

**CHAPTER 7--H.F.No. 33**

*An act relating to state government; establishing a biennial budget for health and human services; modifying various provisions governing Department of Human Services health programs, the Department of Health, health-related licensing boards, prescription drugs, telehealth, economic supports, child care assistance, child protection, behavioral health, direct care and treatment, disability services, and home and community-based services; continuing Minnesota premium security plan to a certain date; making technical changes; modifying fees; establishing civil and criminal penalties; establishing task forces; requiring reports; appropriating money; amending Minnesota Statutes 2020, sections 16A.151, subdivision 2; 62J.495, subdivisions 1, 2, 4; 62J.497, subdivisions 1, 3; 62J.63, subdivisions 1, 2; 62U.04, subdivisions 4, 5; 62V.05, by adding a subdivision; 103H.201, subdivision 1; 119B.03, subdivision 6, by adding a subdivision; 119B.09, subdivision 4; 119B.11, subdivision 2a; 119B.125, subdivision 1; 119B.13, subdivisions 1, 1a, 6, 7; 119B.25; 122A.18, subdivision 8; 124D.142; 136A.128, subdivisions 2, 4; 144.0724, subdivisions 1, 2, 3a, 4, 5, 7, 8, 9, 12; 144.125, subdivision 1; 144.1501, subdivisions 1, 2, 3; 144.212, by adding a subdivision; 144.225, subdivision 2; 144.226, by adding subdivisions; 144.551, subdivision 1; 144.555; 144.9501, subdivision 17; 144.9502, subdivision 3; 144.9504, subdivisions 2, 5; 144A.073, subdivision 2, by adding a subdivision; 145.32, subdivision 1; 145.901, subdivisions 2, 4, by adding a subdivision; 147.033; 148.90, subdivision 2; 148.911; 148.995, subdivision 2; 148.996, subdivisions 2, 4, by adding a subdivision; 148B.30, subdivision 1; 148B.31; 148B.51; 148B.54, subdivision 2; 148E.010, by adding a subdivision; 148E.130, subdivision 1, by adding a subdivision; 151.066, subdivision 3; 151.37, subdivision 2; 171.07, by adding a subdivision; 245.462, subdivision 17; 245.4876, by adding a subdivision; 245.4882, subdivisions 1, 3; 245.4885, subdivision 1, as amended; 245.4889, subdivision 1; 245.4901; 245A.02, by adding a subdivision; 245A.03, subdivision 7; 245A.05; 245A.07, subdivision 1; 245A.10, subdivision 4, as amended; 245A.14, subdivision 4; 245A.16, by adding a subdivision; 245A.50, subdivisions 7, 9; 245C.02, subdivisions 4a, 5, by adding subdivisions; 245C.03; 245C.05, subdivisions 1, 2, 2a, 2b, 2c, 2d, 4, 5; 245C.08, subdivision 3, by adding a subdivision; 245C.10, subdivisions 2, 3, 4, 5, 6, 8, 9, 9a, 10, 11, 12, 13, 15, 16, by adding subdivisions; 245C.13, subdivision 2; 245C.14, subdivision 1, by adding a subdivision; 245C.15, by adding a subdivision; 245C.16, subdivisions 1, 2; 245C.17, subdivision 1, by adding a subdivision; 245C.18; 245C.24, subdivisions 2, 3, 4, by adding a subdivision; 245C.30, by adding a subdivision; 245C.32, subdivisions 1a, 2; 245E.07, subdivision 1; 245G.01, subdivisions 13, 26; 245G.06, subdivision 1; 246.54, subdivision 1b; 254A.19, subdivision 5; 254B.01, subdivision 4a, by adding a subdivision; 254B.05, subdivision 5; 254B.12, by adding a subdivision; 256.01, subdivision 28; 256.041; 256.042, subdivision 4; 256.043, subdivisions 3, 4; 256.476, subdivision 11; 256.477; 256.478; 256.479; 256B.04, subdivision 14; 256B.055, subdivision 6; 256B.056, subdivision 10; 256B.06, subdivision 4; 256B.0621, subdivision 10; 256B.0622, subdivision 7a, as amended; 256B.0624, as amended; 256B.0625, subdivisions 3b, as amended, 9, 13, 13c, 13d, 13e, 13g, 13h, 18, 20, 20b, 31, 46, 52, 58, by adding subdivisions; 256B.0631, subdivision 1; 256B.0653, by adding a subdivision; 256B.0654, by adding a subdivision; 256B.0659, subdivisions 11, 17a; 256B.0759, subdivisions 2, 4, by adding subdivisions; 256B.0911, subdivisions 1a, 3a, as amended, 3f; 256B.092, subdivisions 4, 5, 12, by adding a subdivision; 256B.0924, subdivision 6; 256B.094, subdivision 6; 256B.0943, subdivision 1, as amended; 256B.0946, subdivisions 1, as amended, 4, as amended; 256B.0947, subdivisions 2, as amended, 3, as amended, 5, as amended; 256B.0949, subdivision 13, by adding a subdivision; 256B.097, by adding subdivisions; 256B.439, by adding subdivisions; 256B.49, subdivisions 11, 11a, 14, 17, by adding subdivisions; 256B.4905, by adding subdivisions; 256B.4914, subdivisions 5, 6; 256B.5012,*

*by adding a subdivision; 256B.5013, subdivisions 1, 6; 256B.5015, subdivision 2; 256B.69, subdivision 5a, as amended, by adding subdivisions; 256B.75; 256B.76, subdivisions 2, 4; 256B.79, subdivisions 1, 3; 256B.85, subdivisions 2, as amended, 7a, 11, as amended, 14, 16, by adding a subdivision; 256D.051, by adding subdivisions; 256E.30, subdivision 2; 256I.05, subdivision 1c, by adding a subdivision; 256I.06, subdivision 8; 256J.08, subdivisions 15, 53; 256J.10; 256J.21, subdivisions 3, 5; 256J.24, subdivision 5; 256J.33, subdivisions 1, 4; 256J.37, subdivisions 1, 1b; 256J.95, subdivision 9; 256L.07, subdivision 2; 256L.11, subdivisions 6a, 7; 256L.15, subdivision 2; 256N.25, subdivisions 2, 3; 256N.26, subdivisions 11, 13; 256P.01, subdivision 3; 256P.02, subdivisions 1a, 2; 256P.04, subdivisions 4, 8; 256P.05; 256P.06, subdivisions 2, 3; 256S.05, subdivision 2; 256S.18, subdivision 7; 256S.20, subdivision 1; 256S.203; 256S.21; 256S.2101; 257.0755, subdivision 1; 257.076, subdivisions 3, 5; 257.0768, subdivisions 1, 6; 257.0769; 260C.163, subdivision 3; 260C.215, subdivision 4; Laws 2017, chapter 13, article 1, section 15, as amended; Laws 2019, First Special Session chapter 9, article 14, section 3, as amended; Laws 2020, First Special Session chapter 7, section 1, subdivisions 1, 2, as amended, 3, 5, as amended; Laws 2021, chapter 30, article 12, section 5; proposing coding for new law in Minnesota Statutes, chapters 3; 62A; 119B; 144; 148; 151; 245; 245C; 245G; 254B; 256; 256B; 256S; 260E; 325F; repealing Minnesota Statutes 2020, sections 16A.724, subdivision 2; 62A.67; 62A.671; 62A.672; 62J.63, subdivision 3; 119B.125, subdivision 5; 144.0721, subdivision 1; 144.0722; 144.0724, subdivision 10; 144.693; 245.4871, subdivision 32a; 256B.0596; 256B.0916, subdivisions 2, 3, 4, 5, 8, 11, 12; 256B.0924, subdivision 4a; 256B.097, subdivisions 1, 2, 3, 4, 5, 6; 256B.49, subdivisions 26, 27; 256B.4905, subdivisions 1, 2, 3, 4, 5, 6; 256D.051, subdivisions 1, 1a, 2, 2a, 3, 3a, 3b, 6b, 6c, 7, 8, 9, 18; 256D.052, subdivision 3; 256J.21, subdivisions 1, 2; 256S.20, subdivision 2; 259A.70; Laws 2019, First Special Session chapter 9, article 5, section 90; Laws 2020, First Special Session chapter 7, section 1, subdivision 2, as amended; Laws 2021, chapter 30, article 17, section 71; Minnesota Rules, parts 9505.0275; 9505.1693; 9505.1696, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22; 9505.1699; 9505.1701; 9505.1703; 9505.1706; 9505.1712; 9505.1715; 9505.1718; 9505.1724; 9505.1727; 9505.1730; 9505.1733; 9505.1736; 9505.1739; 9505.1742; 9505.1745; 9505.1748.*

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

## ARTICLE 1

### DEPARTMENT OF HUMAN SERVICES HEALTH CARE PROGRAMS

Section 1. Minnesota Statutes 2020, section 256.01, subdivision 28, is amended to read:

Subd. 28. **Statewide health information exchange.** (a) The commissioner has the authority to join and participate as a member in a legal entity developing and operating a statewide health information exchange or to develop and operate an encounter alerting service that shall meet the following criteria:

(1) the legal entity must meet all constitutional and statutory requirements to allow the commissioner to participate; and

(2) the commissioner or the commissioner's designated representative must have the right to participate in the governance of the legal entity under the same terms and conditions and subject to the same requirements as any other member in the legal entity and in that role shall act to advance state interests and lessen the burdens of government.

(b) Notwithstanding chapter 16C, the commissioner may pay the state's prorated share of development-related expenses of the legal entity retroactively from October 29, 2007, regardless of the date the commissioner joins the legal entity as a member.

**Sec. 2. [256B.0371] PERFORMANCE BENCHMARKS FOR DENTAL ACCESS; CONTINGENT DENTAL ADMINISTRATOR.**

Subdivision 1. **Benchmark for dental access.** For coverage years 2022 to 2024, the commissioner shall establish a performance benchmark under which at least 55 percent of children and adults who were continuously enrolled for at least 11 months in either medical assistance or MinnesotaCare through a managed care or county-based purchasing plan received at least one dental visit during the coverage year.

Subd. 2. **Corrective action plan.** For coverage years 2022 to 2024, if a managed care or county-based purchasing plan under contract with the commissioner to provide dental services under this chapter or chapter 256L has a rate of dental utilization that is ten percent or more below the performance benchmark specified in subdivision 1, the commissioner shall require the managed care or county-based purchasing plan to submit a corrective action plan to the commissioner describing how the entity intends to increase dental utilization to meet the performance benchmark. The managed care or county-based purchasing plan must:

- (1) provide a written corrective action plan to the commissioner for approval;
- (2) implement the plan; and
- (3) provide the commissioner with documentation of each corrective action taken.

Subd. 3. **Contingent contract with dental administrator.** (a) The commissioner shall determine the extent to which managed care and county-based purchasing plans in the aggregate meet the performance benchmark specified in subdivision 1 for coverage year 2024. If managed care and county-based purchasing plans in the aggregate fail to meet the performance benchmark, the commissioner, after issuing a request for information followed by a request for proposals, shall contract with a dental administrator to administer dental services beginning January 1, 2026, for all recipients of medical assistance and MinnesotaCare, including persons served under fee-for-service and persons receiving services through managed care and county-based purchasing plans.

(b) The dental administrator must provide administrative services, including but not limited to:

- (1) provider recruitment, contracting, and assistance;
- (2) recipient outreach and assistance;
- (3) utilization management and reviews of medical necessity for dental services;
- (4) dental claims processing;
- (5) coordination of dental care with other services;
- (6) management of fraud and abuse;
- (7) monitoring access to dental services;
- (8) performance measurement;
- (9) quality improvement and evaluation; and

(10) management of third-party liability requirements.

(c) Dental administrator payments to contracted dental providers must be at the rates established under sections 256B.76 and 256L.11.

(d) Recipients must be given a choice of dental provider, including any provider who agrees to provider participation requirements and payment rates established by the commissioner and dental administrator. The dental administrator must comply with the network adequacy and geographic access requirements that apply to managed care and county-based purchasing plans for dental services under section 62K.14.

(e) The contract with the dental administrator must include a provision that states that if the dental administrator fails to meet, by calendar year 2029, a performance benchmark under which at least 55 percent of children and adults who were continuously enrolled for at least 11 months in either medical assistance or MinnesotaCare received at least one dental visit during the calendar year, the contract must be terminated and the commissioner must enter into a contract with a new dental administrator as soon as practicable.

(f) The commissioner shall implement this subdivision in consultation with representatives of providers who provide dental services to patients enrolled in medical assistance or MinnesotaCare, including but not limited to providers serving primarily low-income and socioeconomically complex populations, and with representatives of managed care plans and county-based purchasing plans.

**Subd. 4. Dental utilization report.** (a) The commissioner shall submit an annual report beginning March 15, 2022, and ending March 15, 2026, to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance that includes the percentage for adults and children one through 20 years of age for the most recent complete calendar year receiving at least one dental visit for both fee-for-service and the prepaid medical assistance program. The report must include:

(1) statewide utilization for both fee-for-service and for the prepaid medical assistance program;

(2) utilization by county;

(3) utilization by children receiving dental services through fee-for-service and through a managed care plan or county-based purchasing plan;

(4) utilization by adults receiving dental services through fee-for-service and through a managed care plan or county-based purchasing plan.

(b) The report must also include a description of any corrective action plans required to be submitted under subdivision 2.

(c) The initial report due on March 15, 2022, must include the utilization metrics described in paragraph (a) for each of the following calendar years: 2017, 2018, 2019, and 2020.

Sec. 3. Minnesota Statutes 2020, section 256B.04, subdivision 14, is amended to read:

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

(1) eyeglasses;

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

(3) hearing aids and supplies; ~~and~~

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

(i) hospital beds;

(ii) commodes;

(iii) glide-about chairs;

(iv) patient lift apparatus;

(v) wheelchairs and accessories;

(vi) oxygen administration equipment;

(vii) respiratory therapy equipment;

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

(ix) allergen-reducing products as described in section 256B.0625, subdivision 67, paragraph (c) or (d);

(5) nonemergency medical transportation level of need determinations, disbursement of public transportation passes and tokens, and volunteer and recipient mileage and parking reimbursements; and

(6) drugs.

(b) Rate changes and recipient cost-sharing under this chapter and chapter 256L do not affect contract payments under this subdivision unless specifically identified.

(c) The commissioner may not utilize volume purchase through competitive bidding and negotiation under the provisions of chapter 16C for special transportation services or incontinence products and related supplies.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later.

Sec. 4. Minnesota Statutes 2020, section 256B.055, subdivision 6, is amended to read:

Subd. 6. **Pregnant women; needy unborn child.** Medical assistance may be paid for a pregnant woman who meets the other eligibility criteria of this section and whose unborn child would be eligible as a needy child under subdivision 10 if born and living with the woman. In accordance with Code of Federal Regulations, title 42, section 435.956, the commissioner must accept self-attestation of pregnancy unless the agency has information that is not reasonably compatible with such attestation. For purposes of this subdivision, a woman is considered pregnant for ~~60 days~~ 12 months postpartum.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval has been obtained.

Sec. 5. Minnesota Statutes 2020, section 256B.056, subdivision 10, is amended to read:

Subd. 10. **Eligibility verification.** (a) The commissioner shall require women who are applying for the continuation of medical assistance coverage following the end of the ~~60-day~~ 12-month postpartum period to update their income and asset information and to submit any required income or asset verification.

(b) The commissioner shall determine the eligibility of private-sector health care coverage for infants less than one year of age eligible under section 256B.055, subdivision 10, or 256B.057, subdivision 1, paragraph (c), and shall pay for private-sector coverage if this is determined to be cost-effective.

(c) The commissioner shall verify assets and income for all applicants, and for all recipients upon renewal.

(d) The commissioner shall utilize information obtained through the electronic service established by the secretary of the United States Department of Health and Human Services and other available electronic data sources in Code of Federal Regulations, title 42, sections 435.940 to 435.956, to verify eligibility requirements. The commissioner shall establish standards to define when information obtained electronically is reasonably compatible with information provided by applicants and enrollees, including use of self-attestation, to accomplish real-time eligibility determinations and maintain program integrity.

(e) Each person applying for or receiving medical assistance under section 256B.055, subdivision 7, and any other person whose resources are required by law to be disclosed to determine the applicant's or recipient's eligibility must authorize the commissioner to obtain information from financial institutions to identify unreported accounts as required in section 256.01, subdivision 18f. If a person refuses or revokes the authorization, the commissioner may determine that the applicant or recipient is ineligible for medical assistance. For purposes of this paragraph, an authorization to identify unreported accounts meets the requirements of the Right to Financial Privacy Act, United States Code, title 12, chapter 35, and need not be furnished to the financial institution.

(f) County and tribal agencies shall comply with the standards established by the commissioner for appropriate use of the asset verification system specified in section 256.01, subdivision 18f.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval has been obtained.

Sec. 6. Minnesota Statutes 2020, section 256B.06, subdivision 4, is amended to read:

Subd. 4. **Citizenship requirements.** (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States. Citizens or nationals of the United States must cooperate in obtaining satisfactory documentary evidence of citizenship or nationality according to the requirements of the federal Deficit Reduction Act of 2005, Public Law 109-171.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

- (1) admitted for lawful permanent residence according to United States Code, title 8;
- (2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;
- (3) granted asylum according to United States Code, title 8, section 1158;
- (4) granted withholding of deportation according to United States Code, title 8, section 1253(h);
- (5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation.

(d) Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(1) refugees admitted to the United States according to United States Code, title 8, section 1157;

(2) persons granted asylum according to United States Code, title 8, section 1158;

(3) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);

(4) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(5) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

Beginning July 1, 2010, children and pregnant women who are noncitizens described in paragraph (b) or who are lawfully present in the United States as defined in Code of Federal Regulations, title 8, section 103.12, and who otherwise meet eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation as provided by the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3.

(e) Nonimmigrants who otherwise meet the eligibility requirements of this chapter are eligible for the benefits as provided in paragraphs (f) to (h). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(f) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of this chapter, if such care and services are necessary for the treatment of an emergency medical condition.

(g) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(h)(1) Notwithstanding paragraph (g), services that are necessary for the treatment of an emergency medical condition are limited to the following:

(i) services delivered in an emergency room or by an ambulance service licensed under chapter 144E that are directly related to the treatment of an emergency medical condition;

(ii) services delivered in an inpatient hospital setting following admission from an emergency room or clinic for an acute emergency condition; and

(iii) follow-up services that are directly related to the original service provided to treat the emergency medical condition and are covered by the global payment made to the provider.

(2) Services for the treatment of emergency medical conditions do not include:

(i) services delivered in an emergency room or inpatient setting to treat a nonemergency condition;

(ii) organ transplants, stem cell transplants, and related care;

(iii) services for routine prenatal care;

(iv) continuing care, including long-term care, nursing facility services, home health care, adult day care, day training, or supportive living services;

(v) elective surgery;

(vi) outpatient prescription drugs, unless the drugs are administered or dispensed as part of an emergency room visit;

(vii) preventative health care and family planning services;

(viii) rehabilitation services;

(ix) physical, occupational, or speech therapy;

(x) transportation services;

(xi) case management;

(xii) prosthetics, orthotics, durable medical equipment, or medical supplies;

(xiii) dental services;

(xiv) hospice care;

(xv) audiology services and hearing aids;

(xvi) podiatry services;

(xvii) chiropractic services;

(xviii) immunizations;

(xix) vision services and eyeglasses;

(xx) waiver services;

(xxi) individualized education programs; or

(xxii) chemical dependency treatment.



(i) Pregnant noncitizens who are ineligible for federally funded medical assistance because of immigration status, are not covered by a group health plan or health insurance coverage according to Code of Federal Regulations, title 42, section 457.310, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance through the period of pregnancy, including labor and delivery, and ~~60 days~~ 12 months postpartum, ~~to the extent federal funds are available under title XXI of the Social Security Act, and the state children's health insurance program.~~

(j) Beginning October 1, 2003, persons who are receiving care and rehabilitation services from a nonprofit center established to serve victims of torture and are otherwise ineligible for medical assistance under this chapter are eligible for medical assistance without federal financial participation. These individuals are eligible only for the period during which they are receiving services from the center. Individuals eligible under this paragraph shall not be required to participate in prepaid medical assistance. The nonprofit center referenced under this paragraph may establish itself as a provider of mental health targeted case management services through a county contract under section 256.0112, subdivision 6. If the nonprofit center is unable to secure a contract with a lead county in its service area, then, notwithstanding the requirements of section 256B.0625, subdivision 20, the commissioner may negotiate a contract with the nonprofit center for provision of mental health targeted case management services. When serving clients who are not the financial responsibility of their contracted lead county, the nonprofit center must gain the concurrence of the county of financial responsibility prior to providing mental health targeted case management services for those clients.

(k) Notwithstanding paragraph (h), clause (2), the following services are covered as emergency medical conditions under paragraph (f) except where coverage is prohibited under federal law for services under clauses (1) and (2):

(1) dialysis services provided in a hospital or freestanding dialysis facility;

(2) surgery and the administration of chemotherapy, radiation, and related services necessary to treat cancer if the recipient has a cancer diagnosis that is not in remission and requires surgery, chemotherapy, or radiation treatment; and

(3) kidney transplant if the person has been diagnosed with end stage renal disease, is currently receiving dialysis services, and is a potential candidate for a kidney transplant.

(l) Effective July 1, 2013, recipients of emergency medical assistance under this subdivision are eligible for coverage of the elderly waiver services provided under chapter 256S, and coverage of rehabilitative services provided in a nursing facility. The age limit for elderly waiver services does not apply. In order to qualify for coverage, a recipient of emergency medical assistance is subject to the assessment and reassessment requirements of section 256B.0911. Initial and continued enrollment under this paragraph is subject to the limits of available funding.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. If federal approval is not obtained, this section is effective on the effective date of the amendment to Minnesota Statutes, section 256B.055, subdivision 6, and shall be funded using only state funds. The commissioner shall notify the revisor of statutes when federal approval has been obtained.

Sec. 7. Minnesota Statutes 2020, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. **Dental services.** (a) Medical assistance covers dental services.

(b) Medical assistance dental coverage for nonpregnant adults is limited to the following services:

- (1) comprehensive exams, limited to once every five years;
- (2) periodic exams, limited to one per year;
- (3) limited exams;
- (4) bitewing x-rays, limited to one per year;
- (5) periapical x-rays;
- (6) panoramic x-rays, limited to one every five years except (1) when medically necessary for the diagnosis and follow-up of oral and maxillofacial pathology and trauma or (2) once every two years for patients who cannot cooperate for intraoral film due to a developmental disability or medical condition that does not allow for intraoral film placement;
- (7) prophylaxis, limited to one per year;
- (8) application of fluoride varnish, limited to one per year;
- (9) posterior fillings, all at the amalgam rate;
- (10) anterior fillings;
- (11) endodontics, limited to root canals on the anterior and premolars only;
- (12) removable prostheses, each dental arch limited to one every six years;
- (13) oral surgery, limited to extractions, biopsies, and incision and drainage of abscesses;
- (14) palliative treatment and sedative fillings for relief of pain; ~~and~~
- (15) full-mouth debridement, limited to one every five years; and
- (16) nonsurgical treatment for periodontal disease, including scaling and root planing once every two years for each quadrant, and routine periodontal maintenance procedures.

(c) In addition to the services specified in paragraph (b), medical assistance covers the following services for adults, if provided in an outpatient hospital setting or freestanding ambulatory surgical center as part of outpatient dental surgery:

- (1) periodontics, limited to periodontal scaling and root planing once every two years;
- (2) general anesthesia; and
- (3) full-mouth survey once every five years.

(d) Medical assistance covers medically necessary dental services for children and pregnant women. The following guidelines apply:

- (1) posterior fillings are paid at the amalgam rate;
- (2) application of sealants are covered once every five years per permanent molar for children only;
- (3) application of fluoride varnish is covered once every six months; and
- (4) orthodontia is eligible for coverage for children only.

(e) In addition to the services specified in paragraphs (b) and (c), medical assistance covers the following services for adults:

- (1) house calls or extended care facility calls for on-site delivery of covered services;
- (2) behavioral management when additional staff time is required to accommodate behavioral challenges and sedation is not used;
- (3) oral or IV sedation, if the covered dental service cannot be performed safely without it or would otherwise require the service to be performed under general anesthesia in a hospital or surgical center; and
- (4) prophylaxis, in accordance with an appropriate individualized treatment plan, but no more than four times per year.

