alleged or suspected maltreatment to the appropriate lead investigative agency as soon as possible, but in any event no longer than two working days; ~~and~~

(4) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman for mental health and developmental disabilities established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law; and

(5) for reports involving multiple locations or changing circumstances, the common entry point shall determine the county agency responsible for emergency adult protective services and the county responsible as the lead investigative agency, using referral guidelines established by the commissioner.

(b) If the lead investigative agency receiving a report believes the report was referred by the common entry point in error, the lead investigative agency shall immediately notify the common entry point of the error, including the basis for the lead investigative agency's belief that the referral was made in error. The common entry point shall review the information submitted by the lead investigative agency and immediately refer the report to the appropriate lead investigative agency.

Sec. 24. Minnesota Statutes 2014, section 626.557, subdivision 9b, is amended to read:

Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for emergency adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately. Each lead investigative agency shall complete the investigative process for reports within its jurisdiction. A lead investigative agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate ~~in coordinating its investigation~~ with other agencies in the provision of protective services, coordinating its investigations, and may assist assisting another agency ~~upon request~~ within the limits of its resources and expertise and shall exchange data to the extent authorized

in subdivision 12b, paragraph (g). The lead investigative agency shall obtain the results of any investigation conducted by law enforcement officials. The lead investigative agency has the right to enter facilities and inspect and copy records as part of investigations. The lead investigative agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead investigative agency shall develop guidelines for prioritizing reports for investigation.

Sec. 25. Minnesota Statutes 2014, section 626.557, subdivision 10, is amended to read:

**Subd. 10. Duties of county social service agency.** (a) ~~Upon receipt of a report from~~ When the common entry point staff refers a report to the county social service agency as the lead investigative agency or makes a referral to the county social service agency for emergency adult protective services, or when another lead investigative agency requests assistance from the county social service agency for adult protective services, the county social service agency shall immediately assess and offer emergency and continuing protective social services for purposes of preventing further maltreatment and for safeguarding the welfare of the maltreated vulnerable adult. The county shall use a standardized tool made available by the commissioner. The information entered by the county into the standardized tool must be accessible to the Department of Human Services. In cases of suspected sexual abuse, the county social service agency shall immediately arrange for and make available to the vulnerable adult appropriate medical examination and treatment. When necessary in order to protect the vulnerable adult from further harm, the county social service agency shall seek authority to remove the vulnerable adult from the situation in which the maltreatment occurred. The county social service agency may also investigate to determine whether the conditions which resulted in the reported maltreatment place other vulnerable adults in jeopardy of being maltreated and offer protective social services that are called for by its determination.

(b) County social service agencies may enter facilities and inspect and copy records as part of an investigation. The county social service agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. The inquiry is not limited to the written records of the facility, but may include every other available source of information.

(c) When necessary in order to protect a vulnerable adult from serious harm, the county social service agency shall immediately intervene on behalf of that adult to help the family, vulnerable adult, or other interested person by seeking any of the following:

(1) a restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to section 518B.01;

(2) the appointment of a guardian or conservator pursuant to sections 524.5-101 to 524.5-502, or guardianship or conservatorship pursuant to chapter 252A;

(3) replacement of a guardian or conservator suspected of maltreatment and appointment of a suitable person as guardian or conservator, pursuant to sections 524.5-101 to 524.5-502; or

(4) a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under chapter 609.

The expenses of legal intervention must be paid by the county in the case of indigent persons, under section 524.5-502 and chapter 563.

In proceedings under sections 524.5-101 to 524.5-502, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee shall present the petition with representation by the county attorney. The county shall contract with or arrange for a suitable person or organization to provide ongoing guardianship services. If the county presents evidence to the court exercising probate jurisdiction that it has made a diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator. The county shall not retaliate against the employee for any action taken on behalf of the ward or protected person even if the action is adverse to the county's interest. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and shall be entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

Sec. 26. Minnesota Statutes 2014, section 626.5572, subdivision 5, is amended to read:

Subd. 5. **Common entry point.** "Common entry point" means the entity ~~designated by each county~~ responsible for receiving reports of alleged or suspected maltreatment of a vulnerable adult under section 626.557.