(f) The commissioner shall not require prior authorization for the services included in paragraph (e), clauses (1) to (3), and shall prohibit managed care and county-based purchasing plans from requiring prior authorization for the services included in paragraph (e), clauses (1) to (3), when provided under sections 256B.69, 256B.692, and 256L.12.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later.

Sec. 8. Minnesota Statutes 2020, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. **Drugs.** (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician, a physician assistant, or an advanced practice registered nurse employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control.

(b) The dispensed quantity of a prescription drug must not exceed a 34-day supply, unless authorized by the commissioner; or the drug appears on the 90-day supply list published by the commissioner. The 90-day supply list shall be published by the commissioner on the department's website. The commissioner may add to, delete from, and otherwise modify the 90-day supply list after providing public notice and the opportunity for a 15-day public comment period. The 90-day supply list may include cost-effective generic drugs and shall not include controlled substances.

(c) For the purpose of this subdivision and subdivision 13d, an "active pharmaceutical ingredient" is defined as a substance that is represented for use in a drug and when used in the manufacturing, processing, or packaging of a drug becomes an active ingredient of the drug product. An "excipient" is defined as an inert substance used as a diluent or vehicle for a drug. The commissioner shall establish a list of active pharmaceutical ingredients and excipients which are included in the medical assistance formulary. Medical assistance covers selected active pharmaceutical ingredients and excipients used in compounded prescriptions when the compounded combination is specifically approved by the commissioner or when a commercially available product:

- (1) is not a therapeutic option for the patient;
- (2) does not exist in the same combination of active ingredients in the same strengths as the compounded prescription; and
- (3) cannot be used in place of the active pharmaceutical ingredient in the compounded prescription.

(d) Medical assistance covers the following over-the-counter drugs when prescribed by a licensed practitioner or by a licensed pharmacist who meets standards established by the commissioner, in consultation with the board of pharmacy: antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the Formulary Committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions, or disorders, and this determination shall not be subject to the requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as provided under this paragraph for purposes of receiving reimbursement under Medicaid. When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must consult with the recipient to determine necessity, provide drug counseling, review drug therapy for potential adverse interactions, and make referrals as needed to other health care professionals.

(e) Effective January 1, 2006, medical assistance shall not cover drugs that are coverable under Medicare Part D as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e), for individuals eligible for drug coverage as defined in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-1(a)(3)(A). For these individuals, medical assistance may cover drugs from the drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to this subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code, title 42, section 1396r-8(d)(2)(E), shall not be covered.

(f) Medical assistance covers drugs acquired through the federal 340B Drug Pricing Program and dispensed by 340B covered entities and ambulatory pharmacies under common ownership of the 340B covered entity. Medical assistance does not cover drugs acquired through the federal 340B Drug Pricing Program and dispensed by 340B contract pharmacies.

(g) Notwithstanding paragraph (a), medical assistance covers self-administered hormonal contraceptives prescribed and dispensed by a licensed pharmacist in accordance with section 151.37, subdivision 14; nicotine replacement medications prescribed and dispensed by a licensed pharmacist in accordance with section 151.37, subdivision 15; and opiate antagonists used for the treatment of an acute opiate overdose prescribed and dispensed by a licensed pharmacist in accordance with section 151.37, subdivision 16.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 9. Minnesota Statutes 2020, section 256B.0625, subdivision 13c, is amended to read:

Subd. 13c. **Formulary Committee.** The commissioner, after receiving recommendations from professional medical associations and professional pharmacy associations, and consumer groups shall designate a Formulary Committee to carry out duties as described in subdivisions 13 to 13g. The Formulary Committee shall be comprised of four licensed physicians actively engaged in the practice of medicine in Minnesota, one of whom must be actively engaged in the treatment of persons with mental illness; at least three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; and one consumer representative; the remainder to be made up of health care professionals who are licensed in their field and have recognized knowledge in the clinically appropriate prescribing, dispensing, and monitoring of covered outpatient drugs. Members of the Formulary Committee shall not be employed by the Department of Human Services, but the committee shall be staffed by an employee of the department who shall serve as an ex officio, nonvoting member of the committee. The department's medical director shall also serve as an ex officio, nonvoting member for the committee. Committee members shall serve three-year terms and may be reappointed by the commissioner. The Formulary Committee shall meet at least twice per year. The commissioner may require more frequent Formulary Committee meetings as needed. An honorarium of

\$100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance. The Formulary Committee expires June 30, ~~2022~~ 2023.

Sec. 10. Minnesota Statutes 2020, section 256B.0625, subdivision 13d, is amended to read:

Subd. 13d. **Drug formulary.** (a) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the Formulary Committee shall review and comment on the formulary contents.

(b) The formulary shall not include:

- (1) drugs, active pharmaceutical ingredients, or products for which there is no federal funding;
- (2) over-the-counter drugs, except as provided in subdivision 13;
- ~~(3) drugs or active pharmaceutical ingredients used for weight loss, except that medically necessary lipase inhibitors may be covered for a recipient with type II diabetes;~~
- ~~(4)~~ (3) drugs or active pharmaceutical ingredients when used for the treatment of impotence or erectile dysfunction;
- ~~(5)~~ (4) drugs or active pharmaceutical ingredients for which medical value has not been established;
- ~~(6)~~ (5) drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act; and
- ~~(7)~~ (6) medical cannabis as defined in section 152.22, subdivision 6.

(c) If a single-source drug used by at least two percent of the fee-for-service medical assistance recipients is removed from the formulary due to the failure of the manufacturer to sign a rebate agreement with the Department of Health and Human Services, the commissioner shall notify prescribing practitioners within 30 days of receiving notification from the Centers for Medicare and Medicaid Services (CMS) that a rebate agreement was not signed.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. Minnesota Statutes 2020, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. **Payment rates.** (a) The basis for determining the amount of payment shall be the lower of the ingredient costs of the drugs plus the professional dispensing fee; or the usual and customary price charged to the public. The usual and customary price means the lowest price charged by the provider to a patient who pays for the prescription by cash, check, or charge account and includes prices the pharmacy charges to a patient enrolled in a prescription savings club or prescription discount club administered by the pharmacy or pharmacy chain. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any third-party provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The professional dispensing fee shall be ~~\$10.48~~ \$10.77 for prescriptions filled with legend drugs meeting the definition of "covered outpatient drugs" according to United States Code, title 42, section 1396r-8(k)(2). The dispensing fee for intravenous solutions that must be compounded by the pharmacist shall be ~~\$10.48~~ \$10.77 per ~~bag~~ claim. The professional dispensing fee for prescriptions filled with over-the-counter drugs meeting the definition of covered outpatient drugs shall be ~~\$10.48~~ \$10.77 for dispensed

quantities equal to or greater than the number of units contained in the manufacturer's original package. The professional dispensing fee shall be prorated based on the percentage of the package dispensed when the pharmacy dispenses a quantity less than the number of units contained in the manufacturer's original package. The pharmacy dispensing fee for prescribed over-the-counter drugs not meeting the definition of covered outpatient drugs shall be \$3.65 for quantities equal to or greater than the number of units contained in the manufacturer's original package and shall be prorated based on the percentage of the package dispensed when the pharmacy dispenses a quantity less than the number of units contained in the manufacturer's original package. The National Average Drug Acquisition Cost (NADAC) shall be used to determine the ingredient cost of a drug. For drugs for which a NADAC is not reported, the commissioner shall estimate the ingredient cost at the wholesale acquisition cost minus two percent. The ingredient cost of a drug for a provider participating in the federal 340B Drug Pricing Program shall be either the 340B Drug Pricing Program ceiling price established by the Health Resources and Services Administration or NADAC, whichever is lower. Wholesale acquisition cost is defined as the manufacturer's list price for a drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which information is available, as reported in wholesale price guides or other publications of drug or biological pricing data. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to the actual acquisition cost of the drug product and no higher than the NADAC of the generic product. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) Pharmacies dispensing prescriptions to residents of long-term care facilities using an automated drug distribution system meeting the requirements of section 151.58, or a packaging system meeting the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse, may employ retrospective billing for prescription drugs dispensed to long-term care facility residents. A retrospectively billing pharmacy must submit a claim only for the quantity of medication used by the enrolled recipient during the defined billing period. A retrospectively billing pharmacy must use a billing period not less than one calendar month or 30 days.

(c) A pharmacy provider using packaging that meets the standards set forth in Minnesota Rules, part 6800.2700, is required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse, unless the pharmacy is using retrospective billing. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(d) If a pharmacy dispenses a multisource drug, the ingredient cost shall be the NADAC of the generic product or the maximum allowable cost established by the commissioner unless prior authorization for the brand name product has been granted according to the criteria established by the Drug Formulary Committee as required by subdivision 13f, paragraph (a), and the prescriber has indicated "dispense as written" on the prescription in a manner consistent with section 151.21, subdivision 2.

(e) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider, 106 percent of the average sales price as determined by the United States Department of Health and Human Services pursuant to title XVIII, section 1847a of the federal Social Security Act, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. If average sales price is unavailable, the amount of payment must be lower of the usual and customary cost submitted by the provider, the wholesale acquisition cost, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. The commissioner shall discount the payment rate for drugs obtained through the federal 340B Drug Pricing Program by 28.6 percent. The payment for drugs administered in an outpatient setting shall be made to the administering facility or

practitioner. A retail or specialty pharmacy dispensing a drug for administration in an outpatient setting is not eligible for direct reimbursement.

(f) The commissioner may establish maximum allowable cost rates for specialty pharmacy products that are lower than the ingredient cost formulas specified in paragraph (a). The commissioner may require individuals enrolled in the health care programs administered by the department to obtain specialty pharmacy products from providers with whom the commissioner has negotiated lower reimbursement rates. Specialty pharmacy products are defined as those used by a small number of recipients or recipients with complex and chronic diseases that require expensive and challenging drug regimens. Examples of these conditions include, but are not limited to: multiple sclerosis, HIV/AIDS, transplantation, hepatitis C, growth hormone deficiency, Crohn's Disease, rheumatoid arthritis, and certain forms of cancer. Specialty pharmaceutical products include injectable and infusion therapies, biotechnology drugs, antihemophilic factor products, high-cost therapies, and therapies that require complex care. The commissioner shall consult with the Formulary Committee to develop a list of specialty pharmacy products subject to maximum allowable cost reimbursement. In consulting with the Formulary Committee in developing this list, the commissioner shall take into consideration the population served by specialty pharmacy products, the current delivery system and standard of care in the state, and access to care issues. The commissioner shall have the discretion to adjust the maximum allowable cost to prevent access to care issues.

(g) Home infusion therapy services provided by home infusion therapy pharmacies must be paid at rates according to subdivision 8d.

(h) The commissioner shall contract with a vendor to conduct a cost of dispensing survey for all pharmacies that are physically located in the state of Minnesota that dispense outpatient drugs under medical assistance. The commissioner shall ensure that the vendor has prior experience in conducting cost of dispensing surveys. Each pharmacy enrolled with the department to dispense outpatient prescription drugs to fee-for-service members must respond to the cost of dispensing survey. The commissioner may sanction a pharmacy under section 256B.064 for failure to respond. The commissioner shall require the vendor to measure a single statewide cost of dispensing for specialty prescription drugs and a single statewide cost of dispensing for nonspecialty prescription drugs for all responding pharmacies to measure the mean, mean weighted by total prescription volume, mean weighted by medical assistance prescription volume, median, median weighted by total prescription volume, and median weighted by total medical assistance prescription volume. The commissioner shall post a copy of the final cost of dispensing survey report on the department's website. The initial survey must be completed no later than January 1, 2021, and repeated every three years. The commissioner shall provide a summary of the results of each cost of dispensing survey and provide recommendations for any changes to the dispensing fee to the chairs and ranking members of the legislative committees with jurisdiction over medical assistance pharmacy reimbursement.

(i) The commissioner shall increase the ingredient cost reimbursement calculated in paragraphs (a) and (f) by 1.8 percent for prescription and nonprescription drugs subject to the wholesale drug distributor tax under section 295.52.

**EFFECTIVE DATE.** This section is effective January 1, 2022, except the amendment to paragraph (h) is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2020, section 256B.0625, subdivision 13g, is amended to read:

Subd. 13g. **Preferred drug list.** (a) The commissioner shall adopt and implement a preferred drug list by January 1, 2004. The commissioner may enter into a contract with a vendor for the purpose of participating in a preferred drug list and supplemental rebate program. The commissioner shall ensure that any contract

meets all federal requirements and maximizes federal financial participation. The commissioner shall publish the preferred drug list annually in the State Register and shall maintain an accurate and up-to-date list on the agency website.

(b) The commissioner may add to, delete from, and otherwise modify the preferred drug list, after consulting with the Formulary Committee and appropriate medical specialists and providing public notice and the opportunity for public comment.

(c) The commissioner shall adopt and administer the preferred drug list as part of the administration of the supplemental drug rebate program. Reimbursement for prescription drugs not on the preferred drug list may be subject to prior authorization.

(d) For purposes of this subdivision, "preferred drug list" means a list of prescription drugs within designated therapeutic classes selected by the commissioner, for which prior authorization based on the identity of the drug or class is not required.

(e) The commissioner shall seek any federal waivers or approvals necessary to implement this subdivision.

(f) Notwithstanding paragraph (b), before the commissioner may delete a drug from the preferred drug list or modify the inclusion of a drug on the preferred drug list, the commissioner shall consider any implications that the deletion or modification may have on state public health policies or initiatives and any impact that the deletion or modification may have on increasing health disparities in the state. Prior to deleting a drug or modifying the inclusion of a drug, the commissioner shall also conduct a public hearing. The commissioner shall provide adequate notice to the public and the commissioner of health prior to the hearing that specifies the drug that the commissioner is proposing to delete or modify, any public medical or clinical analysis that the commissioner has relied on in proposing the deletion or modification, and evidence that the commissioner has evaluated the impact of the proposed deletion or modification on public health and health disparities.

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

Sec. 13. Minnesota Statutes 2020, section 256B.0625, subdivision 18, is amended to read:

Subd. 18. **Bus Public transit or taxicab transportation.** (a) To the extent authorized by rule of the state agency, medical assistance covers the most appropriate and cost-effective form of transportation incurred by any ambulatory eligible person for obtaining nonemergency medical care.

(b) The commissioner may provide a monthly public transit pass to recipients who are well-served by public transit for the recipient's nonemergency medical transportation needs. Any recipient who is eligible for one public transit trip for a medically necessary covered service may select to receive a transit pass for that month. Recipients who do not have any transportation needs for a medically necessary service in any given month or who have received a transit pass for that month through another program administered by a county or Tribe are not eligible for a transit pass that month. The commissioner shall not require recipients to select a monthly transit pass if the recipient's transportation needs cannot be served by public transit systems. Recipients who receive a monthly transit pass are not eligible for other modes of transportation, unless an unexpected need arises that cannot be accessed through public transit.

**EFFECTIVE DATE.** This section is effective July 1, 2021.



Sec. 14. Minnesota Statutes 2020, 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.

(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.

(g) An order or prescription for medical supplies, equipment, or appliances must meet the requirements in Code of Federal Regulations, title 42, part 440.70.

(h) Allergen-reducing products provided according to subdivision 67, paragraph (c) or (d), shall be considered durable medical equipment.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 15. Minnesota Statutes 2020, section 256B.0625, subdivision 58, is amended to read:

Subd. 58. **Early and periodic screening, diagnosis, and treatment services.** (a) Medical assistance covers early and periodic screening, diagnosis, and treatment services (EPSDT). In administering the EPSDT program, the commissioner shall, at a minimum:

(1) provide information to children and families, using the most effective mode identified, regarding:

(i) the benefits of preventative health care visits;

(ii) the services available as part of the EPSDT program; and

(iii) assistance finding a provider, transportation, or interpreter services;

(2) maintain an up-to-date periodicity schedule published in the department policy manual, taking into consideration the most up-to-date community standard of care; and

(3) maintain up-to-date policies for providers on the delivery of EPSDT services that are in the provider manual on the department website.

(b) The commissioner may contract for the administration of the outreach services as required within the EPSDT program.

(c) The commissioner may contract for the required EPSDT outreach services, including but not limited to children enrolled or attributed to an integrated health partnership demonstration project described in section 256B.0755. Integrated health partnerships that choose to include the EPSDT outreach services within the integrated health partnership's contracted responsibilities must receive compensation from the commissioner on a per-member per-month basis for each included child. Integrated health partnerships must accept responsibility for the effectiveness of outreach services it delivers. For children who are not a part of the demonstration project, the commissioner may contract for the administration of the outreach services.

(d) The payment amount for a complete EPSDT screening shall not include charges for health care services and products that are available at no cost to the provider and shall not exceed the rate established per Minnesota Rules, part 9505.0445, item M, effective October 1, 2010.

**EFFECTIVE DATE.** This section is effective July 1, 2021, except that paragraph (c) is effective January 1, 2022.

Sec. 16. Minnesota Statutes 2020, section 256B.0625, is amended by adding a subdivision to read:

Subd. 67. **Enhanced asthma care services.** (a) Medical assistance covers enhanced asthma care services and related products to be provided in the children's homes for children with poorly controlled asthma. To be eligible for services and products under this subdivision, a child must:

(1) have poorly controlled asthma defined by having received health care for the child's asthma from a hospital emergency department at least one time in the past year or have been hospitalized for the treatment of asthma at least one time in the past year; and

(2) receive a referral for services and products under this subdivision from a treating health care provider.

(b) Covered services include home visits provided by a registered environmental health specialist or lead risk assessor currently credentialed by the Department of Health or a healthy homes specialist credentialed by the Building Performance Institute.

(c) Covered products include the following allergen-reducing products that are identified as needed and recommended for the child by a registered environmental health specialist, healthy homes specialist, lead risk assessor, certified asthma educator, public health nurse, or other health care professional providing asthma care for the child, and proven to reduce asthma triggers:

(1) allergen encasements for mattresses, box springs, and pillows;

(2) an allergen-rated vacuum cleaner, filters, and bags;

(3) a dehumidifier and filters;

(4) HEPA single-room air cleaners and filters;

(5) integrated pest management, including traps and starter packages of food storage containers;

(6) a damp mopping system;

(7) if the child does not have access to a bed, a waterproof hospital-grade mattress; and

(8) for homeowners only, furnace filters.

(d) The commissioner shall determine additional products that may be covered as new best practices for asthma care are identified.

(e) A home assessment is a home visit to identify asthma triggers in the home and to provide education on trigger-reducing products. A child is limited to two home assessments except that a child may receive an additional home assessment if the child moves to a new home; if a new asthma trigger, including tobacco smoke, enters the home; or if the child's health care provider identifies a new allergy for the child, including an allergy to mold, pests, pets, or dust mites. The commissioner shall determine the frequency with which a child may receive a product under paragraph (c) or (d) based on the reasonable expected lifetime of the product.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 17. Minnesota Statutes 2020, section 256B.0631, subdivision 1, is amended to read:

Subdivision 1. **Cost-sharing.** (a) Except as provided in subdivision 2, the medical assistance benefit plan shall include the following cost-sharing for all recipients, effective for services provided on or after September 1, 2011:

(1) \$3 per nonpreventive visit, except as provided in paragraph (b). For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established

illness, and which is delivered in an ambulatory setting by a physician or physician assistant, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist;

(2) \$3.50 for nonemergency visits to a hospital-based emergency room, except that this co-payment shall be increased to \$20 upon federal approval;

(3) \$3 per brand-name drug prescription ~~and~~, \$1 per generic drug prescription, and \$1 per prescription for a brand-name multisource drug listed in preferred status on the preferred drug list, subject to a \$12 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness;

(4) a family deductible equal to \$2.75 per month per family and adjusted annually by the percentage increase in the medical care component of the CPI-U for the period of September to September of the preceding calendar year, rounded to the next higher five-cent increment; and

(5) total monthly cost-sharing must not exceed five percent of family income. For purposes of this paragraph, family income is the total earned and unearned income of the individual and the individual's spouse, if the spouse is enrolled in medical assistance and also subject to the five percent limit on cost-sharing. This paragraph does not apply to premiums charged to individuals described under section 256B.057, subdivision 9.

(b) Recipients of medical assistance are responsible for all co-payments and deductibles in this subdivision.

(c) Notwithstanding paragraph (b), the commissioner, through the contracting process under sections 256B.69 and 256B.692, may allow managed care plans and county-based purchasing plans to waive the family deductible under paragraph (a), clause (4). The value of the family deductible shall not be included in the capitation payment to managed care plans and county-based purchasing plans. Managed care plans and county-based purchasing plans shall certify annually to the commissioner the dollar value of the family deductible.

(d) Notwithstanding paragraph (b), the commissioner may waive the collection of the family deductible described under paragraph (a), clause (4), from individuals and allow long-term care and waived service providers to assume responsibility for payment.

(e) Notwithstanding paragraph (b), the commissioner, through the contracting process under section 256B.0756 shall allow the pilot program in Hennepin County to waive co-payments. The value of the co-payments shall not be included in the capitation payment amount to the integrated health care delivery networks under the pilot program.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 18. Minnesota Statutes 2020, section 256B.69, is amended by adding a subdivision to read:

**Subd. 6f. Dental fee schedules.** (a) A managed care plan, county-based purchasing plan, or dental benefits administrator must provide individual dental providers, upon request, the applicable fee schedules for covered dental services provided under the contract between the dental provider and the managed care plan, county-based purchasing plan, or dental benefits administrator.

(b) A managed care plan, county-based purchasing plan, or dental benefits administrator may fulfill this requirement by making the applicable fee schedules available through a secure web portal for the contracted dental provider to access.

(c) For purposes of this subdivision, "dental benefits administrator" means an organization licensed under chapter 62C or 62D that contracts with a managed care plan or county-based purchasing plan to provide covered dental care services to enrollees of the plan.

Sec. 19. Minnesota Statutes 2020, section 256B.69, is amended by adding a subdivision to read:

Subd. 6g. **Uniform dental credentialing process.** (a) By January 1, 2022, the managed care plans, county-based purchasing plans, and dental benefit administrators that contract with the commissioner or subcontract with plans to provide dental services to medical assistance or MinnesotaCare enrollees shall develop a uniform credentialing process for dental providers.

(b) The process developed in this subdivision must include a uniform credentialing application that must be available in electronic format and accessible on each plan or dental benefit administrator's website. The process developed under this subdivision must include an option to electronically submit a completed application. The uniform credentialing application must be available for free to providers.

(c) If applicable, a managed care plan, county-based purchasing plan, dental benefit administrator, contractor, or vendor that reviews and approves a credentialing application must notify a provider regarding a deficiency on a submitted credentialing application form no later than 30 business days after receiving the application form from the provider.

(d) For purposes of this subdivision, "dental benefits administrator" means an organization, including an organization licensed under chapter 62C or 62D, that contracts with a managed care plan or county-based purchasing plan to provide covered dental care services to enrollees of the plan.

(e) This subdivision must be in compliance with the federal requirements for Medicaid and Basic Health Program provider enrollment.

Sec. 20. Minnesota Statutes 2020, section 256B.69, is amended by adding a subdivision to read:

Subd. 9f. **Annual report on provider reimbursement rates.** (a) The commissioner, by December 15 of each year, beginning December 15, 2021, shall submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance a report on managed care and county-based purchasing plan provider reimbursement rates.

(b) The report must include, for each managed care and county-based purchasing plan, the mean and median provider reimbursement rates by county for the calendar year preceding the reporting year, for the five most common billing codes statewide across all plans, in each of the following provider service categories if within the county there are more than three medical assistance enrolled providers providing the specific service within the specific category:

- (1) physician prenatal services;
- (2) physician preventive services;
- (3) physician services other than prenatal or preventive;
- (4) dental services;
- (5) inpatient hospital services;
- (6) outpatient hospital services; and

(7) mental health services.

(c) The commissioner shall also include in the report:

(1) the mean and median reimbursement rates across all plans by county for the calendar year preceding the reporting year for the billing codes and provider service categories described in paragraph (b); and

(2) the mean and median fee-for-service reimbursement rates by county for the calendar year preceding the reporting year for the billing codes and provider service categories described in paragraph (b).

Sec. 21. Minnesota Statutes 2020, section 256B.75, is amended to read:

#### **256B.75 HOSPITAL OUTPATIENT REIMBURSEMENT.**

(a) For outpatient hospital facility fee payments for services rendered on or after October 1, 1992, the commissioner of human services shall pay the lower of (1) submitted charge, or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for which there is a federal maximum allowable payment. Effective for services rendered on or after January 1, 2000, payment rates for nonsurgical outpatient hospital facility fees and emergency room facility fees shall be increased by eight percent over the rates in effect on December 31, 1999, except for those services for which there is a federal maximum allowable payment. Services for which there is a federal maximum allowable payment shall be paid at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare upper limit. If it is determined that a provision of this section conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare upper limitations.

(b) Notwithstanding paragraph (a), payment for outpatient, emergency, and ambulatory surgery hospital facility fee services for critical access hospitals designated under section 144.1483, clause (9), shall be paid on a cost-based payment system that is based on the cost-finding methods and allowable costs of the Medicare program. Effective for services provided on or after July 1, 2015, rates established for critical access hospitals under this paragraph for the applicable payment year shall be the final payment and shall not be settled to actual costs. Effective for services delivered on or after the first day of the hospital's fiscal year ending in 2017, the rate for outpatient hospital services shall be computed using information from each hospital's Medicare cost report as filed with Medicare for the year that is two years before the year that the rate is being computed. Rates shall be computed using information from Worksheet C series until the department finalizes the medical assistance cost reporting process for critical access hospitals. After the cost reporting process is finalized, rates shall be computed using information from Title XIX Worksheet D series. The outpatient rate shall be equal to ancillary cost plus outpatient cost, excluding costs related to rural health clinics and federally qualified health clinics, divided by ancillary charges plus outpatient charges, excluding charges related to rural health clinics and federally qualified health clinics.

(c) Effective for services provided on or after July 1, 2003, rates that are based on the Medicare outpatient prospective payment system shall be replaced by a budget neutral prospective payment system that is derived using medical assistance data. The commissioner shall provide a proposal to the 2003 legislature to define and implement this provision. When implementing prospective payment methodologies, the commissioner shall use general methods and rate calculation parameters similar to the applicable Medicare prospective payment systems for services delivered in outpatient hospital and ambulatory surgical center settings unless other payment methodologies for these services are specified in this chapter.

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

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

(f) In addition to the reductions in paragraphs (d) and (e), the total payment for fee-for-service services provided on or after July 1, 2008, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced three percent from the current statutory rates. Mental health services and facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

Sec. 22. Minnesota Statutes 2020, section 256B.76, subdivision 2, is amended to read:

Subd. 2. **Dental reimbursement.** (a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992; and

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases.

(b) Beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (1) submitted charge, or (2) 80 percent of median 1997 charges.

(c) Effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999.

(d) Effective for services provided on or after January 1, 2002, payment for diagnostic examinations and dental x-rays provided to children under age 21 shall be the lower of (1) the submitted charge, or (2) 85 percent of median 1999 charges.

(e) The increases listed in paragraphs (b) and (c) shall be implemented January 1, 2000, for managed care.

(f) Effective for dental services rendered on or after October 1, 2010, by a state-operated dental clinic, payment shall be paid on a reasonable cost basis that is based on the Medicare principles of reimbursement. This payment shall be effective for services rendered on or after January 1, 2011, to recipients enrolled in managed care plans or county-based purchasing plans.

(g) Beginning in fiscal year 2011, if the payments to state-operated dental clinics in paragraph (f), including state and federal shares, are less than \$1,850,000 per fiscal year, a supplemental state payment equal to the difference between the total payments in paragraph (f) and \$1,850,000 shall be paid from the general fund to state-operated services for the operation of the dental clinics.

~~(h) If the cost-based payment system for state-operated dental clinics described in paragraph (f) does not receive federal approval, then state-operated dental clinics shall be designated as critical access dental providers under subdivision 4, paragraph (b), and shall receive the critical access dental reimbursement rate as described under subdivision 4, paragraph (a).~~

~~(i) Effective for services rendered on or after September 1, 2011, through June 30, 2013, payment rates for dental services shall be reduced by three percent. This reduction does not apply to state-operated dental clinics in paragraph (f).~~

~~(j)~~ (h) Effective for services rendered on or after January 1, 2014, through December 31, 2021, payment rates for dental services shall be increased by five percent from the rates in effect on December 31, 2013. This increase does not apply to state-operated dental clinics in paragraph (f), federally qualified health centers, rural health centers, and Indian health services. Effective January 1, 2014, payments made to managed care plans and county-based purchasing plans under sections 256B.69, 256B.692, and 256L.12 shall reflect the payment increase described in this paragraph.

~~(k) Effective for services rendered on or after July 1, 2015, through December 31, 2016, the commissioner shall increase payment rates for services furnished by dental providers located outside of the seven-county metropolitan area by the maximum percentage possible above the rates in effect on June 30, 2015, while remaining within the limits of funding appropriated for this purpose. This increase does not apply to state-operated dental clinics in paragraph (f), federally qualified health centers, rural health centers, and Indian health services. Effective January 1, 2016, through December 31, 2016, payments to managed care plans and county-based purchasing plans under sections 256B.69 and 256B.692 shall reflect the payment increase described in this paragraph. The commissioner shall require managed care and county-based purchasing plans to pass on the full amount of the increase, in the form of higher payment rates to dental providers located outside of the seven-county metropolitan area.~~

~~(l)~~ (i) Effective for services provided on or after January 1, 2017, through December 31, 2021, the commissioner shall increase payment rates by 9.65 percent for dental services provided outside of the seven-county metropolitan area. This increase does not apply to state-operated dental clinics in paragraph (f), federally qualified health centers, rural health centers, or Indian health services. Effective January 1, 2017, payments to managed care plans and county-based purchasing plans under sections 256B.69 and 256B.692 shall reflect the payment increase described in this paragraph.

~~(m)~~ (j) Effective for services provided on or after July 1, 2017, through December 31, 2022, the commissioner shall increase payment rates by 23.8 percent for dental services provided to enrollees under the age of 21. This rate increase does not apply to state-operated dental clinics in paragraph (f), federally qualified health centers, rural health centers, or Indian health centers. This rate increase does not apply to managed care plans and county-based purchasing plans.

~~(k) Effective for services provided on or after January 1, 2022, the commissioner shall exclude from medical assistance and MinnesotaCare payments for dental services to public health and community health clinics the 20 percent increase authorized under Laws 1989, chapter 327, section 5, subdivision 2, paragraph (b).~~

~~(l) Effective for services provided on or after January 1, 2022, the commissioner shall increase payment rates by 98 percent for all dental services. This rate increase does not apply to state-operated dental clinics, federally qualified health centers, rural health centers, or Indian health services.~~

~~(m) Managed care plans and county-based purchasing plans shall reimburse providers at a level that is at least equal to the rate paid under fee-for-service for dental services. If, for any coverage year, federal approval is not received for this paragraph, the commissioner must adjust the capitation rates paid to managed care plans and county-based purchasing plans for that contract year to reflect the removal of this provision. Contracts between managed care plans and county-based purchasing plans and providers to whom this paragraph applies must allow recovery of payments from those providers if capitation rates are adjusted in~~



accordance with this paragraph. Payment recoveries must not exceed an amount equal to any increase in rates that results from this provision. If, for any coverage year, federal approval is not received for this paragraph, the commissioner shall not implement this paragraph for subsequent coverage years.

Sec. 23. Minnesota Statutes 2020, section 256B.76, subdivision 4, is amended to read:

Subd. 4. **Critical access dental providers.** (a) The commissioner shall increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. For dental services rendered on or after July 1, 2016, through December 31, 2021, the commissioner shall increase reimbursement by 37.5 percent above the reimbursement rate that would otherwise be paid to the critical access dental provider, except as specified under paragraph (b). The commissioner shall pay the managed care plans and county-based purchasing plans in amounts sufficient to reflect increased reimbursements to critical access dental providers as approved by the commissioner.

(b) For dental services rendered on or after July 1, 2016, through December 31, 2021, by a dental clinic or dental group that meets the critical access dental provider designation under paragraph ~~(d)~~ (f), clause (4), and is owned and operated by a health maintenance organization licensed under chapter 62D, the commissioner shall increase reimbursement by 35 percent above the reimbursement rate that would otherwise be paid to the critical access provider.

(c) The commissioner shall increase reimbursement to dentists and dental clinics deemed by the commissioner to be critical access dental providers. For dental services provided on or after January 1, 2022, by a dental provider deemed to be a critical access dental provider under paragraph (f), the commissioner shall increase reimbursement by 20 percent above the reimbursement rate that would otherwise be paid to the critical access dental provider. This paragraph does not apply to federally qualified health centers, rural health centers, state-operated dental clinics, or Indian health centers.

(d) Managed care plans and county-based purchasing plans shall increase reimbursement to critical access dental providers by at least the amount specified in paragraph (c). If, for any coverage year, federal approval is not received for this paragraph, the commissioner must adjust the capitation rates paid to managed care plans and county-based purchasing plans for that contract year to reflect the removal of this provision. Contracts between managed care plans and county-based purchasing plans and providers to whom this paragraph applies must allow recovery of payments from those providers if capitation rates are adjusted in accordance with this paragraph. Payment recoveries must not exceed an amount equal to any increase in rates that results from this provision. If, for any coverage year, federal approval is not received for this paragraph, the commissioner shall not implement this paragraph for subsequent coverage years.

~~(e)~~ (e) Critical access dental payments made under ~~paragraph (a) or (b)~~ this subdivision for dental services provided by a critical access dental provider to an enrollee of a managed care plan or county-based purchasing plan must not reflect any capitated payments or cost-based payments from the managed care plan or county-based purchasing plan. The managed care plan or county-based purchasing plan must base the additional critical access dental payment on the amount that would have been paid for that service had the dental provider been paid according to the managed care plan or county-based purchasing plan's fee schedule that applies to dental providers that are not paid under a capitated payment or cost-based payment.

~~(d)~~ (f) The commissioner shall designate the following dentists and dental clinics as critical access dental providers:

- (1) nonprofit community clinics that:
  - (i) have nonprofit status in accordance with chapter 317A;

- (ii) have tax exempt status in accordance with the Internal Revenue Code, section 501(c)(3);
  - (iii) are established to provide oral health services to patients who are low income, uninsured, have special needs, and are underserved;
  - (iv) have professional staff familiar with the cultural background of the clinic's patients;
  - (v) charge for services on a sliding fee scale designed to provide assistance to low-income patients based on current poverty income guidelines and family size;
  - (vi) do not restrict access or services because of a patient's financial limitations or public assistance status; and
  - (vii) have free care available as needed;
- (2) federally qualified health centers, rural health clinics, and public health clinics;
  - (3) hospital-based dental clinics owned and operated by a city, county, or former state hospital as defined in section 62Q.19, subdivision 1, paragraph (a), clause (4);
  - (4) a dental clinic or dental group owned and operated by a nonprofit corporation in accordance with chapter 317A with more than 10,000 patient encounters per year with patients who are uninsured or covered by medical assistance or MinnesotaCare;
  - (5) a dental clinic owned and operated by the University of Minnesota or the Minnesota State Colleges and Universities system; and
  - (6) private practicing dentists if:
    - (i) the dentist's office is located within the seven-county metropolitan area and more than 50 percent of the dentist's patient encounters per year are with patients who are uninsured or covered by medical assistance or MinnesotaCare; or
    - (ii) the dentist's office is located outside the seven-county metropolitan area and more than 25 percent of the dentist's patient encounters per year are with patients who are uninsured or covered by medical assistance or MinnesotaCare.

Sec. 24. Minnesota Statutes 2020, section 256B.79, subdivision 1, is amended to read:

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

(b) "Adverse outcomes" means maternal opiate addiction, other reportable prenatal substance abuse, low birth weight, or preterm birth.

(c) "Qualified integrated perinatal care collaborative" or "collaborative" means a combination of (1) members of community-based organizations that represent communities within the identified targeted populations, and (2) local or tribally based service entities, including health care, public health, social services, mental health, chemical dependency treatment, and community-based providers, determined by the commissioner to meet the criteria for the provision of integrated care and enhanced services for enrollees within targeted populations.

(d) "Targeted populations" means pregnant medical assistance enrollees residing in geographic areas communities identified by the commissioner as being at above-average risk for adverse outcomes.

Sec. 25. Minnesota Statutes 2020, section 256B.79, subdivision 3, is amended to read:

Subd. 3. **Grant awards.** The commissioner shall award grants to qualifying applicants to support interdisciplinary, integrated perinatal care. Grant funds must be distributed through a request for proposals process to a designated lead agency within an entity that has been determined to be a qualified integrated perinatal care collaborative or within an entity in the process of meeting the qualifications to become a qualified integrated perinatal care collaborative, ~~and priority shall be given to qualified integrated perinatal care collaboratives that received grants under this section prior to January 1, 2019.~~ Grant awards must be used to support interdisciplinary, team-based needs assessments, planning, and implementation of integrated care and enhanced services for targeted populations. In determining grant award amounts, the commissioner shall consider the identified health and social risks linked to adverse outcomes and attributed to enrollees within the identified targeted population.

Sec. 26. **[256B.795] MATERNAL AND INFANT HEALTH REPORT.**

(a) The commissioner of human services, in consultation with the commissioner of health, shall submit a biennial report beginning April 15, 2022, to the chairs and ranking minority members of the legislative committees with jurisdiction over health policy and finance on the effectiveness of state maternal and infant health policies and programs addressing health disparities in prenatal and postpartum health outcomes. For each reporting period, the commissioner shall determine the number of women enrolled in the medical assistance program who are pregnant or are in the 12-month postpartum period of eligibility and the percentage of women in that group who, during each reporting period:

- (1) received prenatal services;
- (2) received doula services;
- (3) gave birth by primary cesarean section;
- (4) gave birth to an infant who received care in the neonatal intensive care unit;
- (5) gave birth to an infant who was premature or who had a low birth weight;
- (6) experienced postpartum hemorrhage;
- (7) received postpartum care within six weeks of giving birth; and
- (8) received a prenatal and postpartum follow-up home visit from a public health nurse.

(b) These measurements must be determined through an analysis of the utilization data from claims submitted during each reporting period and by any other appropriate means. The measurements for each metric must be determined in the aggregate stratified by race and ethnicity.

(c) The commissioner shall establish a baseline for the metrics described in paragraph (a) using calendar year 2017. The initial report due April 15, 2022, must contain the baseline metrics and the metrics data for calendar years 2019 and 2020. The following reports due biennially thereafter must contain the metrics for the preceding two calendar years.

Sec. 27. Minnesota Statutes 2020, section 256L.07, subdivision 2, is amended to read:

Subd. 2. **Must not have access to employer-subsidized minimum essential coverage.** (a) To be eligible, a family or individual must not have access to subsidized health coverage that is affordable and provides minimum value as defined in Code of Federal Regulations, title 26, section 1.36B-2.

(b) Notwithstanding paragraph (a), an individual who has access through a spouse's or parent's employer to subsidized health coverage that is deemed minimum essential coverage under Code of Federal Regulations, title 26, section 1.36B-2, is eligible for MinnesotaCare if the employee's portion of the annual premium for employee and dependent coverage exceeds the required contribution percentage, as defined for premium tax credit eligibility under United States Code, title 26, section 36B(c)(2)(C)(i)(II), as indexed according to item (iv) of that section, of the individual's household income for the coverage year.

(c) This subdivision does not apply to a family or individual who no longer has employer-subsidized coverage due to the employer terminating health care coverage as an employee benefit.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 28. Minnesota Statutes 2020, section 256L.11, subdivision 6a, is amended to read:

Subd. 6a. **Dental providers.** (a) Effective for dental services provided to MinnesotaCare enrollees on or after January 1, 2018, to December 31, 2021, the commissioner shall increase payment rates to dental providers by 54 percent.

(b) Effective for dental services provided on or after January 1, 2022, payment rates to dental providers shall equal the payment rates described in section 256B.76, subdivision 2.

(c) Payments made to prepaid health plans under section 256L.12 shall reflect the payment increase rates described in this subdivision. The prepaid health plans under contract with the commissioner shall provide payments to dental providers that are at least equal to a rate that includes the payment rate specified in this subdivision, and if applicable to the provider, the rates described under subdivision 7.

Sec. 29. Minnesota Statutes 2020, section 256L.11, subdivision 7, is amended to read:

Subd. 7. **Critical access dental providers.** (a) Effective for dental services provided to MinnesotaCare enrollees on or after July 1, 2017, the commissioner shall increase payment rates to dentists and dental clinics deemed by the commissioner to be critical access providers under section 256B.76, subdivision 4, by 20 percent above the payment rate that would otherwise be paid to the provider. The commissioner shall pay the prepaid health plans under contract with the commissioner amounts sufficient to reflect this rate increase. ~~The prepaid health plan must pass this rate increase to providers who have been identified by the commissioner as critical access dental providers under section 256B.76, subdivision 4.~~

(b) Managed care plans and county-based purchasing plans shall increase reimbursement to critical access dental providers by at least the amount specified in paragraph (a). If, for any coverage year, federal approval is not received for this paragraph, the commissioner must adjust the capitation rates paid to managed care plans and county-based purchasing plans for that contract year to reflect the removal of this provision. Contracts between managed care plans and county-based purchasing plans and providers to whom this paragraph applies must allow recovery of payments from those providers if capitation rates are adjusted in accordance with this paragraph. Payment recoveries must not exceed an amount equal to any increase in rates that results from this provision. If, for any coverage year, federal approval is not received for this paragraph, the commissioner shall not implement this paragraph for subsequent coverage years.

Sec. 30. Minnesota Statutes 2020, section 256L.15, subdivision 2, is amended to read:

Subd. 2. **Sliding fee scale; monthly individual or family income.** (a) The commissioner shall establish a sliding fee scale to determine the percentage of monthly individual or family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's monthly individual or family income.

(b) Beginning January 1, 2014, MinnesotaCare enrollees shall pay premiums according to the premium scale specified in paragraph (d).

(c) Paragraph (b) does not apply to:

- (1) children 20 years of age or younger; and
- (2) individuals with household incomes below 35 percent of the federal poverty guidelines.

(d) The following premium scale is established for each individual in the household who is 21 years of age or older and enrolled in MinnesotaCare:

Federal Poverty Guideline Greater than or Equal to	Less than	Individual Premium Amount
35%	55%	\$4
55%	80%	\$6
80%	90%	\$8
90%	100%	\$10
100%	110%	\$12
110%	120%	\$14
120%	130%	\$15
130%	140%	\$16
140%	150%	\$25
150%	160%	\$37
160%	170%	\$44
170%	180%	\$52
180%	190%	\$61
190%	200%	\$71
200%		\$80

(e) Beginning January 1, 2021, the commissioner shall adjust the premium scale established under paragraph (d) to ensure that premiums do not exceed the amount that an individual would have been required to pay if the individual was enrolled in an applicable benchmark plan in accordance with the Code of Federal Regulations, title 42, section 600.505(a)(1).

**EFFECTIVE DATE.** This section is effective retroactively from January 1, 2021 and applies to premiums due on or after that date.

Sec. 31. **FEDERAL APPROVAL; EXTENSION OF POSTPARTUM COVERAGE.**

The commissioner of human services shall seek all federal waivers and approvals necessary to extend medical assistance postpartum coverage, as provided in Minnesota Statutes, sections 256B.055, subdivision 6, and 256B.06, subdivision 4.

Sec. 32. **COVID-19 TREATMENT, TESTING, AND VACCINATION.**

Medical assistance covers treatment, testing, and vaccination for COVID-19 as required under and for the time periods specified in section 9811 of the federal American Rescue Plan Act, Public Law 117-2.

**EFFECTIVE DATE.** This section is effective retroactively from March 11, 2021.

Sec. 33. **DENTAL HOME DEMONSTRATION PROJECT.**

(a) The Dental Services Advisory Committee, in collaboration with stakeholders, shall design a dental home demonstration project and present recommendations by February 1, 2022, to the commissioner and the chairs and ranking minority members of the legislative committees with jurisdiction over health finance and policy.

(b) The Dental Services Advisory Committee, at a minimum, shall engage with the following stakeholders: the Minnesota Department of Health, the Minnesota Dental Association, the Minnesota Dental Hygienists' Association, the University of Minnesota School of Dentistry, dental programs operated by the Minnesota State Colleges and Universities system, and representatives of each of the following dental provider types serving medical assistance and MinnesotaCare enrollees:

(1) private practice dental clinics for which medical assistance and MinnesotaCare enrollees comprise more than 25 percent of the clinic's patient load;

(2) private practice dental clinics for which medical assistance and MinnesotaCare enrollees comprise 25 percent or less of the clinic's patient load;

(3) nonprofit dental clinics with a primary focus on serving Indigenous communities and other communities of color;

(4) nonprofit dental clinics with a primary focus on providing eldercare;

(5) nonprofit dental clinics with a primary focus on serving children;

(6) nonprofit dental clinics providing services within the seven-county metropolitan area;

(7) nonprofit dental clinics providing services outside of the seven-county metropolitan area; and

(8) multispecialty hospital-based dental clinics.

(c) The dental home demonstration project shall give incentives for qualified providers that provide high-quality, patient-centered, comprehensive, and coordinated oral health services. The demonstration project shall seek to increase the number of new dental providers serving medical assistance and MinnesotaCare enrollees and increase the capacity of existing providers. The demonstration project must test payment methods that establish value-based incentives to:

(1) increase the extent to which current dental providers serve medical assistance and MinnesotaCare enrollees across their lifespan;

(2) develop service models that create equity and reduce disparities in access to dental services for high-risk and medically and socially complex enrollees;

(3) advance alternative delivery models of care within community settings using evidence-based approaches and innovative workforce teams; and

(4) improve the quality of dental care by meeting dental home goals.

**Sec. 34. OVERPAYMENTS FOR DURABLE MEDICAL EQUIPMENT, PROSTHETICS, ORTHOTICS, OR SUPPLIES.**

(a) Notwithstanding any other law to the contrary, providers who received payment for durable medical equipment, prosthetics, orthotics, or supplies between January 1, 2018, and June 30, 2019, that were subject to the upper payment limits under United States Code, title 42, section 1396b(i)(27), shall not be required to repay any amount received in excess of the allowable amount to either the state or the Centers for Medicare and Medicaid Services.

(b) The state shall repay with state funds any amount owed to the Centers for Medicare and Medicaid Services for the federal financial participation amount received by the state for payments identified in paragraph (a) in excess of the amount allowed effective January 1, 2018, and the state shall hold harmless the providers who received these payments from recovery of both the state and federal share of the amount determined to have exceeded the Medicare upper payment limit.

(c) Nothing in this section shall be construed to prohibit the commissioner from recouping past overpayments due to false claims or for reasons other than exceeding the Medicare upper payment limits or from recouping future overpayments including the recoupment of payments that exceed the upper Medicare payment limits.

**Sec. 35. PROPOSED FORMULARY COMMITTEE.**

By March 1, 2022, the commissioner of human services, after soliciting recommendations from professional medical associations, professional pharmacy associations, and consumer groups, shall submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services an overview of the Formulary Committee under Minnesota Statutes, section 256B.0625, subdivision 13c, that includes:

(1) a review of the current composition of and any recommended revisions to the membership of the committee. The review shall ensure the committee is composed of adequate representation of consumers and health care professionals with expertise in clinical prescribing; and

(2) a summary of the committee's policies and procedures for the operation of the committee, opportunities for public input, providing public notice, and gathering public comments on the committee's recommendations and proposed actions.

**Sec. 36. RESPONSE TO COVID-19 PUBLIC HEALTH EMERGENCY.**

(a) Notwithstanding Minnesota Statutes, section 256B.057, subdivision 9, 256L.06, subdivision 3, or any other provision to the contrary, the commissioner shall not collect any unpaid premium for a coverage

month that occurred during the COVID-19 public health emergency declared by the United States Secretary of Health and Human Services.

(b) Notwithstanding any provision to the contrary, periodic data matching under Minnesota Statutes, section 256B.0561, subdivision 2, may be suspended for up to six months following the last day of the COVID-19 public health emergency declared by the United States Secretary of Health and Human Services.