Sec. 27. Minnesota Statutes 2014, section 626.5572, subdivision 6, is amended to read:

Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a ~~residential or nonresidential facility or service~~ required to be licensed ~~to serve adults~~ under sections ~~245A.01 to 245A.16~~ chapter 245A; a home care provider licensed or required to be licensed under section 144A.46; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that ~~exclusively~~ offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under ~~sections~~ section 256B.0625, subdivision 19a, sections 256B.0651 to 256B.0654, and section 256B.0659, or section 256B.85.

(b) ~~For home care providers and personal care attendants services identified in paragraph (a) that are provided in the vulnerable adult's own home or in another unlicensed location, the term "facility" refers to the provider or, person, or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's vulnerable adult's home or other location at which services are rendered.~~

Sec. 28. Minnesota Statutes 2014, section 626.5572, subdivision 21, is amended to read:

Subd. 21. **Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services ~~at or from a facility~~ required to be licensed ~~to serve adults~~ under sections ~~245A.01 to 245A.15~~ chapter 245A, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that ~~exclusively~~ offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under ~~sections~~ section 256B.0625, subdivision 19a, 256B.0651, 256B.0653, 256B.0654, and 256B.0659, or 256B.85; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect the individual's self from maltreatment.

(b) For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.

Sec. 29. Laws 2013, chapter 108, article 7, section 58, is amended to read:

**Sec. 58. NURSING HOME LEVEL OF CARE REPORT.**

(a) The commissioner of human services shall report on the impact of the modification to the nursing facility level of care to be implemented January 1, ~~2014~~ 2015, including the following:

(1) the number of individuals who lose eligibility for home and community-based services waivers under Minnesota Statutes, sections 256B.0915 and 256B.49, and alternative care under Minnesota Statutes, section 256B.0913;

(2) the number of individuals who lose eligibility for medical assistance; and

(3) for individuals reported under clauses (1) and (2), and to the extent possible:

(i) their living situation before and after nursing facility level of care implementation; and

(ii) the programs or services they received before and after nursing facility level of care implementation, including, but not limited to, personal care assistant services and essential community supports.

(b) The commissioner of human services shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance with the information required under paragraph (a). A preliminary report shall be submitted on October 1, ~~2014~~ 2015, and a final report shall be submitted February 15, ~~2015~~ 2016.

**Sec. 30. HOME AND COMMUNITY-BASED SETTINGS TRANSITION PLAN.**

Upon federal approval, the Department of Human Services must take initial steps to come into compliance with the home and community-based settings transition plan for the home and community-based services waiver authorized under Minnesota Statutes, sections 256B.0915, 256B.092, and 256B.49. By January 15, 2016, and annually thereafter during the transition period ending on or before March 17, 2019, the commissioner of human services must report on this process to the chairs and ranking minority members of the policy and finance committees in the house of representatives and the senate with jurisdiction over health and human services for seniors and people with disabilities.

**Sec. 31. REVISOR'S INSTRUCTION.**

The revisor of statutes shall change the term "community alternatives for disabled individuals" to "community access for disability inclusion" wherever it appears in Minnesota Statutes, chapters 245D and



256B, and sections 144G.05; 256N.26, subdivision 17; and 260C.4411, subdivision 2. The revisor shall also make related grammatical changes and changes in headnotes.

Sec. 32. **REPEALER.**

(a) Minnesota Statutes 2014, sections 245D.061, subdivision 3; and 256B.0911, subdivision 6a, are repealed.

(b) Minnesota Rules, parts 9555.7400; and 9555.7500, are repealed.

Presented to the governor May 20, 2015

Signed by the governor May 22, 2015, 4:04 p.m.