(c) Notwithstanding any provision to the contrary, the requirement for the commissioner of human services to issue an annual report on periodic data matching under Minnesota Statutes, section 256B.0561, is suspended for one year following the last day of the COVID-19 public health emergency declared by the United States Secretary of Health and Human Services.

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

Sec. 37. **DENTAL PROGRAM DELIVERY STUDY.**

(a) The commissioner of human services shall review the Medicaid dental program delivery systems in states that have enacted and implemented a carve out dental delivery system. At a minimum, the review must compare in those states program design, provider rates, program costs, including administrative costs, and quality metrics for children one through 20 years of age with at least one preventive dental service within a year.

(b) The commissioner, in consultation with interested stakeholders, shall also conduct an analysis of dental provider hesitancy to participate in the medical assistance program as an enrolled provider.

(c) By February 1, 2022, the commissioner shall submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance the results of the review and analysis described in this section. The commissioner may combine the requirements in this section with the dental home demonstration project report due on February 1, 2022.

Sec. 38. **DENTAL RATE REBASING.**

The commissioner of human services shall present recommendations on dental rate rebasing to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance and policy by February 1, 2022. The recommendations must be consistent with the proposed design of the dental home demonstration project and must address the frequency of rebasing, whether rebasing should incorporate an inflation factor, and other factors relevant to ensuring patient access to dental providers and the delivery of high quality dental care.

Sec. 39. **CONTINGENT FUNDING RELATED TO DENTAL ADMINISTRATOR.**

If managed care and county-based purchasing plans do not meet in the aggregate the dental access performance benchmark under Minnesota Statutes, section 256B.0371, subdivision 1, for coverage year 2024, the general fund base for the department of human services for the 2026-2027 biennium shall include \$107,000 in fiscal year 2026 and \$122,000 in fiscal year 2027 for staffing necessary to contract with a dental administrator, and \$5,000 in fiscal year 2026 and \$1,000 in fiscal year 2027 for systems changes necessary to contract with a dental administrator.



Sec. 40. **REPEALER.**

(a) Minnesota Rules, parts 9505.0275; 9505.1693; 9505.1696, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22; 9505.1699; 9505.1701; 9505.1703; 9505.1706; 9505.1712; 9505.1715; 9505.1718; 9505.1724; 9505.1727; 9505.1730; 9505.1733; 9505.1736; 9505.1739; 9505.1742; 9505.1745; and 9505.1748, are repealed.

(b) Minnesota Statutes 2020, section 16A.724, subdivision 2, is repealed effective July 1, 2025.

**ARTICLE 2****DEPARTMENT OF HUMAN SERVICES  
LICENSING AND BACKGROUND STUDIES**

Section 1. Minnesota Statutes 2020, section 62V.05, is amended by adding a subdivision to read:

Subd. 4a. **Background study required.** (a) The board must initiate background studies under section 245C.031 of:

- (1) each navigator;
- (2) each in-person assister; and
- (3) each certified application counselor.

(b) The board may initiate the background studies required by paragraph (a) using the online NETStudy 2.0 system operated by the commissioner of human services.

(c) The board shall not permit any individual to provide any service or function listed in paragraph (a) until the board has received notification from the commissioner of human services indicating that the individual:

- (1) is not disqualified under chapter 245C; or
- (2) is disqualified, but has received a set aside from the board of that disqualification according to sections 245C.22 and 245C.23.

(d) The board or its delegate shall review a reconsideration request of an individual in paragraph (a), including granting a set aside, according to the procedures and criteria in chapter 245C. The board shall notify the individual and the Department of Human Services of the board's decision.

Sec. 2. Minnesota Statutes 2020, section 122A.18, subdivision 8, is amended to read:

Subd. 8. **Background checks studies.** (a) The Professional Educator Licensing and Standards Board and the Board of School Administrators must ~~obtain a~~ initiate criminal history background ~~check on~~ studies of all first-time ~~teaching~~ applicants for educator licenses under their jurisdiction. Applicants must include with their licensure applications:

- (1) an executed criminal history consent form, including fingerprints; and
- (2) payment to conduct the background ~~check~~ study. The Professional Educator Licensing and Standards Board must deposit payments received under this subdivision in an account in the special revenue fund.

Amounts in the account are annually appropriated to the Professional Educator Licensing and Standards Board to pay for the costs of background ~~checks~~ studies on applicants for licensure.

(b) The background ~~check~~ study for all first-time teaching applicants for licenses must include a review of information from the Bureau of Criminal Apprehension, including criminal history data as defined in section 13.87, and must also include a review of the national criminal records repository. The superintendent of the Bureau of Criminal Apprehension is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. ~~The superintendent shall recover the cost to the bureau of a background check through the fee charged to the applicant under paragraph (a).~~

(c) The Professional Educator Licensing and Standards Board ~~must contract with~~ may initiate criminal history background studies through the commissioner of human services according to section 245C.031 to conduct background checks and obtain background ~~check~~ study data required under this chapter.

### Sec. 3. [245.975] OMBUDSPERSON FOR FAMILY CHILD CARE PROVIDERS.

Subdivision 1. **Appointment.** The governor shall appoint an ombudsperson in the unclassified service to assist family child care providers with licensing, compliance, and other issues facing family child care providers. The ombudsperson must be selected without regard to the person's political affiliation and must have been a licensed family child care provider for at least three years. The ombudsperson shall serve a term of four years, which may be renewed, and may be removed prior to the end of the term for just cause.

Subd. 2. **Duties.** (a) The ombudsperson's duties shall include:

(1) advocating on behalf of a family child care provider to address all areas of concern related to the provision of child care services, including licensing monitoring activities, licensing actions, and other interactions with state and county licensing staff;

(2) providing recommendations for family child care improvement or family child care provider education;

(3) operating a telephone line to answer questions, receive complaints, and discuss agency actions when a family child care provider believes that the provider's rights or program may have been adversely affected; and

(4) assisting a family child care license applicant with navigating the application process.

(b) The ombudsperson must report annually by December 31 to the commissioner and the chairs and ranking minority members of the legislative committees with jurisdiction over child care on the services provided by the ombudsperson to child care providers, including the number and locations of child care providers served and the activities of the ombudsperson in carrying out the duties under this section. The commissioner shall determine the form of the report and may specify additional reporting requirements.

Subd. 3. **Staff.** The ombudsperson may appoint and compensate out of available funds a deputy, confidential secretary, and other employees in the unclassified service as authorized by law. The ombudsperson and the full-time staff are members of the Minnesota State Retirement Association. The ombudsperson may delegate to staff members any authority or duties of the office, except the duty to provide reports to the governor, commissioner, or the legislature.

Subd. 4. **Access to records.** (a) The ombudsperson or designee, excluding volunteers, has access to any data of a state agency necessary for the discharge of the ombudsperson's duties, including records classified as confidential data on individuals or private data on individuals under chapter 13 or any other law. The ombudsperson's data request must relate to a specific case and is subject to section 13.03, subdivision

4. If the data concerns an individual, the ombudsperson or designee shall first obtain the individual's consent. If the individual is unable to consent and has no parent or legal guardian, then the ombudsperson's or designee's access to the data is authorized by this section.

(b) The ombudsperson and designees must adhere to the Minnesota Government Data Practices Act and must not disseminate any private or confidential data on individuals unless specifically authorized by state, local, or federal law or pursuant to a court order.

(c) The commissioner and any county agency must provide the ombudsperson copies of all fix-it tickets, correction orders, and licensing actions issued to family child care providers.

Subd. 5. **Independence of action.** In carrying out the duties under this section, the ombudsperson may, independently of the department, provide testimony to the legislature, make periodic reports to the legislature, and address areas of concern to family child care providers.

Subd. 6. **Civil actions.** The ombudsperson or designee is not civilly liable for any action taken under this section if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

Subd. 7. **Qualifications.** The ombudsperson must be a person who has knowledge and experience concerning the provision of family child care. The ombudsperson must be experienced in dealing with governmental entities, interpretation of laws and regulations, investigations, record keeping, report writing, public speaking, and management. A person is not eligible to serve as the ombudsperson while running for or holding public office or while holding a family child care license.

Subd. 8. **Office support.** The commissioner shall provide the ombudsperson with the necessary office space, supplies, equipment, and clerical support to effectively perform the duties under this section.

Subd. 9. **Posting.** (a) The commissioner shall post on the department's website the mailing address, e-mail address, and telephone number for the office of the ombudsperson. The commissioner shall provide family child care providers with the mailing address, e-mail address, and telephone number of the ombudsperson's office on the family child care licensing website and upon request of a family child care applicant or provider. Counties must provide family child care applicants and providers with the name, mailing address, e-mail address, and telephone number of the ombudsperson's office upon request.

(b) The ombudsperson must approve all postings and notices required by the department and counties under this subdivision.

Sec. 4. Minnesota Statutes 2020, section 245A.05, is amended to read:

**245A.05 DENIAL OF APPLICATION.**

(a) The commissioner may deny a license if an applicant or controlling individual:

(1) fails to submit a substantially complete application after receiving notice from the commissioner under section 245A.04, subdivision 1;

(2) fails to comply with applicable laws or rules;

(3) knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation;

(4) has a disqualification that has not been set aside under section 245C.22 and no variance has been granted;

(5) has an individual living in the household who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification that has not been set aside under section 245C.22, and no variance has been granted;

(6) is associated with an individual who received a background study under section 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised access to children or vulnerable adults, and who has a disqualification that has not been set aside under section 245C.22, and no variance has been granted;

(7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g);

(8) fails to demonstrate competent knowledge as required by section 245A.04, subdivision 6;

(9) has a history of noncompliance as a license holder or controlling individual with applicable laws or rules, including but not limited to this chapter and chapters 119B and 245C; ~~or~~

(10) is prohibited from holding a license according to section 245.095; or

(11) for a family foster setting, has nondisqualifying background study information, as described in section 245C.05, subdivision 4, that reflects on the individual's ability to safely provide care to foster children.

(b) An applicant whose application has been denied by the commissioner must be given notice of the denial, which must state the reasons for the denial in plain language. Notice must be given by certified mail or personal service. The notice must state the reasons the application was denied and must inform the applicant of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying the commissioner in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within 20 calendar days after the applicant received the notice of denial. If an appeal request is made by personal service, it must be received by the commissioner within 20 calendar days after the applicant received the notice of denial. Section 245A.08 applies to hearings held to appeal the commissioner's denial of an application.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 5. Minnesota Statutes 2020, section 245A.07, subdivision 1, is amended to read:

Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional under section 245A.06, the commissioner may suspend or revoke the license, impose a fine, or secure an injunction against the continuing operation of the program of a license holder who does not comply with applicable law or rule, or who has nondisqualifying background study information, as described in section 245C.05, subdivision 4, that reflects on the license holder's ability to safely provide care to foster children. When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

(b) If a license holder appeals the suspension or revocation of a license and the license holder continues to operate the program pending a final order on the appeal, the commissioner shall issue the license holder a temporary provisional license. Unless otherwise specified by the commissioner, variances in effect on the date of the license sanction under appeal continue under the temporary provisional license. If a license holder fails to comply with applicable law or rule while operating under a temporary provisional license, the commissioner may impose additional sanctions under this section and section 245A.06, and may terminate

any prior variance. If a temporary provisional license is set to expire, a new temporary provisional license shall be issued to the license holder upon payment of any fee required under section 245A.10. The temporary provisional license shall expire on the date the final order is issued. If the license holder prevails on the appeal, a new nonprovisional license shall be issued for the remainder of the current license period.

(c) If a license holder is under investigation and the license issued under this chapter is due to expire before completion of the investigation, the program shall be issued a new license upon completion of the reapplication requirements and payment of any applicable license fee. Upon completion of the investigation, a licensing sanction may be imposed against the new license under this section, section 245A.06, or 245A.08.

(d) Failure to reapply or closure of a license issued under this chapter by the license holder prior to the completion of any investigation shall not preclude the commissioner from issuing a licensing sanction under this section or section 245A.06 at the conclusion of the investigation.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 6. Minnesota Statutes 2020, section 245A.10, subdivision 4, as amended by Laws 2021, chapter 30, article 17, section 47, is amended to read:

Subd. 4. **License or certification fee for certain programs.** (a) Child care centers shall pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	Child Care Center License Fee
1 to 24 persons	\$200
25 to 49 persons	\$300
50 to 74 persons	\$400
75 to 99 persons	\$500
100 to 124 persons	\$600
125 to 149 persons	\$700
150 to 174 persons	\$800
175 to 199 persons	\$900
200 to 224 persons	\$1,000
225 or more persons	\$1,100

(b)(1) A program licensed to provide one or more of the home and community-based services and supports identified under chapter 245D to persons with disabilities or age 65 and older, shall pay an annual nonrefundable license fee based on revenues derived from the provision of services that would require licensure under chapter 245D during the calendar year immediately preceding the year in which the license fee is paid, according to the following schedule:

License Holder Annual Revenue	License Fee
less than or equal to \$10,000	\$200
greater than \$10,000 but less than or equal to \$25,000	\$300
greater than \$25,000 but less than or equal to \$50,000	\$400
greater than \$50,000 but less than or equal to \$100,000	\$500
greater than \$100,000 but less than or equal to \$150,000	\$600
greater than \$150,000 but less than or equal to \$200,000	\$800
greater than \$200,000 but less than or equal to \$250,000	\$1,000
greater than \$250,000 but less than or equal to \$300,000	\$1,200
greater than \$300,000 but less than or equal to \$350,000	\$1,400
greater than \$350,000 but less than or equal to \$400,000	\$1,600
greater than \$400,000 but less than or equal to \$450,000	\$1,800
greater than \$450,000 but less than or equal to \$500,000	\$2,000
greater than \$500,000 but less than or equal to \$600,000	\$2,250
greater than \$600,000 but less than or equal to \$700,000	\$2,500
greater than \$700,000 but less than or equal to \$800,000	\$2,750
greater than \$800,000 but less than or equal to \$900,000	\$3,000
greater than \$900,000 but less than or equal to \$1,000,000	\$3,250
greater than \$1,000,000 but less than or equal to \$1,250,000	\$3,500

greater than \$1,250,000 but less than or equal to \$1,500,000	\$3,750
greater than \$1,500,000 but less than or equal to \$1,750,000	\$4,000
greater than \$1,750,000 but less than or equal to \$2,000,000	\$4,250
greater than \$2,000,000 but less than or equal to \$2,500,000	\$4,500
greater than \$2,500,000 but less than or equal to \$3,000,000	\$4,750
greater than \$3,000,000 but less than or equal to \$3,500,000	\$5,000
greater than \$3,500,000 but less than or equal to \$4,000,000	\$5,500
greater than \$4,000,000 but less than or equal to \$4,500,000	\$6,000
greater than \$4,500,000 but less than or equal to \$5,000,000	\$6,500
greater than \$5,000,000 but less than or equal to \$7,500,000	\$7,000
greater than \$7,500,000 but less than or equal to \$10,000,000	\$8,500
greater than \$10,000,000 but less than or equal to \$12,500,000	\$10,000
greater than \$12,500,000 but less than or equal to \$15,000,000	\$14,000
greater than \$15,000,000	\$18,000

(2) If requested, the license holder shall provide the commissioner information to verify the license holder's annual revenues or other information as needed, including copies of documents submitted to the Department of Revenue.

(3) At each annual renewal, a license holder may elect to pay the highest renewal fee, and not provide annual revenue information to the commissioner.

(4) A license holder that knowingly provides the commissioner incorrect revenue amounts for the purpose of paying a lower license fee shall be subject to a civil penalty in the amount of double the fee the provider should have paid.

(5) Notwithstanding clause (1), a license holder providing services under one or more licenses under chapter 245B that are in effect on May 15, 2013, shall pay an annual license fee for calendar years 2014,

2015, and 2016, equal to the total license fees paid by the license holder for all licenses held under chapter 245B for calendar year 2013. For calendar year 2017 and thereafter, the license holder shall pay an annual license fee according to clause (1).

(c) A chemical dependency treatment program licensed under chapter 245G, to provide chemical dependency treatment shall pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	\$600
25 to 49 persons	\$800
50 to 74 persons	\$1,000
75 to 99 persons	\$1,200
100 or more persons	\$1,400

(d) A ~~chemical dependency detoxification~~ program licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, ~~to provide detoxification services~~ or a withdrawal management program licensed under chapter 245F shall pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	\$760
25 to 49 persons	\$960
50 or more persons	\$1,160

A detoxification program that also operates a withdrawal management program at the same location shall only pay one fee based upon the licensed capacity of the program with the higher overall capacity.

(e) Except for child foster care, a residential facility licensed under Minnesota Rules, chapter 2960, to serve children shall pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	\$1,000
25 to 49 persons	\$1,100
50 to 74 persons	\$1,200
75 to 99 persons	\$1,300
100 or more persons	\$1,400

(f) A residential facility licensed under section 245I.23 or Minnesota Rules, parts 9520.0500 to 9520.0670, to serve persons with mental illness shall pay an annual nonrefundable license fee based on the following schedule:



Licensed Capacity	License Fee
1 to 24 persons	\$2,525
25 or more persons	\$2,725

(g) A residential facility licensed under Minnesota Rules, parts 9570.2000 to 9570.3400, to serve persons with physical disabilities shall pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	\$450
25 to 49 persons	\$650
50 to 74 persons	\$850
75 to 99 persons	\$1,050
100 or more persons	\$1,250

(h) A program licensed to provide independent living assistance for youth under section 245A.22 shall pay an annual nonrefundable license fee of \$1,500.

(i) A private agency licensed to provide foster care and adoption services under Minnesota Rules, parts 9545.0755 to 9545.0845, shall pay an annual nonrefundable license fee of \$875.

(j) A program licensed as an adult day care center licensed under Minnesota Rules, parts 9555.9600 to 9555.9730, shall pay an annual nonrefundable license fee based on the following schedule:

Licensed Capacity	License Fee
1 to 24 persons	\$500
25 to 49 persons	\$700
50 to 74 persons	\$900
75 to 99 persons	\$1,100
100 or more persons	\$1,300

(k) A program licensed to provide treatment services to persons with sexual psychopathic personalities or sexually dangerous persons under Minnesota Rules, parts 9515.3000 to 9515.3110, shall pay an annual nonrefundable license fee of \$20,000.

(l) A mental health clinic certified under section 245I.20 shall pay an annual nonrefundable certification fee of \$1,550. If the mental health clinic provides services at a primary location with satellite facilities, the satellite facilities shall be certified with the primary location without an additional charge.

Sec. 7. Minnesota Statutes 2020, section 245A.14, subdivision 4, is amended to read:

Subd. 4. **Special family day child care homes.** Nonresidential child care programs serving 14 or fewer children that are conducted at a location other than the license holder's own residence shall be licensed under this section and the rules governing family ~~day~~ child care or group family ~~day~~ child care if:

(a) the license holder is the primary provider of care and the nonresidential child care program is conducted in a dwelling that is located on a residential lot;

(b) the license holder is an employer who may or may not be the primary provider of care, and the purpose for the child care program is to provide child care services to children of the license holder's employees;

(c) the license holder is a church or religious organization;

(d) the license holder is a community collaborative child care provider. For purposes of this subdivision, a community collaborative child care provider is a provider participating in a cooperative agreement with a community action agency as defined in section 256E.31;

(e) the license holder is a not-for-profit agency that provides child care in a dwelling located on a residential lot and the license holder maintains two or more contracts with community employers or other community organizations to provide child care services. The county licensing agency may grant a capacity variance to a license holder licensed under this paragraph to exceed the licensed capacity of 14 children by no more than five children during transition periods related to the work schedules of parents, if the license holder meets the following requirements:

(1) the program does not exceed a capacity of 14 children more than a cumulative total of four hours per day;

(2) the program meets a one to seven staff-to-child ratio during the variance period;

(3) all employees receive at least an extra four hours of training per year than required in the rules governing family child care each year;

(4) the facility has square footage required per child under Minnesota Rules, part 9502.0425;

(5) the program is in compliance with local zoning regulations;

(6) the program is in compliance with the applicable fire code as follows:

(i) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015, Section 202; or

(ii) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015, Section 202, unless the rooms in which the children are cared for are located on a level of exit discharge and each of these child care rooms has an exit door directly to the exterior, then the applicable fire code is Group E occupancies, as provided in the Minnesota State Fire Code 2015, Section 202; and

(7) any age and capacity limitations required by the fire code inspection and square footage determinations shall be printed on the license; or

(f) the license holder is the primary provider of care and has located the licensed child care program in a commercial space, if the license holder meets the following requirements:

(1) the program is in compliance with local zoning regulations;

(2) the program is in compliance with the applicable fire code as follows:

(i) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015, Section 202; or

(ii) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2015, Section 202;

(3) any age and capacity limitations required by the fire code inspection and square footage determinations are printed on the license; and

(4) the license holder prominently displays the license issued by the commissioner which contains the statement "This special family child care provider is not licensed as a child care center."

~~(g) The commissioner may approve two or more licenses under paragraphs (a) to (f) to be issued at the same location or under one contiguous roof, if each license holder is able to demonstrate compliance with all applicable rules and laws. Each license holder must operate the license holder's respective licensed program as a distinct program and within the capacity, age, and ratio distributions of each license. Notwithstanding Minnesota Rules, part 9502.0335, subpart 12, the commissioner may issue up to four licenses to an organization licensed under paragraphs (b), (c), or (e). Each license must have its own primary provider of care as required under paragraph (i). Each license must operate as a distinct and separate program in compliance with all applicable laws and regulations.~~

~~(h) The commissioner may grant variances to this section to allow a primary provider of care, a not-for-profit organization, a church or religious organization, an employer, or a community collaborative to be licensed to provide child care under paragraphs (e) and (f) if the license holder meets the other requirements of the statute. For licenses issued under paragraphs (b), (c), (d), (e), or (f), the commissioner may approve up to four licenses at the same location or under one contiguous roof if each license holder is able to demonstrate compliance with all applicable rules and laws. Each licensed program must operate as a distinct program and within the capacity, age, and ratio distributions of each license.~~

(i) For a license issued under paragraphs (b), (c), or (e), the license holder must designate a person to be the primary provider of care at the licensed location on a form and in a manner prescribed by the commissioner. The license holder shall notify the commissioner in writing before there is a change of the person designated to be the primary provider of care. The primary provider of care:

(1) must be the person who will be the provider of care at the program and present during the hours of operation;

(2) must operate the program in compliance with applicable laws and regulations under chapter 245A and Minnesota Rules, chapter 9502;

(3) is considered a child care background study subject as defined in section 245C.02, subdivision 6a, and must comply with background study requirements in chapter 245C; and

(4) must complete the training that is required of license holders in section 245A.50.

(j) For any license issued under this subdivision, the license holder must ensure that any other caregiver, substitute, or helper who assists in the care of children meets the training requirements in section 245A.50 and background study requirements under chapter 245C.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 8. Minnesota Statutes 2020, section 245A.16, is amended by adding a subdivision to read:

**Subd. 9. Licensed family foster settings.** (a) Before recommending to grant a license, deny a license under section 245A.05, or revoke a license under section 245A.07 for nondisqualifying background study information received under section 245C.05, subdivision 4, paragraph (a), clause (3), for a licensed family foster setting, a county agency or private agency that has been designated or licensed by the commissioner must review the following:

(1) the type of offenses;

(2) the number of offenses;

(3) the nature of the offenses;

(4) the age of the individual at the time of the offenses;

(5) the length of time that has elapsed since the last offense;

(6) the relationship of the offenses and the capacity to care for a child;

(7) evidence of rehabilitation;

(8) information or knowledge from community members regarding the individual's capacity to provide foster care;

(9) any available information regarding child maltreatment reports or child in need of protection or services petitions, or related cases, in which the individual has been involved or implicated, and documentation that the individual has remedied issues or conditions identified in child protection or court records that are relevant to safely caring for a child;

(10) a statement from the study subject;

(11) a statement from the license holder; and

(12) other aggravating and mitigating factors.

(b) For purposes of this section, "evidence of rehabilitation" includes but is not limited to the following:

(1) maintaining a safe and stable residence;

(2) continuous, regular, or stable employment;

(3) successful participation in an education or job training program;

(4) positive involvement with the community or extended family;

(5) compliance with the terms and conditions of probation or parole following the individual's most recent conviction;

(6) if the individual has had a substance use disorder, successful completion of a substance use disorder assessment, substance use disorder treatment, and recommended continuing care, if applicable, demonstrated abstinence from controlled substances, as defined in section 152.01, subdivision 4, or the establishment of a sober network;

(7) if the individual has had a mental illness or documented mental health issues, demonstrated completion of a mental health evaluation, participation in therapy or other recommended mental health treatment, or appropriate medication management, if applicable;

(8) if the individual's offense or conduct involved domestic violence, demonstrated completion of a domestic violence or anger management program, and the absence of any orders for protection or harassment restraining orders against the individual since the previous offense or conduct;

(9) written letters of support from individuals of good repute, including but not limited to employers, members of the clergy, probation or parole officers, volunteer supervisors, or social services workers;

(10) demonstrated remorse for convictions or conduct, or demonstrated positive behavior changes; and

(11) absence of convictions or arrests since the previous offense or conduct, including any convictions that were expunged or pardoned.

(c) An applicant for a family foster setting license must sign all releases of information requested by the county or private licensing agency.

(d) When licensing a relative for a family foster setting, the commissioner shall also consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether an application will be denied.

(e) When recommending that the commissioner deny or revoke a license, the county or private licensing agency must send a summary of the review completed according to paragraph (a), on a form developed by the commissioner, to the commissioner and include any recommendation for licensing action.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 9. Minnesota Statutes 2020, section 245A.50, subdivision 7, is amended to read:

Subd. 7. **Training requirements for family and group family child care.** (a) For purposes of family and group family child care, the license holder and each second adult caregiver must complete 16 hours of ongoing training each year. Repeat of topical training requirements in subdivisions 2 to 8 shall count toward the annual 16-hour training requirement. Additional ongoing training subjects to meet the annual 16-hour training requirement must be selected from the following areas:

(1) child development and learning training in understanding how a child develops physically, cognitively, emotionally, and socially, and how a child learns as part of the child's family, culture, and community;

(2) developmentally appropriate learning experiences, including training in creating positive learning experiences, promoting cognitive development, promoting social and emotional development, promoting physical development, promoting creative development; and behavior guidance;

(3) relationships with families, including training in building a positive, respectful relationship with the child's family;

(4) assessment, evaluation, and individualization, including training in observing, recording, and assessing development; assessing and using information to plan; and assessing and using information to enhance and maintain program quality;

(5) historical and contemporary development of early childhood education, including training in past and current practices in early childhood education and how current events and issues affect children, families, and programs;

(6) professionalism, including training in knowledge, skills, and abilities that promote ongoing professional development; and

(7) health, safety, and nutrition, including training in establishing healthy practices; ensuring safety; and providing healthy nutrition.

(b) A provider who is approved as a trainer through the Develop data system may count up to two hours of training instruction toward the annual 16-hour training requirement in paragraph (a). The provider may only count training instruction hours for the first instance in which they deliver a particular content-specific training during each licensing year. Hours counted as training instruction must be approved through the Develop data system with attendance verified on the trainer's individual learning record and must be in Knowledge and Competency Framework content area VII A (Establishing Healthy Practices) or B (Ensuring Safety).

Sec. 10. Minnesota Statutes 2020, section 245A.50, subdivision 9, is amended to read:

Subd. 9. **Supervising for safety; training requirement.** (a) Courses required by this subdivision must include the following health and safety topics:

- (1) preventing and controlling infectious diseases;
- (2) administering medication;
- (3) preventing and responding to allergies;
- (4) ensuring building and physical premises safety;
- (5) handling and storing biological contaminants;
- (6) preventing and reporting child abuse and maltreatment; and
- (7) emergency preparedness.

(b) Before initial licensure and before caring for a child, all family child care license holders and each second adult caregiver shall complete and document the completion of the six-hour Supervising for Safety for Family Child Care course developed by the commissioner.

(c) The license holder must ensure and document that, before caring for a child, all substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course developed by the commissioner, which must include health and safety topics as well as child development and learning.

(d) The family child care license holder and each second adult caregiver shall complete and document:

- (1) the annual completion of either:
  - (i) a two-hour active supervision course developed by the commissioner; or

(ii) any courses in the ensuring safety competency area under the health, safety, and nutrition standard of the Knowledge and Competency Framework that the commissioner has identified as an active supervision training course; and

(2) the completion at least once every five years of the two-hour courses Health and Safety I and Health and Safety II. When the training is due for the first time or expires, it must be taken no later than the day before the anniversary of the license holder's license effective date. A license holder's or second adult caregiver's completion of either training in a given year meets the annual active supervision training requirement in clause (1).

(e) At least once every three years, license holders must ensure and document that substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course. When the training expires, it must be retaken no later than the day before the anniversary of the license holder's license effective date.

Sec. 11. Minnesota Statutes 2020, section 245C.02, subdivision 4a, is amended to read:

Subd. 4a. **Authorized fingerprint collection vendor.** "Authorized fingerprint collection vendor" means a qualified organization under a written contract with the commissioner to provide services in accordance with section 245C.05, subdivision 5, paragraph (b). The commissioner may retain the services of more than one authorized fingerprint collection vendor.

Sec. 12. Minnesota Statutes 2020, section 245C.02, subdivision 5, is amended to read:

Subd. 5. **Background study.** "Background study" means:

(1) the collection and processing of a background study subject's fingerprints, including the process of obtaining a background study subject's classifiable fingerprints and photograph as required by section 245C.05, subdivision 5, paragraph (b); and

(2) the review of records conducted by the commissioner to determine whether a subject is disqualified from direct contact with persons served by a program and, where specifically provided in statutes, whether a subject is disqualified from having access to persons served by a program and from working in a children's residential facility or foster residence setting.

Sec. 13. Minnesota Statutes 2020, section 245C.02, is amended by adding a subdivision to read:

Subd. 5b. **Alternative background study.** "Alternative background study" means:

(1) the collection and processing of a background study subject's fingerprints, including the process of obtaining a background study subject's classifiable fingerprints and photograph as required by section 245C.05, subdivision 5, paragraph (b); and

(2) a review of records conducted by the commissioner pursuant to section 245C.08 in order to forward the background study investigating information to the entity that submitted the alternative background study request under section 245C.031, subdivision 2. The commissioner shall not make any eligibility determinations on background studies conducted under section 245C.031.

Sec. 14. Minnesota Statutes 2020, section 245C.02, is amended by adding a subdivision to read:

Subd. 5c. **Public law background study.** "Public law background study" means a background study conducted by the commissioner pursuant to section 245C.032.

Sec. 15. Minnesota Statutes 2020, section 245C.02, is amended by adding a subdivision to read:

Subd. 11c. **Entity.** "Entity" means any program, organization, or agency initiating a background study.

Sec. 16. Minnesota Statutes 2020, section 245C.02, is amended by adding a subdivision to read:

Subd. 16a. **Results.** "Results" means a determination that a study subject is eligible, disqualified, set aside, granted a variance, or that more time is needed to complete the background study.

Sec. 17. Minnesota Statutes 2020, section 245C.03, is amended to read:

**245C.03 BACKGROUND STUDY; INDIVIDUALS TO BE STUDIED.**

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study on:

- (1) the person or persons applying for a license;
  - (2) an individual age 13 and over living in the household where the licensed program will be provided who is not receiving licensed services from the program;
  - (3) current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
  - (4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);
  - (5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;
  - (6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;
  - (7) all controlling individuals as defined in section 245A.02, subdivision 5a;
  - (8) notwithstanding the other requirements in this subdivision, child care background study subjects as defined in section 245C.02, subdivision 6a; and
  - (9) notwithstanding clause (3), for children's residential facilities and foster residence settings, any adult working in the facility, whether or not the individual will have direct contact with persons served by the facility.
- (b) For child foster care when the license holder resides in the home where foster care services are provided, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.
- (c) This subdivision applies to the following programs that must be licensed under chapter 245A:



- (1) adult foster care;
- (2) child foster care;
- (3) children's residential facilities;
- (4) family child care;
- (5) licensed child care centers;
- (6) licensed home and community-based services under chapter 245D;
- (7) residential mental health programs for adults;
- (8) substance use disorder treatment programs under chapter 245G;
- (9) withdrawal management programs under chapter 245F;
- (10) adult day care centers;
- (11) family adult day services;
- (12) independent living assistance for youth;
- (13) detoxification programs;
- (14) community residential settings; and
- (15) intensive residential treatment services and residential crisis stabilization under chapter 245I.

Subd. 1a. **Procedure.** (a) Individuals and organizations that are required under this section to have or initiate background studies shall comply with the requirements of this chapter.

(b) All studies conducted under this section shall be conducted according to sections 299C.60 to 299C.64. This requirement does not apply to subdivisions 1, paragraph (c), clauses (2) to (5), and 6a.

Subd. 2. **Personal care provider organizations.** The commissioner shall conduct background studies on any individual required under sections 256B.0651 to 256B.0654 and 256B.0659 to have a background study completed under this chapter.

Subd. 3. **Supplemental nursing services agencies.** The commissioner shall conduct all background studies required under this chapter and initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1.

Subd. 3a. **Personal care assistance provider agency; background studies.** Personal care assistance provider agencies enrolled to provide personal care assistance services under the medical assistance program must meet the following requirements:

(1) owners who have a five percent interest or more and all managing employees are subject to a background study as provided in this chapter. This requirement applies to currently enrolled personal care assistance provider agencies and agencies seeking enrollment as a personal care assistance provider agency. "Managing employee" has the same meaning as Code of Federal Regulations, title 42, section 455.101. An organization is barred from enrollment if:

- (i) the organization has not initiated background studies of owners and managing employees; or

(ii) the organization has initiated background studies of owners and managing employees and 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; and

(2) a background study must be initiated and completed for all qualified professionals.

**Subd. 3b. Exception to personal care assistant; requirements.** The personal care assistant for a recipient may be allowed to enroll with a different personal care assistance provider agency upon initiation of a new background study according to this chapter if:

(1) the commissioner determines that a change in enrollment or affiliation of the personal care assistant is needed in order to ensure continuity of services and protect the health and safety of the recipient;

(2) the chosen agency has been continuously enrolled as a personal care assistance provider agency for at least two years;

(3) the recipient chooses to transfer to the personal care assistance provider agency;

(4) the personal care assistant has been continuously enrolled with the former personal care assistance provider agency since the last background study was completed; and

(5) the personal care assistant continues to meet requirements of section 256B.0659, subdivision 11, notwithstanding paragraph (a), clause (3).

**Subd. 4. Personnel agencies; educational programs; professional services agencies.** The commissioner also may conduct studies on individuals specified in subdivision 1, paragraph (a), clauses (3) and (4), when the studies are initiated by:

(1) personnel pool agencies;

(2) temporary personnel agencies;

(3) educational programs that train individuals by providing direct contact services in licensed programs; and

(4) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

**Subd. 5. Other state agencies.** The commissioner shall conduct background studies on applicants and license holders under the jurisdiction of other state agencies who are required in other statutory sections to initiate background studies under this chapter, including the applicant's or license holder's employees, contractors, and volunteers when required under other statutory sections.

**Subd. 5a. Facilities serving children or adults licensed or regulated by the Department of Health.** (a) The commissioner shall conduct background studies of:

(1) individuals providing services who have direct contact, as defined under section 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; assisted living facilities and assisted living facilities with dementia care licensed under chapter 144G; and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17;

(2) individuals specified in subdivision 2 who provide direct contact services in a nursing home or a home care agency licensed under chapter 144A; an assisted living facility or assisted living facility with dementia care licensed under chapter 144G; or a boarding care home licensed under sections 144.50 to 144.58. If the individual undergoing a study resides outside of Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the state makes the information available;

(3) all other employees in assisted living facilities or assisted living facilities with dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact with or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; and

(5) controlling persons of a supplemental nursing services agency, as defined by section 144A.70.

(b) If a facility or program is licensed by the Department of Human Services and the Department of Health and is subject to the background study provisions of this chapter, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed program.

(c) The commissioner of health shall review and make decisions regarding reconsideration requests, including whether to grant variances, according to the procedures and criteria in this chapter. The commissioner of health shall inform the requesting individual and the Department of Human Services of the commissioner of health's decision regarding the reconsideration. The commissioner of health's decision to grant or deny a reconsideration of a disqualification is a final administrative agency action.

**Subd. 5b. Facilities serving children or youth licensed by the Department of Corrections.** (a) The commissioner shall conduct background studies of individuals working in secure and nonsecure children's residential facilities, juvenile detention facilities, and foster residence settings, whether or not the individual will have direct contact, as defined under section 245C.02, subdivision 11, with persons served in the facilities or settings.

(b) A clerk or administrator of any court, the Bureau of Criminal Apprehension, a prosecuting attorney, a county sheriff, or a chief of a local police department shall assist in conducting background studies by providing the commissioner of human services or the commissioner's representative all criminal conviction data available from local and state criminal history record repositories related to applicants, operators, all persons living in a household, and all staff of any facility subject to background studies under this subdivision.

(c) For the purpose of this subdivision, the term "secure and nonsecure residential facility and detention facility" includes programs licensed or certified under section 241.021, subdivision 2.

(d) If an individual is disqualified, the Department of Human Services shall notify the disqualified individual and the facility in which the disqualified individual provides services of the disqualification and shall inform the disqualified individual of the right to request a reconsideration of the disqualification by submitting the request to the Department of Corrections.

(e) The commissioner of corrections shall review and make decisions regarding reconsideration requests, including whether to grant variances, according to the procedures and criteria in this chapter. The

commissioner of corrections shall inform the requesting individual and the Department of Human Services of the commissioner of corrections' decision regarding the reconsideration. The commissioner of corrections' decision to grant or deny a reconsideration of a disqualification is the final administrative agency action.

**Subd. 6. Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** (a) The commissioner shall conduct background studies on any individual required under section 256B.4912 to have a background study completed under this chapter who provides direct contact, as defined in section 245C.02, subdivision 11, for services specified in the federally approved home and community-based waiver plans under section 256B.4912. The individual studied must meet the requirements of this chapter prior to providing waiver services and as part of ongoing enrollment.

(b) The requirements in paragraph (a) apply to consumer-directed community supports under section 256B.4911.

**Subd. 6a. Legal nonlicensed and certified child care programs.** The commissioner shall conduct background studies on an individual for each child care background study subject as defined in section 245C.02, subdivision 6a, as required under by sections 119B.125 and 245H.10 to complete a background study under this chapter.

**Subd. 7. Children's therapeutic services and supports providers.** The commissioner shall conduct background studies according to this chapter when initiated by a children's therapeutic services and supports provider of all direct service providers and volunteers for children's therapeutic services and supports providers under section 256B.0943.

~~**Subd. 8. Self-initiated background studies.** Upon implementation of NETStudy 2.0, the commissioner shall conduct background studies according to this chapter when initiated by an individual who is not on the master roster. A subject under this subdivision who is not disqualified must be placed on the inactive roster.~~

**Subd. 9. Community first services and supports and financial management services organizations.** The commissioner shall conduct background studies on any individual required under section 256B.85 to have a background study completed under this chapter. Individuals affiliated with Community First Services and Supports (CFSS) agency-providers and Financial Management Services (FMS) providers enrolled to provide CFSS services under the medical assistance program must meet the following requirements:

(1) owners who have a five percent interest or more and all managing employees are subject to a background study under this chapter. This requirement applies to currently enrolled providers and agencies seeking enrollment. "Managing employee" has the meaning given in Code of Federal Regulations, title 42, section 455.101. An organization is barred from enrollment if:

(i) the organization has not initiated background studies of owners and managing employees; or

(ii) the organization has initiated background studies of owners and managing employees and 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. 9a. **Exception to support worker requirements for continuity of services.** The support worker for a participant may enroll with a different Community First Services and Supports (CFSS) agency-provider or Financial Management Services (FMS) provider upon initiation, rather than completion, of a new background study according to this chapter if:

(1) the commissioner determines that the support worker's change in enrollment or affiliation is necessary to ensure continuity of services and to protect the health and safety of the participant;

(2) the chosen agency-provider or FMS provider has been continuously enrolled as a CFSS agency-provider or FMS 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 provider to which the support worker is transferring;

(4) the support worker has been continuously enrolled with the former CFSS agency-provider or FMS provider since the support worker's last background study was completed; and

(5) the support worker continues to meet the requirements of section 256B.85, subdivision 16, notwithstanding paragraph (a), clause (1).

Subd. 10. **Providers of group residential housing or supplementary services.** (a) The commissioner shall conduct background studies ~~on any individual required under section 256I.04 to have a background study completed under this chapter.~~ of the following individuals who provide services under section 256I.04:

(1) controlling individuals as defined in section 245A.02;

(2) managerial officials as defined in section 245A.02; and

(3) all employees and volunteers of the establishment who have direct contact with recipients or who have unsupervised access to recipients, recipients' personal property, or recipients' private data.

(b) The provider of housing support must comply with all requirements for entities initiating background studies under this chapter.

(c) A provider of housing support must demonstrate that all individuals who are required to have a background study according to paragraph (a) have a notice stating that:

(1) the individual is not disqualified under section 245C.14; or

(2) the individual is disqualified and the individual has been issued a set aside of the disqualification for the setting under section 245C.22.

Subd. 11. ~~**Child protection workers or social services staff having responsibility for child protective duties.**~~ (a) ~~The commissioner must complete background studies, according to paragraph (b) and section 245C.04, subdivision 10, when initiated by a county social services agency or by a local welfare agency according to section 626.559, subdivision 1b.~~

(b) ~~For background studies completed by the commissioner under this subdivision, the commissioner shall not make a disqualification decision, but shall provide the background study information received to the county that initiated the study.~~

Subd. 12. **Providers of special transportation service.** (a) The commissioner shall conduct background studies on any individual required under section 174.30 to have a background study completed under this chapter. of the following individuals who provide special transportation services under section 174.30:

(1) each person with a direct or indirect ownership interest of five percent or higher in a transportation service provider;

(2) each controlling individual as defined under section 245A.02;

(3) a managerial official as defined in section 245A.02;

(4) each driver employed by the transportation service provider;

(5) each individual employed by the transportation service provider to assist a passenger during transport; and

(6) each employee of the transportation service agency who provides administrative support, including an employee who:

(i) may have face-to-face contact with or access to passengers, passengers' personal property, or passengers' private data;

(ii) performs any scheduling or dispatching tasks; or

(iii) performs any billing activities.

(b) When a local or contracted agency is authorizing a ride under section 256B.0625, subdivision 17, by a volunteer driver, and the agency authorizing the ride has a reason to believe that the volunteer driver has a history that would disqualify the volunteer driver or that may pose a risk to the health or safety of passengers, the agency may initiate a background study that shall be completed according to this chapter using the commissioner of human services' online NETStudy system, or by contacting the Department of Human Services background study division for assistance. The agency that initiates the background study under this paragraph shall be responsible for providing the volunteer driver with the privacy notice required by section 245C.05, subdivision 2c, and with the payment for the background study required by section 245C.10 before the background study is completed.

Subd. 13. **Providers of housing support services.** The commissioner shall conduct background studies on of any individual provider of housing support services required under by section 256B.051 to have a background study completed under this chapter.

Subd. 14. **Tribal nursing facilities.** For completed background studies to comply with a Tribal organization's licensing requirements for individuals affiliated with a tribally licensed nursing facility, the commissioner shall obtain state and national criminal history data.

Subd. 15. **Early intensive developmental and behavioral intervention providers.** The commissioner shall conduct background studies according to this chapter when initiated by an early intensive developmental and behavioral intervention provider under section 256B.0949.

**EFFECTIVE DATE.** This section is effective July 1, 2021, except subdivision 6, paragraph (b), is effective upon federal approval and subdivision 15 is effective the day following final enactment. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

**Sec. 18. [245C.031] BACKGROUND STUDY; ALTERNATIVE BACKGROUND STUDIES.**

Subdivision 1. **Alternative background studies.** (a) The commissioner shall conduct an alternative background study of individuals listed in this section.

(b) Notwithstanding other sections of this chapter, all alternative background studies except subdivision 12 shall be conducted according to this section and with section 299C.60 to 299C.64.

(c) All terms in this section shall have the definitions provided in section 245C.02.

(d) The entity that submits an alternative background study request under this section shall submit the request to the commissioner according to section 245C.05.

(e) The commissioner shall comply with the destruction requirements in section 245C.051.

(f) Background studies conducted under this section are subject to the provisions of section 245C.32.

(g) The commissioner shall forward all information that the commissioner receives under section 245C.08 to the entity that submitted the alternative background study request under subdivision 2. The commissioner shall not make any eligibility determinations regarding background studies conducted under this section.

Subd. 2. **Access to information.** Each entity that submits an alternative background study request shall enter into an agreement with the commissioner before submitting requests for alternative background studies under this section. As a part of the agreement, the entity must agree to comply with state and federal law.

Subd. 3. **Child protection workers or social services staff having responsibility for child protective duties.** The commissioner shall conduct an alternative background study of any person who has responsibility for child protection duties when the background study is initiated by a county social services agency or by a local welfare agency according to section 260E.36, subdivision 3.

Subd. 4. **Applicants, licensees, and other occupations regulated by the commissioner of health.** The commissioner shall conduct an alternative background study, including a check of state data, and a national criminal history records check of the following individuals. For studies under this section, the following persons shall complete a consent form:

(1) an applicant for initial licensure, temporary licensure, or relicensure after a lapse in licensure as an audiologist or speech-language pathologist or an applicant for initial certification as a hearing instrument dispenser who must submit to a background study under section 144.0572.

(2) an applicant for a renewal license or certificate as an audiologist, speech-language pathologist, or hearing instrument dispenser who was licensed or obtained a certificate before January 1, 2018.

Subd. 5. **Guardians and conservators.** (a) The commissioner shall conduct an alternative background study of:

(1) every court-appointed guardian and conservator, unless a background study has been completed of the person under this section within the previous five years. The alternative background study shall be completed prior to the appointment of the guardian or conservator, unless a court determines that it would be in the best interests of the ward or protected person to appoint a guardian or conservator before the alternative background study can be completed. If the court appoints the guardian or conservator while the alternative background study is pending, the alternative background study must be completed as soon as reasonably possible after the guardian or conservator's appointment and no later than 30 days after the guardian or conservator's appointment; and

(2) a guardian and a conservator once every five years after the guardian or conservator's appointment if the person continues to serve as a guardian or conservator.

(b) An alternative background study is not required if the guardian or conservator is:

(1) a state agency or county;

(2) a parent or guardian of a proposed ward or protected person who has a developmental disability if the parent or guardian has raised the proposed ward or protected person in the family home until the time that the petition is filed, unless counsel appointed for the proposed ward or protected person under section 524.5-205, paragraph (d); 524.5-304, paragraph (b); 524.5-405, paragraph (a); or 524.5-406, paragraph (b), recommends a background study; or

(3) a bank with trust powers, a bank and trust company, or a trust company, organized under the laws of any state or of the United States and regulated by the commissioner of commerce or a federal regulator.

Subd. 6. **Guardians and conservators; required checks.** (a) An alternative background study for a guardian or conservator pursuant to subdivision 5 shall include:

(1) criminal history data from the Bureau of Criminal Apprehension and other criminal history data obtained by the commissioner of human services;

(2) data regarding whether the person has been a perpetrator of substantiated maltreatment of a vulnerable adult under section 626.557 or a minor under chapter 260E. If the subject of the study has been the perpetrator of substantiated maltreatment of a vulnerable adult or a minor, the commissioner must include a copy of the public portion of the investigation memorandum under section 626.557, subdivision 12b, or the public portion of the investigation memorandum under section 260E.30. The commissioner shall provide the court with information from a review of information according to subdivision 7 if the study subject provided information that the study subject has a current or prior affiliation with a state licensing agency;

(3) criminal history data from a national criminal history record check as defined in section 245C.02, subdivision 13c; and

(4) state licensing agency data if a search of the database or databases of the agencies listed in subdivision 7 shows that the proposed guardian or conservator has held a professional license directly related to the responsibilities of a professional fiduciary from an agency listed in subdivision 7 that was conditioned, suspended, revoked, or canceled.

(b) If the guardian or conservator is not an individual, the background study must be completed of all individuals who are currently employed by the proposed guardian or conservator who are responsible for exercising powers and duties under the guardianship or conservatorship.

Subd. 7. **Guardians and conservators; state licensing data.** (a) Within 25 working days of receiving the request for an alternative background study of a guardian or conservator, the commissioner shall provide the court with licensing agency data for licenses directly related to the responsibilities of a guardian or conservator if the study subject has a current or prior affiliation with the:

(1) Lawyers Responsibility Board;

(2) State Board of Accountancy;

(3) Board of Social Work;



- (4) Board of Psychology;
- (5) Board of Nursing;
- (6) Board of Medical Practice;
- (7) Department of Education;
- (8) Department of Commerce;
- (9) Board of Chiropractic Examiners;
- (10) Board of Dentistry;
- (11) Board of Marriage and Family Therapy;
- (12) Department of Human Services;
- (13) Peace Officer Standards and Training (POST) Board; and
- (14) Professional Educator Licensing and Standards Board.

(b) The commissioner and each of the agencies listed above, except for the Department of Human Services, shall enter into a written agreement to provide the commissioner with electronic access to the relevant licensing data and to provide the commissioner with a quarterly list of new sanctions issued by the agency.

(c) The commissioner shall provide to the court the electronically available data maintained in the agency's database, including whether the proposed guardian or conservator is or has been licensed by the agency and whether a disciplinary action or a sanction against the individual's license, including a condition, suspension, revocation, or cancellation, is in the licensing agency's database.

(d) If the proposed guardian or conservator has resided in a state other than Minnesota during the previous ten years, licensing agency data under this section shall also include licensing agency data from any other state where the proposed guardian or conservator reported to have resided during the previous ten years if the study subject has a current or prior affiliation to the licensing agency. If the proposed guardian or conservator has or has had a professional license in another state that is directly related to the responsibilities of a guardian or conservator from one of the agencies listed under paragraph (a), state licensing agency data shall also include data from the relevant licensing agency of the other state.

(e) The commissioner is not required to repeat a search for Minnesota or out-of-state licensing data on an individual if the commissioner has provided this information to the court within the prior five years.

(f) The commissioner shall review the information in paragraph (c) at least once every four months to determine whether an individual who has been studied within the previous five years:

- (1) has any new disciplinary action or sanction against the individual's license; or
- (2) did not disclose a prior or current affiliation with a Minnesota licensing agency.

(g) If the commissioner's review in paragraph (f) identifies new information, the commissioner shall provide any new information to the court.

**Subd. 8. Guardians ad litem. The commissioner shall conduct an alternative background study of:**

(1) a guardian ad litem appointed under section 518.165 if a background study of the guardian ad litem has not been completed within the past three years. The background study of the guardian ad litem must be completed before the court appoints the guardian ad litem, unless the court determines that it is in the best interests of the child to appoint the guardian ad litem before a background study is completed by the commissioner.

(2) a guardian ad litem once every three years after the guardian has been appointed, as long as the individual continues to serve as a guardian ad litem.

**Subd. 9. Guardians ad litem; required checks.** (a) An alternative background study for a guardian ad litem under subdivision 8 must include:

(1) criminal history data from the Bureau of Criminal Apprehension and other criminal history data obtained by the commissioner of human services; and

(2) data regarding whether the person has been a perpetrator of substantiated maltreatment of a minor or a vulnerable adult. If the study subject has been determined by the Department of Human Services or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or a vulnerable adult in a licensed facility, the response must include a copy of the public portion of the investigation memorandum under section 260E.30 or the public portion of the investigation memorandum under section 626.557, subdivision 12b. When the background study shows that the subject has been determined by a county adult protection or child protection agency to have been responsible for maltreatment, the court shall be informed of the county, the date of the finding, and the nature of the maltreatment that was substantiated.

(b) For checks of records under paragraph (a), clauses (1) and (2), the commissioner shall provide the records within 15 working days of receiving the request. The information obtained under sections 245C.05 and 245C.08 from a national criminal history records check shall be provided within three working days of the commissioner's receipt of the data.

(c) Notwithstanding section 260E.30 or 626.557, subdivision 12b, if the commissioner or county lead agency or lead investigative agency has information that a person of whom a background study was previously completed under this section has been determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study.

**Subd. 10. First-time applicants for educator licenses with the Professional Educator Licensing and Standards Board.** The Professional Educator Licensing and Standards Board shall make all eligibility determinations for alternative background studies conducted under this section for the Professional Educator Licensing and Standards Board. The commissioner may conduct an alternative background study of all first-time applicants for educator licenses pursuant to section 122A.18, subdivision 8. The alternative background study for all first-time applicants for educator licenses must include a review of information from the Bureau of Criminal Apprehension, including criminal history data as defined in section 13.87, and must also include a review of the national criminal records repository.

**Subd. 11. First-time applicants for administrator licenses with the Board of School Administrators.** The Board of School Administrators shall make all eligibility determinations for alternative background studies conducted under this section for the Board of School Administrators. The commissioner may conduct an alternative background study of all first-time applicants for administrator licenses pursuant to section 122A.18, subdivision 8. The alternative background study for all first-time applicants for administrator licenses must include a review of information from the Bureau of Criminal Apprehension,

including criminal history data as defined in section 13.87, and must also include a review of the national criminal records repository.

Subd. 12. **Occupations regulated by MNsure.** (a) The commissioner shall conduct a background study of any individual required under section 62V.05 to have a background study completed under this chapter. Notwithstanding subdivision 1, paragraph (g), the commissioner shall conduct a background study only based on Minnesota criminal records of:

- (1) each navigator;
- (2) each in-person assister; and
- (3) each certified application counselor.

(b) The MNsure board of directors may initiate background studies required by paragraph (a) using the online NETStudy 2.0 system operated by the commissioner.

(c) The commissioner shall review information that the commissioner receives to determine if the study subject has potentially disqualifying offenses. The commissioner shall send a letter to the subject indicating any of the subject's potential disqualifications as well as any relevant records. The commissioner shall send a copy of the letter indicating any of the subject's potential disqualifications to the MNsure board.

(d) The MNsure board or its delegate shall review a reconsideration request of an individual in paragraph (a), including granting a set aside, according to the procedures and criteria in chapter 245C. The board shall notify the individual and the Department of Human Services of the board's decision.

#### Sec. 19. **[245C.032] PUBLIC LAW BACKGROUND STUDIES.**

Subdivision 1. **Public law background studies.** (a) Notwithstanding all other sections of chapter 245C, the commissioner shall conduct public law background studies exclusively in accordance with this section. The commissioner shall conduct a public law background study under this section for an individual having direct contact with persons served by a licensed sex offender treatment program under chapters 246B and 253D.

(b) All terms in this section shall have the definitions provided in section 245C.02.

(c) The commissioner shall conduct public law background studies according to the following:

(1) section 245C.04, subdivision 1, paragraphs (a), (b), (d), (g), (h), and (i), subdivision 4a, and subdivision 7;

(2) section 245C.05, subdivision 1, paragraphs (a) and (d), subdivisions 2, 2c, and 2d, subdivision 4, paragraph (a), clauses (1) and (2), subdivision 5, paragraphs (b) to (f), and subdivisions 6 and 7;

(3) section 245C.051;

(4) section 245C.07, paragraphs (a), (b), (d), and (f);

(5) section 245C.08, subdivision 1, paragraph (a), clauses (1) to (5), paragraphs (b), (c), (d), and (e), subdivision 3, and subdivision 4, paragraphs (a), (c), (d), and (e);

(6) section 245C.09, subdivisions 1 and 2;

(7) section 245C.10, subdivision 9;

(8) section 245C.13, subdivision 1, and subdivision 2, paragraph (a), and paragraph (c), clauses (1) to (3);

(9) section 245C.14, subdivisions 1 and 2;

(10) section 245C.15;

(11) section 245C.16, subdivision 1, paragraphs (a), (b), (c), and (f), and subdivision 2, paragraphs (a) and (b);

(12) section 245C.17, subdivision 1, subdivision 2, paragraph (a), clauses (1) to (3), clause (6), item (ii), subdivision 3, paragraphs (a) and (b), paragraph (c), clauses (1) and (2), items (ii) and (iii), paragraph (d), clauses (1) and (2), item (ii), and paragraph (e);

(13) section 245C.18, paragraph (a);

(14) section 245C.19;

(15) section 245C.20;

(16) section 245C.21, subdivision 1, subdivision 1a, paragraph (c), and subdivisions 2, 3, and 4;

(17) section 245C.22, subdivisions 1, 2, and 3, subdivision 4, paragraphs (a) to (c), subdivision 5, paragraphs (a), (b), and (d), and subdivision 6;

(18) section 245C.23, subdivision 1, paragraphs (a) and (b), and subdivision 2, paragraphs (a) to (c);

(19) section 245C.24, subdivision 2, paragraph (a);

(20) section 245C.25;

(21) section 245C.27;

(22) section 245C.28;

(23) section 245C.29, subdivision 1, and subdivision 2, paragraphs (a) and (c);

(24) section 245C.30, subdivision 1, paragraphs (a) and (d), and subdivisions 3 to 5;

(25) section 245C.31; and

(26) section 245C.32.

Subd. 2. **Classification of public law background study data; access to information.** All data obtained by the commissioner for a background study completed under this section shall be classified as private data.

Sec. 20. Minnesota Statutes 2020, 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) 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.

(e) The subject of a background study shall submit a completed criminal and maltreatment history records check consent form for applicable national and state level record checks.

Sec. 21. Minnesota Statutes 2020, section 245C.05, subdivision 2, is amended to read:

Subd. 2. **Applicant, license holder, or other entity.** (a) The applicant, license holder, or other ~~entities~~ entity initiating the background study as provided in this chapter shall verify that the information collected under subdivision 1 about an individual who is the subject of the background study is correct and must provide the information on forms or in a format prescribed by the commissioner.

(b) The information collected under subdivision 1 about an individual who is the subject of a completed background study may only be viewable by an entity that initiates a subsequent background study on that individual under NETStudy 2.0 after the entity has paid the applicable fee for the study and has provided the individual with the privacy notice in subdivision 2c.

Sec. 22. Minnesota Statutes 2020, section 245C.05, subdivision 2a, is amended to read:

Subd. 2a. **County or private agency.** For background studies related to child foster care when the applicant or license holder resides in the home where child foster care services are provided, county and private agencies initiating the background study must collect the information under subdivision 1 and forward it to the commissioner.

Sec. 23. Minnesota Statutes 2020, section 245C.05, subdivision 2b, is amended to read:

Subd. 2b. **County agency to collect and forward information to commissioner.** (a) For background studies related to all family adult day services and to adult foster care when the adult foster care license holder resides in the adult foster care residence, the county agency or private agency initiating the background study must collect the information required under subdivision 1 and forward it to the commissioner.

(b) Upon implementation of NETStudy 2.0, for background studies related to family child care and legal nonlicensed child care authorized under chapter 119B, the county agency initiating the background study must collect the information required under subdivision 1 and provide the information to the commissioner.

Sec. 24. Minnesota Statutes 2020, section 245C.05, subdivision 2c, is amended to read:

Subd. 2c. **Privacy notice to background study subject.** (a) Prior to initiating each background study, the entity initiating the study must provide the commissioner's privacy notice to the background study subject required under section 13.04, subdivision 2. The notice must be available through the commissioner's electronic NETStudy and NETStudy 2.0 systems and shall include the information in paragraphs (b) and (c).

(b) The background study subject shall be informed that any previous background studies that received a set-aside will be reviewed, and without further contact with the background study subject, the commissioner may notify the agency that initiated the subsequent background study:

(1) that the individual has a disqualification that has been set aside for the program or agency that initiated the study;

(2) the reason for the disqualification; and

(3) that information about the decision to set aside the disqualification will be available to the license holder upon request without the consent of the background study subject.

(c) The background study subject must also be informed that:

(1) the subject's fingerprints collected for purposes of completing the background study under this chapter must not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or by the commissioner. The Federal Bureau of Investigation will ~~only retain fingerprints of subjects with a criminal history~~ not retain background study subjects' fingerprints;

(2) effective upon implementation of NETStudy 2.0, the subject's photographic image will be retained by the commissioner, and if the subject has provided the subject's Social Security number for purposes of the background study, the photographic image will be available to prospective employers and agencies initiating background studies under this chapter to verify the identity of the subject of the background study;

(3) the ~~commissioner's~~ authorized fingerprint collection vendor or vendors shall, for purposes of verifying the identity of the background study subject, be able to view the identifying information entered into NETStudy 2.0 by the entity that initiated the background study, but shall not retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The authorized fingerprint collection vendor or vendors shall retain no more than the subject's name and the date and time the subject's fingerprints were recorded and sent, only as necessary for auditing and billing activities;

(4) the commissioner shall provide the subject notice, as required in section 245C.17, subdivision 1, paragraph (a), when an entity initiates a background study on the individual;

(5) the subject may request in writing a report listing the entities that initiated a background study on the individual as provided in section 245C.17, subdivision 1, paragraph (b);

(6) the subject may request in writing that information used to complete the individual's background study in NETStudy 2.0 be destroyed if the requirements of section 245C.051, paragraph (a), are met; and

(7) notwithstanding clause (6), the commissioner shall destroy:

(i) the subject's photograph after a period of two years when the requirements of section 245C.051, paragraph (c), are met; and

(ii) any data collected on a subject under this chapter after a period of two years following the individual's death as provided in section 245C.051, paragraph (d).

Sec. 25. Minnesota Statutes 2020, section 245C.05, subdivision 2d, is amended to read:

Subd. 2d. **Fingerprint data notification.** The commissioner of human services shall notify all background study subjects under this chapter that the Department of Human Services, Department of Public Safety, and the Bureau of Criminal Apprehension do not retain fingerprint data after a background study is completed, and that the Federal Bureau of Investigation ~~only retains the fingerprints of subjects who have a criminal history~~ does not retain background study subjects' fingerprints.

Sec. 26. Minnesota Statutes 2020, section 245C.05, subdivision 4, is amended to read:

Subd. 4. **Electronic transmission.** (a) For background studies conducted by the Department of Human Services, the commissioner shall implement a secure system for the electronic transmission of:

(1) background study information to the commissioner;

(2) background study results to the license holder;

(3) background study ~~results~~ information obtained under this section and section 245C.08 to counties and private agencies for background studies conducted by the commissioner for child foster care, including a summary of nondisqualifying results, except as prohibited by law; and

(4) background study results to county agencies for background studies conducted by the commissioner for adult foster care and family adult day services and, upon implementation of NETStudy 2.0, family child care and legal nonlicensed child care authorized under chapter 119B.

(b) Unless the commissioner has granted a hardship variance under paragraph (c), a license holder or an applicant must use the electronic transmission system known as NETStudy or NETStudy 2.0 to submit all requests for background studies to the commissioner as required by this chapter.

(c) A license holder or applicant whose program is located in an area in which high-speed Internet is inaccessible may request the commissioner to grant a variance to the electronic transmission requirement.

(d) Section 245C.08, subdivision 3, paragraph (c), applies to results transmitted under this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 27. Minnesota Statutes 2020, section 245C.05, subdivision 5, is amended to read:

Subd. 5. **Fingerprints and photograph.** (a) Notwithstanding paragraph (b), for background studies conducted by the commissioner for child foster care, children's residential facilities, adoptions, or a transfer of permanent legal and physical custody of a child, the subject of the background study, who is 18 years of age or older, shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized agency for a national criminal history record check.

(b) For background studies initiated on or after the implementation of NETStudy 2.0, except as provided under subdivision 5a, every subject of a background study must provide the commissioner with a set of the

background study subject's classifiable fingerprints and photograph. The photograph and fingerprints must be recorded at the same time by the ~~commissioner's~~ authorized fingerprint collection vendor or vendors and sent to the commissioner through the commissioner's secure data system described in section 245C.32, subdivision 1a, paragraph (b).

(c) The fingerprints shall be submitted by the commissioner to the Bureau of Criminal Apprehension and, when specifically required by law, submitted to the Federal Bureau of Investigation for a national criminal history record check.

(d) The fingerprints must not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or the commissioner. The Federal Bureau of Investigation will not retain background study subjects' fingerprints.

(e) The ~~commissioner's~~ authorized fingerprint collection vendor or vendors shall, for purposes of verifying the identity of the background study subject, be able to view the identifying information entered into NETStudy 2.0 by the entity that initiated the background study, but shall not retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The authorized fingerprint collection vendor or vendors shall retain no more than the name and date and time the subject's fingerprints were recorded and sent, only as necessary for auditing and billing activities.

(f) For any background study conducted under this chapter, the subject shall provide the commissioner with a set of classifiable fingerprints when the commissioner has reasonable cause to require a national criminal history record check as defined in section 245C.02, subdivision 15a.

Sec. 28. Minnesota Statutes 2020, section 245C.08, subdivision 3, is amended to read:

Subd. 3. **Arrest and investigative information.** (a) For any background study completed under this section, if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual, the commissioner also may review arrest and investigative information from:

- (1) the Bureau of Criminal Apprehension;
- (2) the commissioners of health and human services;
- (3) a county attorney;
- (4) a county sheriff;
- (5) a county agency;
- (6) a local chief of police;
- (7) other states;
- (8) the courts;
- (9) the Federal Bureau of Investigation;
- (10) the National Criminal Records Repository; and
- (11) criminal records from other states.

(b) Except when specifically required by law, the commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal



history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the entity that initiated the background study.

(c) If the commissioner conducts a national criminal history record check when required by law and uses the information from the national criminal history record check to make a disqualification determination, the data obtained is private data and cannot be shared with ~~county agencies~~, private agencies, or prospective employers of the background study subject.

(d) If the commissioner conducts a national criminal history record check when required by law and uses the information from the national criminal history record check to make a disqualification determination, the license holder or entity that submitted the study is not required to obtain a copy of the background study subject's disqualification letter under section 245C.17, subdivision 3.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 29. Minnesota Statutes 2020, section 245C.08, is amended by adding a subdivision to read:

Subd. 5. **Authorization.** The commissioner of human services shall be authorized to receive information under this chapter.

Sec. 30. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 1b. **Background study fees.** (a) The commissioner shall recover the cost of background studies. Except as otherwise provided in subdivisions 1c and 1d, the fees collected under this section shall be appropriated to the commissioner for the purpose of conducting background studies under this chapter. Fees under this section are charges under section 16A.1283, paragraph (b), clause (3).

(b) Background study fees may include:

(1) a fee to compensate the commissioner's authorized fingerprint collection vendor or vendors for obtaining and processing a background study subject's classifiable fingerprints and photograph pursuant to subdivision 1c; and

(2) a separate fee under subdivision 1c to complete a review of background-study-related records as authorized under this chapter.

(c) Fees charged under paragraph (b) may be paid in whole or part when authorized by law by a state agency or board; by state court administration; by a service provider, employer, license holder, or other organization that initiates the background study; by the commissioner or other organization with duly appropriated funds; by a background study subject; or by some combination of these sources.

Sec. 31. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 1c. **Fingerprint and photograph processing fees.** The commissioner shall enter into a contract with a qualified vendor or vendors to obtain and process a background study subject's classifiable fingerprints and photograph as required by section 245C.05. The commissioner may, at their discretion, directly collect fees and reimburse the commissioner's authorized fingerprint collection vendor for the vendor's services or require the vendor to collect the fees. The authorized vendor is responsible for reimbursing the vendor's subcontractors at a rate specified in the contract with the commissioner.

Sec. 32. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 1d. **National criminal history record check fees.** The commissioner may increase background study fees as necessary, commensurate with an increase in the national criminal history record check fee. The commissioner shall report any fee increase under this subdivision to the legislature during the legislative session following the fee increase, so that the legislature may consider adoption of the fee increase into statute. By July 1 of every year, background study fees shall be set at the amount adopted by the legislature under this section.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 33. Minnesota Statutes 2020, section 245C.10, subdivision 2, is amended to read:

Subd. 2. **Supplemental nursing services agencies.** The commissioner shall recover the cost of the background studies initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1, through a fee of no more than ~~\$20~~ \$42 per study charged to the agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 34. Minnesota Statutes 2020, section 245C.10, subdivision 3, is amended to read:

Subd. 3. **Personal care provider organizations.** The commissioner shall recover the cost of background studies initiated by a personal care provider organization under sections 256B.0651 to 256B.0654 and 256B.0659 through a fee of no more than ~~\$20~~ \$42 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. 35. Minnesota Statutes 2020, section 245C.10, subdivision 4, is amended to read:

Subd. 4. **Temporary personnel agencies, educational programs, and professional services agencies.** The commissioner shall recover the cost of the background studies initiated by temporary personnel agencies, educational programs, and professional services agencies that initiate background studies under section 245C.03, subdivision 4, through a fee of no more than ~~\$20~~ \$42 per study charged to the agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 36. Minnesota Statutes 2020, section 245C.10, subdivision 5, is amended to read:

Subd. 5. **Adult foster care and family adult day services.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 1, for the purposes of adult foster care and family adult day services licensing, through a fee of no more than ~~\$20~~ \$42 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 37. Minnesota Statutes 2020, section 245C.10, subdivision 6, is amended to read:

Subd. 6. **Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** The commissioner shall recover the cost of background studies initiated by unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities under section 256B.4912 through a fee of no more than ~~\$20~~ \$42 per study.

Sec. 38. Minnesota Statutes 2020, section 245C.10, subdivision 8, is amended to read:

Subd. 8. **Children's therapeutic services and supports providers.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 7, for the purposes of children's therapeutic services and supports under section 256B.0943, through a fee of no more than ~~\$20~~ \$42 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 39. Minnesota Statutes 2020, section 245C.10, subdivision 9, is amended to read:

Subd. 9. **Human services licensed programs.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 1, for all programs that are licensed by the commissioner, except child foster care when the applicant or license holder resides in the home where child foster care services are provided, family child care, child care centers, certified license-exempt child care centers, and legal nonlicensed child care authorized under chapter 119B, through a fee of no more than ~~\$20~~ \$42 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 40. Minnesota Statutes 2020, section 245C.10, subdivision 9a, is amended to read:

Subd. 9a. **Child care programs.** The commissioner shall recover the cost of a background study required for family child care, certified license-exempt child care centers, licensed child care centers, and legal nonlicensed child care providers authorized under chapter 119B through a fee of no more than \$40 per study charged to the license holder. A fee of no more than ~~\$20~~ \$42 per study shall be charged for studies conducted under section 245C.05, subdivision 5a, paragraph (a). The fees collected under this subdivision are appropriated to the commissioner to conduct background studies.

Sec. 41. Minnesota Statutes 2020, 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 provider providing service functions under section 256B.85, subdivision 13, through a fee of no more than ~~\$20~~ \$42 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. 42. Minnesota Statutes 2020, section 245C.10, subdivision 11, is amended to read:

Subd. 11. **Providers of housing support.** The commissioner shall recover the cost of background studies initiated by providers of housing support under section 256I.04 through a fee of no more than ~~\$20~~ \$42 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 43. Minnesota Statutes 2020, section 245C.10, subdivision 12, is amended to read:

Subd. 12. **Child protection workers or social services staff having responsibility for child protective duties.** The commissioner shall recover the cost of background studies initiated by county social services agencies and local welfare agencies for individuals who are required to have a background study under section ~~626.559, subdivision 1b~~ 260E.36, subdivision 3, through a fee of no more than ~~\$20~~ \$42 per study.

The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 44. Minnesota Statutes 2020, section 245C.10, subdivision 13, is amended to read:

Subd. 13. **Providers of special transportation service.** The commissioner shall recover the cost of background studies initiated by providers of special transportation service under section 174.30 through a fee of no more than ~~\$20~~ \$42 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 45. Minnesota Statutes 2020, section 245C.10, subdivision 15, is amended to read:

Subd. 15. **Guardians and conservators.** The commissioner shall recover the cost of conducting background studies for guardians and conservators under section 524.5-118 through a fee of no more than \$110 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies. The fee for conducting an alternative background study for appointment of a professional guardian or conservator must be paid by the guardian or conservator. In other cases, the fee must be paid as follows:

(1) if the matter is proceeding in forma pauperis, the fee must be paid as an expense for purposes of section 524.5-502, paragraph (a);

(2) if there is an estate of the ward or protected person, the fee must be paid from the estate; or

(3) in the case of a guardianship or conservatorship of a person that is not proceeding in forma pauperis, the fee must be paid by the guardian, conservator, or the court.

Sec. 46. Minnesota Statutes 2020, section 245C.10, subdivision 16, is amended to read:

Subd. 16. **Providers of housing support services.** The commissioner shall recover the cost of background studies initiated by providers of housing support services under section 256B.051 through a fee of no more than ~~\$20~~ \$42 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 47. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 17. **Early intensive developmental and behavioral intervention providers.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 15, for the purposes of early intensive developmental and behavioral intervention under section 256B.0949, through a fee of no more than \$42 per study charged to the enrolled agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

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

Sec. 48. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 18. **Applicants, licensees, and other occupations regulated by commissioner of health.** The applicant or license holder is responsible for paying to the Department of Human Services all fees associated with the preparation of the fingerprints, the criminal records check consent form, and the criminal background check.

Sec. 49. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 19. **Occupations regulated by MNsure.** The commissioner shall set fees to recover the cost of background studies and criminal background checks initiated by MNsure under sections 62V.05 and 245C.031. The fee amount shall be established through interagency agreement between the commissioner and the board of MNsure or its designee. The fees collected under this subdivision shall be deposited in the special revenue fund and are appropriated to the commissioner for the purpose of conducting background studies and criminal background checks.

Sec. 50. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 20. **Professional Educators Licensing Standards Board.** The commissioner shall recover the cost of background studies initiated by the Professional Educators Licensing Standards Board through a fee of no more than \$51 per study. Fees collected under this subdivision are appropriated to the commissioner for purposes of conducting background studies.

Sec. 51. Minnesota Statutes 2020, section 245C.10, is amended by adding a subdivision to read:

Subd. 21. **Board of School Administrators.** The commissioner shall recover the cost of background studies initiated by the Board of School Administrators through a fee of no more than \$51 per study. Fees collected under this subdivision are appropriated to the commissioner for purposes of conducting background studies.

Sec. 52. Minnesota Statutes 2020, section 245C.13, subdivision 2, is amended to read:

Subd. 2. **Activities pending completion of background study.** The subject of a background study may not perform any activity requiring a background study under paragraph (c) until the commissioner has issued one of the notices under paragraph (a).

(a) Notices from the commissioner required prior to activity under paragraph (c) include:

(1) a notice of the study results under section 245C.17 stating that:

(i) the individual is not disqualified; or

(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The notice that more time is needed to complete the study must also indicate whether the individual is required to be under continuous direct supervision prior to completion of the background study. When more time is necessary to complete a background study of an individual affiliated with a Title IV-E eligible children's residential facility or foster residence setting, the individual may not work in the facility or setting regardless of whether or not the individual is supervised;

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) For a background study affiliated with a licensed child care center or certified license-exempt child care center, the notice sent under paragraph (a), clause (1), item (ii), must require the individual to be under continuous direct supervision prior to completion of the background study except as permitted in subdivision 3.

(c) Activities prohibited prior to receipt of notice under paragraph (a) include:

- (1) being issued a license;
- (2) living in the household where the licensed program will be provided;
- (3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision;
- (4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2), (5), or (6), unless the subject is under continuous direct supervision;
- (5) for licensed child care centers and certified license-exempt child care centers, providing direct contact services to persons served by the program; ~~or~~
- (6) for children's residential facilities or foster residence settings, working in the facility or setting; or
- (7) for background studies affiliated with a personal care provider organization, except as provided in section 245C.03, subdivision 3b, before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study of the personal care assistant under this chapter and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22.

Sec. 53. Minnesota Statutes 2020, section 245C.14, subdivision 1, is amended to read:

Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

- (1) a conviction of, admission to, or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime;
- (2) a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the preponderance of the evidence is for a felony, gross misdemeanor, or misdemeanor level crime; or
- (3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b).

(b) No individual who is disqualified following a background study under section 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with persons served by a program or entity identified in section 245C.03, unless the commissioner has provided written notice under section 245C.17 stating that:

- (1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that program or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

(c) Notwithstanding paragraph (a), for the purposes of a background study affiliated with a licensed family foster setting, the commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing or when a background study completed under this chapter shows reason for disqualification under section 245C.15, subdivision 4a.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 54. Minnesota Statutes 2020, section 245C.14, is amended by adding a subdivision to read:

**Subd. 4. Disqualification from working in licensed child care centers or certified license-exempt child care centers.** (a) For a background study affiliated with a licensed child care center or certified license-exempt child care center, if an individual is disqualified from direct contact under subdivision 1, the commissioner must also disqualify the individual from working in any position regardless of whether the individual would have direct contact with or access to children served in the licensed child care center or certified license-exempt child care center and from having access to a person receiving services from the center.

(b) Notwithstanding any other requirement of this chapter, for a background study affiliated with a licensed child care center or a certified license-exempt child care center, if an individual is disqualified, the individual may not work in the child care center until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

Sec. 55. Minnesota Statutes 2020, section 245C.15, is amended by adding a subdivision to read:

**Subd. 4a. Licensed family foster setting disqualifications.** (a) Notwithstanding subdivisions 1 to 4, for a background study affiliated with a licensed family foster setting, regardless of how much time has passed, an individual is disqualified under section 245C.14 if the individual committed an act that resulted in a felony-level conviction for sections: 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112 (criminal vehicular homicide); 609.221 (assault in the first degree); 609.223, subdivision 2 (assault in the third degree, past pattern of child abuse); 609.223, subdivision 3 (assault in the third degree, victim under four); a felony offense under sections 609.2242 and 609.2243 (domestic assault, spousal abuse, child abuse or neglect, or a crime against children); 609.2247 (domestic assault by strangulation); 609.2325 (criminal abuse of a vulnerable adult resulting in the death of a vulnerable adult); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.322, subdivision 1 (solicitation, inducement,

and promotion of prostitution; sex trafficking in the first degree); 609.324, subdivision 1 (other prohibited acts; engaging in, hiring, or agreeing to hire minor to engage in prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.582, subdivision 1 (burglary in the first degree); 609.746 (interference with privacy); 617.23 (indecent exposure); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of pictorial representations of minors).

(b) Notwithstanding subdivisions 1 to 4, for the purposes of a background study affiliated with a licensed family foster setting, an individual is disqualified under section 245C.14, regardless of how much time has passed, if the individual:

(1) committed an action under paragraph (e) that resulted in death or involved sexual abuse, as defined in section 260E.03, subdivision 20;

(2) committed an act that resulted in a gross misdemeanor-level conviction for section 609.3451 (criminal sexual conduct in the fifth degree);

(3) committed an act against or involving a minor that resulted in a felony-level conviction for: section 609.222 (assault in the second degree); 609.223, subdivision 1 (assault in the third degree); 609.2231 (assault in the fourth degree); or 609.224 (assault in the fifth degree); or

(4) committed an act that resulted in a misdemeanor or gross misdemeanor-level conviction for section 617.293 (dissemination and display of harmful materials to minors).

(c) Notwithstanding subdivisions 1 to 4, for a background study affiliated with a licensed family foster setting, an individual is disqualified under section 245C.14 if fewer than 20 years have passed since the termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or if the individual consented to a termination of parental rights under section 260C.301, subdivision 1, paragraph (a), to settle a petition to involuntarily terminate parental rights. An individual is disqualified under section 245C.14 if fewer than 20 years have passed since the termination of the individual's parental rights in any other state or country, where the conditions for the individual's termination of parental rights are substantially similar to the conditions in section 260C.301, subdivision 1, paragraph (b).

(d) Notwithstanding subdivisions 1 to 4, for a background study affiliated with a licensed family foster setting, an individual is disqualified under section 245C.14 if fewer than five years have passed since a felony-level violation for sections: 152.021 (controlled substance crime in the first degree); 152.022 (controlled substance crime in the second degree); 152.023 (controlled substance crime in the third degree); 152.024 (controlled substance crime in the fourth degree); 152.025 (controlled substance crime in the fifth degree); 152.0261 (importing controlled substances across state borders); 152.0262, subdivision 1, paragraph (b) (possession of substance with intent to manufacture methamphetamine); 152.027, subdivision 6, paragraph (c) (sale or possession of synthetic cannabinoids); 152.096 (conspiracies prohibited); 152.097 (simulated controlled substances); 152.136 (anhydrous ammonia; prohibited conduct; criminal penalties; civil liabilities); 152.137 (methamphetamine-related crimes involving children or vulnerable adults); 169A.24 (felony first-degree driving while impaired); 243.166 (violation of predatory offender registration requirements); 609.2113 (criminal vehicular operation; bodily harm); 609.2114 (criminal vehicular operation; unborn child); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult not resulting in the death of a vulnerable adult); 609.233 (criminal neglect); 609.235 (use of drugs to injure



or facilitate a crime); 609.24 (simple robbery); 609.322, subdivision 1a (solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree); 609.498, subdivision 1 (tampering with a witness in the first degree); 609.498, subdivision 1b (aggravated first-degree witness tampering); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582, subdivision 2 (burglary in the second degree); 609.66 (felony dangerous weapons); 609.687 (adulteration); 609.713 (terroristic threats); 609.749, subdivision 3, 4, or 5 (felony-level harassment or stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); or 624.713 (certain people not to possess firearms).

(e) Notwithstanding subdivisions 1 to 4, except as provided in paragraph (a), for a background study affiliated with a licensed family child foster care license, an individual is disqualified under section 245C.14 if fewer than five years have passed since:

(1) a felony-level violation for an act not against or involving a minor that constitutes: section 609.222 (assault in the second degree); 609.223, subdivision 1 (assault in the third degree); 609.2231 (assault in the fourth degree); or 609.224, subdivision 4 (assault in the fifth degree);

(2) a violation of an order for protection under section 518B.01, subdivision 14;

(3) a determination or disposition of the individual's failure to make required reports under section 260E.06 or 626.557, subdivision 3, for incidents in which the final disposition under chapter 260E or section 626.557 was substantiated maltreatment and the maltreatment was recurring or serious;

(4) a determination or disposition of the individual's substantiated serious or recurring maltreatment of a minor under chapter 260E, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under chapter 260E or section 626.557 and meet the definition of serious maltreatment or recurring maltreatment;

(5) a gross misdemeanor-level violation for sections: 609.224, subdivision 2 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); 609.233 (criminal neglect); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.746 (interference with privacy); 609.749 (stalking); or 617.23 (indecent exposure); or

(6) committing an act against or involving a minor that resulted in a misdemeanor-level violation of section 609.224, subdivision 1 (assault in the fifth degree).

(f) For purposes of this subdivision, the disqualification begins from:

(1) the date of the alleged violation, if the individual was not convicted;

(2) the date of conviction, if the individual was convicted of the violation but not committed to the custody of the commissioner of corrections; or

(3) the date of release from prison, if the individual was convicted of the violation and committed to the custody of the commissioner of corrections.

Notwithstanding clause (3), if the individual is subsequently reincarcerated for a violation of the individual's supervised release, the disqualification begins from the date of release from the subsequent incarceration.

(g) An individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14. An individual is disqualified under section 245C.14 if fewer than five years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (d) and (e).

(h) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraphs (a) and (b), permanently disqualifies the individual under section 245C.14. An individual is disqualified under section 245C.14 if fewer than five years have passed since an offense in any other state or country, the elements of which are substantially similar to the elements of any offense listed in paragraphs (d) and (e).

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 56. Minnesota Statutes 2020, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

- (1) the recency of the disqualifying characteristic;
- (2) the recency of discharge from probation for the crimes;
- (3) the number of disqualifying characteristics;
- (4) the intrusiveness or violence of the disqualifying characteristic;
- (5) the vulnerability of the victim involved in the disqualifying characteristic;

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact;

(7) whether the individual has a disqualification from a previous background study that has not been set aside; ~~and~~

(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense in the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program and from working in a children's residential facility or foster residence setting; and

(9) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 2, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense during the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with or access to persons receiving services from the center and from working in a licensed child care center or certified license-exempt child care center.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section 626.557 or chapter 260E.

(d) This section does not apply to a background study related to an initial application for a child foster family setting license.

(e) Except for paragraph (f), this section does not apply to a background study that is also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a personal care assistant or a qualified professional as defined in section 256B.0659, subdivision 1.

(f) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Sec. 57. Minnesota Statutes 2020, section 245C.16, subdivision 2, is amended to read:

Subd. 2. **Findings.** (a) After evaluating the information immediately available under subdivision 1, the commissioner may have reason to believe one of the following:

(1) the individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact or access to persons served by the program or where the individual studied will work;

(2) the individual poses a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration; or

(3) the individual does not pose an imminent risk of harm or a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration.

(b) After determining an individual's risk of harm under this section, the commissioner must notify the subject of the background study and the applicant or license holder as required under section 245C.17.

(c) For Title IV-E eligible children's residential facilities and foster residence settings, the commissioner is prohibited from making the findings in paragraph (a), clause (2) or (3).

(d) For licensed child care centers or certified license-exempt child care centers, the commissioner is prohibited from making the findings in paragraph (a), clause (2) or (3).

Sec. 58. Minnesota Statutes 2020, section 245C.17, subdivision 1, is amended to read:

Subdivision 1. **Time frame for notice of study results and auditing system access.** (a) Within three working days after the commissioner's receipt of a request for a background study submitted through the commissioner's NETStudy or NETStudy 2.0 system, the commissioner shall notify the background study subject and the license holder or other entity as provided in this chapter in writing or by electronic transmission of the results of the study or that more time is needed to complete the study. The notice to the individual shall include the identity of the entity that initiated the background study.

(b) Before being provided access to NETStudy 2.0, the license holder or other entity under section 245C.04 shall sign an acknowledgment of responsibilities form developed by the commissioner that includes identifying the sensitive background study information person, who must be an employee of the license holder or entity. All queries to NETStudy 2.0 are electronically recorded and subject to audit by the commissioner. The electronic record shall identify the specific user. A background study subject may request in writing to the commissioner a report listing the entities that initiated a background study on the individual.

(c) When the commissioner has completed a prior background study on an individual that resulted in an order for immediate removal and more time is necessary to complete a subsequent study, the notice that more time is needed that is issued under paragraph (a) shall include an order for immediate removal of the individual from any position allowing direct contact with or access to people receiving services and from working in a children's residential facility ~~or~~, foster residence setting, child care center, or certified license-exempt child care center pending completion of the background study.

Sec. 59. Minnesota Statutes 2020, section 245C.17, is amended by adding a subdivision to read:

**Subd. 8. Disqualification notice to child care centers and certified license-exempt child care centers.** (a) For child care centers and certified license-exempt child care centers, all notices under this section that order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to a person served by the center, must also order the license holder to immediately remove the individual studied from working in any position regardless of whether the individual would have direct contact with or access to children served in the center.

(b) For child care centers and certified license-exempt child care centers, notices under this section must not allow an individual to work in the center.

Sec. 60. Minnesota Statutes 2020, section 245C.18, is amended to read:

**245C.18 OBLIGATION TO REMOVE DISQUALIFIED INDIVIDUAL FROM DIRECT CONTACT AND FROM WORKING IN A PROGRAM, FACILITY, ~~OR~~ SETTING, OR CENTER.**

(a) Upon receipt of notice from the commissioner, the license holder must remove a disqualified individual from direct contact with persons served by the licensed program if:

(1) the individual does not request reconsideration under section 245C.21 within the prescribed time;

(2) the individual submits a timely request for reconsideration, the commissioner does not set aside the disqualification under section 245C.22, subdivision 4, and the individual does not submit a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14; or

(3) the individual submits a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, and the commissioner does not set aside or rescind the disqualification under section 245A.08, subdivision 5, or 256.045.

(b) For children's residential facility and foster residence setting license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must also remove the disqualified individual from working in the program, facility, or setting and from access to persons served by the licensed program.

(c) For Title IV-E eligible children's residential facility and foster residence setting license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must also remove the disqualified individual from working in the program and from access to persons served by the program and must not allow the individual to work in the facility or setting until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

(d) For licensed child care center and certified license-exempt child care center license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must remove the disqualified individual from working in any position regardless of whether the individual would have direct contact with or access to children served in the center and from having access to persons served by the center and must not allow the individual to work in the center until the commissioner has issued a notice stating that:

- (1) the individual is not disqualified;
- (2) a disqualification has been set aside under section 245C.23; or
- (3) a variance has been granted related to the individual under section 245C.30.

Sec. 61. Minnesota Statutes 2020, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in paragraphs (b) to ~~(e)~~ (f), the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) For an individual in the chemical dependency or corrections field who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service.

(c) If an individual who requires a background study for nonemergency medical transportation services under section 245C.03, subdivision 12, was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and if more than 40 years have passed since the discharge of the sentence imposed, the commissioner may consider granting a set-aside pursuant to section 245C.22. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the employer. This paragraph does not apply to a person disqualified based on a violation of sections 243.166; 609.185 to 609.205; 609.25; 609.342 to 609.3453; 609.352; 617.23, subdivision 2, clause (1), or 3, clause (1); 617.246; or 617.247.

(d) When a licensed foster care provider adopts an individual who had received foster care services from the provider for over six months, and the adopted individual is required to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause (2) or (6), the commissioner may grant a variance to the license holder under section 245C.30 to permit the adopted individual with a permanent disqualification to remain affiliated with the license holder under the conditions of the variance when the variance is recommended by the county of responsibility for each of the remaining individuals in placement in the home and the licensing agency for the home.

(e) For an individual 18 years of age or older affiliated with a licensed family foster setting, the commissioner must not set aside or grant a variance for the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 4a, paragraphs (a) and (b).

(f) In connection with a family foster setting license, the commissioner may grant a variance to the disqualification for an individual who is under 18 years of age at the time the background study is submitted.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 62. Minnesota Statutes 2020, section 245C.24, subdivision 3, is amended to read:

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, ~~foster care for children in the provider's home,~~ or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on a preponderance of evidence determination under section 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide or criminal vehicular operation causing death under 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or 624.713 (certain persons not to possess firearms); or Minnesota Statutes 2012, section 609.21.

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 63. Minnesota Statutes 2020, section 245C.24, subdivision 4, is amended to read:

Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, ~~foster~~

~~care for children in the provider's home~~, or foster care or day care services for adults in the provider's home if within seven years preceding the study:

(1) the individual committed an act that constitutes maltreatment of a child under sections 260E.24, subdivisions 1, 2, and 3, and 260E.30, subdivisions 1, 2, and 4, and the maltreatment resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(2) the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 64. Minnesota Statutes 2020, section 245C.24, is amended by adding a subdivision to read:

Subd. 6. **Five-year bar to set aside disqualification; family foster setting.** (a) The commissioner shall not set aside or grant a variance for the disqualification of an individual 18 years of age or older in connection with a foster family setting license if within five years preceding the study the individual is convicted of a felony in section 245C.15, subdivision 4a, paragraph (d).

(b) In connection with a foster family setting license, the commissioner may set aside or grant a variance to the disqualification for an individual who is under 18 years of age at the time the background study is submitted.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 65. Minnesota Statutes 2020, section 245C.30, is amended by adding a subdivision to read:

Subd. 1a. **Public law background study variances.** For a variance related to a public law background study conducted under section 245C.032, the variance shall state the services that may be provided by the disqualified individual and state the conditions with which the license holder or applicant must comply for the variance to remain in effect. The variance shall not state the reason for the disqualification.

Sec. 66. Minnesota Statutes 2020, section 245C.32, subdivision 1a, is amended to read:

Subd. 1a. **NETStudy 2.0 system.** (a) The commissioner shall design, develop, and test the NETStudy 2.0 system and implement it no later than September 1, 2015.

(b) The NETStudy 2.0 system developed and implemented by the commissioner shall incorporate and meet all applicable data security standards and policies required by the Federal Bureau of Investigation (FBI), Department of Public Safety, Bureau of Criminal Apprehension, and the Office of MN.IT Services. The system shall meet all required standards for encryption of data at the database level as well as encryption of data that travels electronically among agencies initiating background studies, the commissioner's authorized fingerprint collection vendor or vendors, the commissioner, the Bureau of Criminal Apprehension, and in cases involving national criminal record checks, the FBI.

(c) The data system developed and implemented by the commissioner shall incorporate a system of data security that allows the commissioner to control access to the data field level by the commissioner's employees.

The commissioner shall establish that employees have access to the minimum amount of private data on any individual as is necessary to perform their duties under this chapter.

(d) The commissioner shall oversee regular quality and compliance audits of the authorized fingerprint collection vendor or vendors.

Sec. 67. Minnesota Statutes 2020, section 245C.32, subdivision 2, is amended to read:

Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain and provide criminal history data from the Bureau of Criminal Apprehension, criminal history data held by the commissioner, and data about substantiated maltreatment under section 626.557 or chapter 260E, for other purposes, provided that:

(1) the background study is specifically authorized in statute; or

(2) the request is made with the informed consent of the subject of the study as provided in section 13.05, subdivision 4.

(b) An individual making a request under paragraph (a), clause (2), must agree in writing not to disclose the data to any other individual without the consent of the subject of the data.

(c) The commissioner may recover the cost of obtaining and providing background study data by charging the individual or entity requesting the study a fee of no more than ~~\$20~~ \$42 per study. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 68. **[245G.031] ALTERNATIVE LICENSING INSPECTIONS.**

Subdivision 1. **Eligibility for an alternative licensing inspection.** (a) A license holder who holds a qualifying accreditation may request approval for an alternative licensing inspection by the commissioner when the standards of the accrediting body are determined by the commissioner to be the same as or similar to the standards set forth in this chapter. Programs licensed according to section 245G.19 to serve clients with children and opioid treatment programs licensed according to section 245G.22 are not eligible for an alternative licensing inspection.

(b) A license holder may request an alternative licensing inspection after the license holder has had at least one inspection by the commissioner that included a review of all applicable requirements in this chapter after issuance of the initial license.

(c) To be eligible for an alternative licensing inspection, the license holder must be in substantial and consistent compliance at the time of the request. For purposes of this section, "substantial and consistent compliance" means:

(1) the license holder has not had a license made conditional, suspended, or revoked within the last five years;

(2) there have been no substantiated allegations of maltreatment for which the facility was determined responsible within the past five years; and

(3) the license holder has corrected all violations and submitted required documentation as specified in the correction orders issued within the past two years.



Subd. 2. **Qualifying accreditation; determination of same and similar standards.** (a) The commissioner must accept a qualifying accreditation from an accrediting body listed in paragraph (c) after determining, in consultation with the accrediting body and license holders, the accrediting body's standards that are the same as or similar to the licensing requirements in this chapter. In determining whether standards of an accrediting body are the same as or similar to licensing requirements under this chapter, the commissioner shall give due consideration to the existence of a standard that aligns in whole or in part to a licensing standard.

(b) Upon request by a license holder, the commissioner may allow the accrediting body to monitor for compliance with licensing requirements under this chapter that are determined to be neither the same as nor similar to those of the accrediting body.

(c) For purposes of this section, "accrediting body" means the joint commission.

(d) Qualifying accreditation only applies to the license holder's licensed programs that are included in the accrediting body's survey during each survey period.

Subd. 3. **Request for approval of an alternative licensing inspection status.** (a) A license holder may request an alternative licensing inspection on the forms and in the manner prescribed by the commissioner. When submitting the request, the license holder must submit all documentation issued by the accrediting body verifying that the license holder has obtained and maintained the qualifying accreditation and has complied with recommendations or requirements from the accrediting body during the period of accreditation. Prior to approving an alternative licensing inspection under this section, the commissioner must have reviewed and approved the license holder's policies and procedures required to demonstrate compliance with all applicable requirements in this chapter.

(b) The commissioner must notify the license holder in writing within 90 days whether the request for an alternative licensing inspection status has been approved.

Subd. 4. **Programs approved for alternative licensing inspection; licensing requirements.** (a) A license holder approved for alternative licensing inspection under this section is required to maintain compliance with all licensing standards according to this chapter.

(b) After approval, the license holder must submit to the commissioner changes to policies required as a result of legislative changes to this chapter.

(c) The commissioner may conduct licensing inspections of requirements that are not already covered by the accrediting body, as determined under subdivision 2, paragraphs (a) and (b), including applicable requirements in chapters 245A and 245C, and Minnesota Rules, chapter 9544.

(d) The commissioner may conduct routine licensing inspections every five years of all applicable requirements in this chapter, chapters 245A and 245C, and Minnesota Rules, chapter 9544.

(e) Within ten days of final approval of a corrective action plan by the accrediting body, if any, or if no corrections, upon receipt of the final report by the accrediting body, the license holder must mail or e-mail to the commissioner the complete contents of all survey results and corrective responses.

(f) If the accrediting body determines the scope of noncompliance of a standard with a pattern or widespread moderate likelihood to harm a client or any high likelihood to harm a client, the commissioner may conduct an inspection.

(g) If the accrediting body does not subject a licensed location to a survey by the accrediting body, the license holder must inform the commissioner and the commissioner may conduct an inspection of that location.

(h) Upon receipt of a complaint or report regarding the services of a license holder approved for alternative licensing inspection under this section, the commissioner may investigate the complaint or report and may take any action as provided under section 245A.06 or 245A.07.

(i) The license holder must notify the commissioner in a timely manner if the license holder no longer holds a qualifying accreditation from an accrediting body.

Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section changes the commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under chapter 260E or a vulnerable adult under section 626.557.

Subd. 6. **Termination or denial of subsequent approval.** The commissioner may terminate the approval of an alternative licensing inspection if after approval:

(1) the commissioner determines that the license holder has not maintained the qualifying accreditation;

(2) the license holder fails to provide the commissioner with documentation that demonstrates the license holder has complied with accreditation standards;

(3) the commissioner substantiates maltreatment for which the license holder or facility is determined to be responsible; or

(4) the license holder is issued an order for conditional license, fine, suspension, or license revocation that has not been reversed upon appeal.

Subd. 7. **Appeals.** The commissioner's decision that the conditions for approval for an alternative licensing inspection have not been met is final and not subject to appeal under the provisions of chapter 14.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 69. Minnesota Statutes 2020, section 256B.0949, is amended by adding a subdivision to read:

Subd. 16a. **Background studies.** An early intensive developmental and behavioral intervention services agency must fulfill any background studies requirements under this section by initiating a background study through the commissioner's NETStudy system as provided under sections 245C.03, subdivision 15, and 245C.10, subdivision 17.

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

Sec. 70. Minnesota Statutes 2020, section 260C.215, subdivision 4, is amended to read:

Subd. 4. **Duties of commissioner.** The commissioner of human services shall:

(1) provide practice guidance to responsible social services agencies and licensed child-placing agencies that reflect federal and state laws and policy direction on placement of children;

(2) develop criteria for determining whether a prospective adoptive or foster family has the ability to understand and validate the child's cultural background;

(3) provide a standardized training curriculum for adoption and foster care workers and administrators who work with children. Training must address the following objectives:

(i) developing and maintaining sensitivity to all cultures;

(ii) assessing values and their cultural implications;

(iii) making individualized placement decisions that advance the best interests of a particular child under section 260C.212, subdivision 2; and

(iv) issues related to cross-cultural placement;

(4) provide a training curriculum for all prospective adoptive and foster families that prepares them to care for the needs of adoptive and foster children taking into consideration the needs of children outlined in section 260C.212, subdivision 2, paragraph (b), and, as necessary, preparation is continued after placement of the child and includes the knowledge and skills related to reasonable and prudent parenting standards for the participation of the child in age or developmentally appropriate activities, according to section 260C.212, subdivision 14;

(5) develop and provide to responsible social services agencies and licensed child-placing agencies a home study format to assess the capacities and needs of prospective adoptive and foster families. The format must address problem-solving skills; parenting skills; evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background, and other issues needed to provide sufficient information for agencies to make an individualized placement decision consistent with section 260C.212, subdivision 2. For a study of a prospective foster parent, the format must also address the capacity of the prospective foster parent to provide a safe, healthy, smoke-free home environment. If a prospective adoptive parent has also been a foster parent, any update necessary to a home study for the purpose of adoption may be completed by the licensing authority responsible for the foster parent's license. If a prospective adoptive parent with an approved adoptive home study also applies for a foster care license, the license application may be made with the same agency which provided the adoptive home study; ~~and~~

(6) consult with representatives reflecting diverse populations from the councils established under sections 3.922 and 15.0145, and other state, local, and community organizations; and

(7) establish family foster setting licensing guidelines for county agencies and private agencies designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04. Guidelines that the commissioner establishes under this clause shall be considered directives of the commissioner under section 245A.16.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 71. Laws 2020, First Special Session chapter 7, section 1, subdivision 1, is amended to read:

Subdivision 1. **Waivers and modifications; federal funding extension.** When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, the following waivers and modifications to human services programs issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12 that are required to comply with federal law may remain in effect for the time period set out in applicable federal law or for the time period set out in any applicable federally approved waiver or state plan amendment, whichever is later:

(1) CV15: allowing telephone or video visits for waiver programs;

(2) CV17: preserving health care coverage for Medical Assistance and MinnesotaCare;

~~(2)~~ (3) CV18: implementation of federal changes to the Supplemental Nutrition Assistance Program;

~~(3)~~ (4) CV20: eliminating cost-sharing for COVID-19 diagnosis and treatment;

~~(4)~~ (5) CV24: allowing telephone or video use for targeted case management visits;

(6) CV30: expanding telemedicine in health care, mental health, and substance use disorder settings;

(7) CV37: implementation of federal changes to the Supplemental Nutrition Assistance Program;

~~(5)~~ (8) CV39: implementation of federal changes to the Supplemental Nutrition Assistance Program;

~~(6)~~ (9) CV42: implementation of federal changes to the Supplemental Nutrition Assistance Program;

(10) CV43: expanding remote home and community-based waiver services;

(11) CV44: allowing remote delivery of adult day services;

(12) CV59: modifying eligibility period for the federally funded Refugee Cash Assistance Program;  
and

~~(7)~~ (13) CV60: modifying eligibility period for the federally funded Refugee Social Services Program;  
and

(14) CV109: providing 15 percent increase for Minnesota Food Assistance Program and Minnesota Family Investment Program maximum food benefits.

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

Sec. 72. Laws 2020, First Special Session chapter 7, section 1, subdivision 3, is amended to read:

Subd. 3. **Waivers and modifications; 60-day transition period.** When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, all waivers or modifications issued by the commissioner of human services in response to the COVID-19 outbreak that have not been otherwise extended as provided in subdivisions 1, 2, and 4 of this section may remain in effect for no more than 60 days, only for purposes of transitioning affected programs back to operating without the waivers or modifications in place.

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

Sec. 73. Laws 2020, First Special Session chapter 7, section 1, as amended by Laws 2020, Third Special Session chapter 1, section 3, is amended by adding a subdivision to read:

Subd. 5. **Waivers and modifications; extension for 365 days.** When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, waiver CV23: modifying background study requirements, issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12, including any amendments to the modification issued before the peacetime emergency expires, shall remain in effect for 365 days after the peacetime emergency ends.

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

**Sec. 74. LEGISLATIVE TASK FORCE; HUMAN SERVICES BACKGROUND STUDY ELIGIBILITY.**

Subdivision 1. **Creation; duties.** A legislative task force is created to review the statutes relating to human services background study eligibility and disqualifications, including but not limited to Minnesota Statutes, sections 245C.14 and 245C.15, in order to:

(1) evaluate the existing statutes' effectiveness in protecting the individuals served by programs for which background studies are conducted under Minnesota Statutes, chapter 245C, including by gathering and reviewing available background study disqualification data;

(2) identify the existing statutes' weaknesses and inefficiencies, ways in which the existing statutes may unnecessarily or unintentionally prevent qualified individuals from providing services or securing employment, and any additional areas for improvement or modernization; and

(3) develop legislative proposals that improve or modernize the human services background study eligibility and disqualification statutes, or otherwise address the issues identified in clauses (1) and (2).

Subd. 2. **Membership.** (a) The task force shall consist of 26 members, appointed as follows:

(1) two members representing licensing boards whose licensed providers are subject to the provisions in Minnesota Statutes, section 245C.03, one appointed by the speaker of the house of representatives, and one appointed by the senate majority leader;

(2) the commissioner of human services or a designee;

(3) the commissioner of health or a designee;

(4) two members representing county attorneys and law enforcement, one appointed by the speaker of the house of representatives, and one appointed by the senate majority leader;

(5) two members representing licensed service providers who are subject to the provisions in Minnesota Statutes, section 245C.15, one appointed by the speaker of the house of representatives, and one appointed by the senate majority leader;

(6) four members of the public, including two who have been subject to disqualification based on the provisions of Minnesota Statutes, section 245C.15, and two who have been subject to a set-aside based on the provisions of Minnesota Statutes, section 245C.15, with one from each category appointed by the speaker of the house of representatives, and one from each category appointed by the senate majority leader;

(7) one member appointed by the governor's Workforce Development Board;

(8) one member appointed by the One Minnesota Council on Diversity, Inclusion, and Equity;

(9) two members representing the Minnesota courts, one appointed by the speaker of the house of representatives, and one appointed by the senate majority leader;

(10) one member appointed jointly by Mid-Minnesota Legal Aid, Southern Minnesota Legal Services, and the Legal Rights Center;

(11) one member representing Tribal organizations, appointed by the Minnesota Indian Affairs Council;

(12) two members from the house of representatives, including one appointed by the speaker of the house of representatives and one appointed by the minority leader in the house of representatives;

(13) two members from the senate, including one appointed by the senate majority leader and one appointed by the senate minority leader;

(14) two members representing county human services agencies appointed by the Minnesota Association of County Social Service Administrators, including one appointed to represent the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, and one appointed to represent the area outside of the metropolitan area; and

(15) two attorneys who have represented individuals that appealed a background study disqualification determination based on Minnesota Statutes, sections 245C.14 and 245C.15, one appointed by the speaker of the house of representatives, and one appointed by the senate majority leader.

(b) Appointments to the task force must be made by August 18, 2021.

Subd. 3. **Compensation.** Public members of the task force may be compensated as provided by Minnesota Statutes, section 15.059, subdivision 3.

Subd. 4. **Officers; meetings.** (a) The first meeting of the task force shall be cochaired by the task force member from the majority party of the house of representatives and the task force member from the majority party of the senate. The task force shall elect a chair and vice chair at the first meeting who shall preside at the remainder of the task force meetings. The task force may elect other officers as necessary.

(b) The task force shall meet at least monthly. The Legislative Coordinating Commission shall convene the first meeting by September 1, 2021.

(c) Meetings of the task force are subject to the Minnesota Open Meeting Law under Minnesota Statutes, chapter 13D.

Subd. 5. **Reports required.** The task force shall submit an interim written report by March 1, 2022, and a final report by December 16, 2022, to the chairs and ranking minority members of the committees in the house of representatives and the senate with jurisdiction over human services licensing. The reports shall explain the task force's findings and recommendations relating to each of the duties under subdivision 1, and include any draft legislation necessary to implement the recommendations.

Subd. 6. **Expiration.** The task force expires upon submission of the final report in subdivision 5 or December 20, 2022, whichever is later.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires December 31, 2022.

#### Sec. 75. **CHILD CARE CENTER REGULATION MODERNIZATION.**

(a) The commissioner of human services shall contract with an experienced and independent organization or individual consultant to conduct the work outlined in this section. If practicable, the commissioner must contract with the National Association for Regulatory Administration.

(b) The consultant must develop a proposal for revised licensing standards that includes a risk-based model for monitoring compliance with child care center licensing standards, grounded in national regulatory best practices. Violations in the new model must be weighted to reflect the potential risk that the violations pose to children's health and safety, and licensing sanctions must be tied to the potential risk. The proposed new model must protect the health and safety of children in child care centers and be child-centered, family-friendly, and fair to providers.

(c) The consultant shall develop and implement a stakeholder engagement process that solicits input from parents, licensed child care centers, staff of the Department of Human Services, and experts in child development about appropriate licensing standards, appropriate tiers for violations of the standards based on the potential risk of harm that each violation poses, and appropriate licensing sanctions for each tier.

(d) The consultant shall solicit input from parents, licensed child care centers, and staff of the Department of Human Services about which child care centers should be eligible for abbreviated inspections that predict compliance with other licensing standards for licensed child care centers using key indicators previously identified by an empirically based statistical methodology developed by the National Association for Regulatory Administration and the Research Institute for Key Indicators.

(e) No later than February 1, 2024, the commissioner shall submit a report and proposed legislation required to implement the new licensing model to the chairs and ranking minority members of the legislative committees with jurisdiction over child care regulation.

**Sec. 76. DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; CHILD FOSTER CARE LICENSING GUIDELINES.**

By July 1, 2023, the commissioner of human services shall, in consultation with stakeholders with expertise in child protection and children's behavioral health, develop family foster setting licensing guidelines for county agencies and private agencies that perform licensing functions. Stakeholders include but are not limited to child advocates, representatives from community organizations, representatives of the state ethnic councils, the ombudsperson for families, family foster setting providers, youth who have experienced family foster setting placements, county child protection staff, and representatives of county and private licensing agencies.

**Sec. 77. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; DHS FAMILY CHILD CARE FREQUENTLY ASKED QUESTIONS WEBSITE MODIFICATIONS.**

By July 1, 2022, the commissioner of human services shall expand the "frequently asked questions" website for family child care providers to include more answers to submitted questions and a function to search for answers to specific question topics.

**Sec. 78. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS IMPLEMENTATION PLAN.**

The commissioner of human services shall include individuals representing family child care providers in stakeholder groups that participate in implementing the recommendations of the Family Child Care Task Force.

**Sec. 79. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; CHILD CARE ONE-STOP ASSISTANCE NETWORK.**

(a) By January 1, 2022, the commissioner of human services shall, in consultation with county agencies, child care providers, and stakeholders, develop a plan to establish a one-stop regional assistance network of individuals with: (1) experience or expertise starting a licensed family child care or group family child care program, or a child care center; or (2) technical expertise regarding state licensing statutes and procedures. The one-stop regional assistance network will assist child care providers and individuals interested in becoming child care providers with establishing and sustaining a licensed family child care or group family child care program, or a child care center.

(b) The plan to establish a one-stop regional assistance network shall include:

(1) an estimated timeline for implementing the assistance network through the child care resource and referral system in Minnesota Statutes, section 119B.19;

(2) an estimated budget for the assistance network;

(3) a strategy to raise awareness and distribute the network's contact information statewide to licensed family child care providers and group family child care providers, and to child care centers; and

(4) any necessary legislative proposals necessary to implement the assistance network.

(c) The child care resource and referral system in Minnesota Statutes, section 119B.19, shall begin implementing the plan according to the established timeline.

**Sec. 80. DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; RECOMMENDED FAMILY CHILD CARE ORIENTATION TRAINING.**

By July 1, 2022, the commissioner of human services shall work with licensed family child care providers and county agencies to develop recommended orientation training materials for family child care license applicants to ensure that all family child care license applicants receive uniform materials with basic information about Minnesota Statutes, chapters 245A, 245C, and 260E, and Minnesota Rules, chapter 9502.

**Sec. 81. FAMILY CHILD CARE REGULATION MODERNIZATION.**

(a) The commissioner of human services shall contract with an experienced and independent organization or individual consultant to conduct the work outlined in this section. If practicable, the commissioner must contract with the National Association for Regulatory Administration.

(b) The consultant must develop a proposal for updated family child care licensing standards and solicit input from stakeholders as described in paragraph (d).

(c) The consultant must develop a proposal for a risk-based model for monitoring compliance with family child care licensing standards, grounded in national regulatory best practices. Violations in the new model must be weighted to reflect the potential risk they pose to children's health and safety, and licensing sanctions must be tied to the potential risk. The proposed new model must protect the health and safety of children in family child care programs and be child-centered, family-friendly, and fair to providers.

(d) The consultant shall develop and implement a stakeholder engagement process that solicits input from parents, licensed family child care providers, county licensors, staff of the Department of Human Services, and experts in child development about licensing standards, tiers for violations of the standards based on the potential risk of harm that each violation poses, and licensing sanctions for each tier.

(e) The consultant shall solicit input from parents, licensed family child care providers, county licensors, and staff of the Department of Human Services about which family child care providers should be eligible for abbreviated inspections that predict compliance with other licensing standards for licensed family child care providers using key indicators previously identified by an empirically based statistical methodology developed by the National Association for Regulatory Administration and the Research Institute for Key Indicators.



(f) No later than February 1, 2024, the commissioner shall submit a report and proposed legislation required to implement the new licensing model and the new licensing standards to the chairs and ranking minority members of the legislative committees with jurisdiction over child care regulation.

**Sec. 82. FAMILY CHILD CARE TRAINING ADVISORY COMMITTEE.**

Subdivision 1. **Formation; duties.** (a) The Family Child Care Training Advisory Committee shall advise the commissioner of human services on the training requirements for licensed family and group family child care providers. Beginning January 1, 2022, the advisory committee shall meet at least twice per year. The advisory committee shall annually elect a chair from committee members who shall establish the agenda for each meeting. The commissioner or commissioner's designee shall attend all advisory committee meetings.

(b) The Family Child Care Training Advisory Committee shall advise and make recommendations to the commissioner of human services and contractors working on the family child care licensing modernization project on:

(1) updates to the rules and statutes governing family child care training, including technical updates to facilitate providers' understanding of training requirements;

(2) modernization of family child care training requirements, including substantive changes to training subject areas;

(3) difficulties that family child care providers face in completing training requirements, including proposed solutions to provider difficulties; and

(4) other ideas for improving access to and quality of training for family child care providers.

(c) The Family Child Care Training Advisory Committee shall expire December 1, 2025.

Subd. 2. **Advisory committee members.** (a) The Family Child Care Training Advisory Committee consists of:

(1) four members representing family child care providers from greater Minnesota, including two appointed by the speaker of the house and two appointed by the senate majority leader;

(2) two members representing family child care providers from the seven-county metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, including one appointed by the speaker of the house and one appointed by the senate majority leader;

(3) one member representing family child care providers appointed by the Minnesota Association of Child Care Professionals;

(4) one member representing family child care providers appointed by the Minnesota Child Care Provider Information Network;

(5) two members appointed by the Association of Minnesota Child Care Licensors, including one from greater Minnesota and one from the seven-county metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2; and

(6) five members with expertise in child development and either instructional design or training delivery, including:

(i) two members appointed by the speaker of the house;

(ii) two members appointed by the senate majority leader; and

(iii) one member appointed by Achieve, the Minnesota Center for Professional Development.

(b) Advisory committee members shall not be employed by the Department of Human Services. Advisory committee members shall receive no compensation, except that public members of the advisory committee may be compensated as provided by Minnesota Statutes, section 15.059, subdivision 3.

(c) Advisory committee members must include representatives of diverse cultural communities.

(d) Advisory committee members shall serve two-year terms. Initial appointments to the advisory committee must be made by December 1, 2021. Subsequent appointments to the advisory committee must be made by December 1 of the year in which the member's term expires. Any vacancy on the advisory committee must be filled within 60 days and must be filled in the same manner that the leaving member was appointed under paragraph (a).

(e) The commissioner of human services must convene the first meeting of the advisory committee by March 1, 2022.

Subd. 3. **Commissioner report.** The commissioner of human services shall report annually by December 15 to the chairs and ranking minority members of the legislative committees with jurisdiction over early care and education programs on any recommendations from the Family Child Care Training Advisory Committee. The report may include draft legislation necessary to implement recommendations from the advisory committee.

**Sec. 83. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; ALTERNATIVE CHILD CARE LICENSING MODELS.**

The commissioner of human services, in consultation with counties, child care providers, and other relevant stakeholders, shall review child care models that are not currently allowed under state statutes, including licensing standards related to age, group size, and capacity. The commissioner must consider whether any models could address the state's child care needs while protecting children's safety, health, and well-being and make recommendations for implementing the models that meet these criteria. No later than January 1, 2023, the commissioner of human services shall report the recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over child care licensing.

**Sec. 84. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FEDERAL FUND AND CHILD CARE AND DEVELOPMENT BLOCK GRANT ALLOCATIONS.**

(a) The commissioner of human services shall allocate \$3,000,000 in fiscal year 2022 from the child care and development block grant for grants to organizations operating child care resource and referral programs under Minnesota Statutes, section 119B.19, to offer a child care one-stop regional assistance network.

(b) The commissioner of human services shall allocate \$50,000 in fiscal year 2022 from the child care and development block grant for modifications to the family child care provider frequently asked questions website.

(c) The commissioner of human services shall allocate \$4,500,000 in fiscal year 2022 from the child care and development block grant for costs to cover the fees related to administering child care background studies.

(d) The commissioner of human services shall allocate \$2,059,000 in fiscal year 2022 from the child care and development block grant for the child care center regulation modernization project.

(e) The commissioner of human services shall allocate \$1,719,000 in fiscal year 2022 from the child care and development block grant for the family child care regulation modernization project.

(f) The commissioner of human services shall allocate \$100,000 in fiscal year 2022 from the federal fund for a working group to review alternative child care licensing models.

(g) The commissioner of human services shall allocate \$59,000 in fiscal year 2022 from the child care and development block grant for the family child care training advisory committee.

(h) The commissioner of human services shall allocate \$7,650,000 in fiscal year 2022 from the child care and development block grant for child care information technology and system improvements.

(i) The allocations in this section are available until June 30, 2025.

Sec. 85. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 245C.02, so that the subdivisions are alphabetical. The revisor shall correct any cross-references that arise as a result of the renumbering.

Sec. 86. **REPEALER.**

Laws 2020, First Special Session chapter 7, section 1, subdivision 2, as amended by Laws 2020, Third Special Session chapter 1, section 3, is repealed.

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

### ARTICLE 3

#### HEALTH DEPARTMENT

Section 1. Minnesota Statutes 2020, section 62J.495, subdivision 1, is amended to read:

Subdivision 1. **Implementation.** The commissioner of health, in consultation with the e-Health Advisory Committee, shall develop uniform standards to be used for the interoperable electronic health records 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 2020, section 62J.495, subdivision 2, is amended to read:

Subd. 2. **E-Health Advisory Committee.** (a) The commissioner shall establish an e-Health Advisory Committee governed by section 15.059 to advise the commissioner on the following matters:

(1) assessment of the adoption and effective use of health information technology by the state, licensed health care providers and facilities, and local public health agencies;

(2) recommendations for implementing a statewide interoperable health information infrastructure, to include estimates of necessary resources, and for determining standards for clinical data exchange, clinical support programs, patient privacy requirements, and maintenance of the security and confidentiality of individual patient data;

(3) recommendations for encouraging use of innovative health care applications using information technology and systems to improve patient care and reduce the cost of care, including applications relating to disease management and personal health management that enable remote monitoring of patients' conditions, especially those with chronic conditions; and

(4) other related issues as requested by the commissioner.

(b) The members of the e-Health Advisory Committee shall include the commissioners, or commissioners' designees, of health, human services, administration, and commerce and additional members to be appointed by the commissioner to include persons representing Minnesota's local public health agencies, licensed hospitals and other licensed facilities and providers, private purchasers, the medical and nursing professions, health insurers and health plans, the state quality improvement organization, academic and research institutions, consumer advisory organizations with an interest and expertise in health information technology, and other stakeholders as identified by the commissioner to fulfill the requirements of section 3013, paragraph (g), of the HITECH Act.

~~(c) The commissioner shall prepare and issue an annual report not later than January 30 of each year outlining progress to date in implementing a statewide health information infrastructure and recommending action on policy and necessary resources to continue the promotion of adoption and effective use of health information technology.~~

~~(d) This subdivision expires June 30, 2021 2031.~~

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

Sec. 3. Minnesota Statutes 2020, section 62J.495, subdivision 4, is amended to read:

Subd. 4. **Coordination with national HIT activities.** (a) The commissioner, in consultation with the e-Health Advisory Committee, shall update the statewide implementation plan required under subdivision 2 and released June 2008, to be consistent with the updated federal HIT Strategic Plan released by the Office of the National Coordinator in accordance with section 3001 of the HITECH Act. ~~The statewide plan shall meet the requirements for a plan required under section 3013 of the HITECH Act plans.~~

(b) The commissioner, in consultation with the e-Health Advisory Committee, shall work to ensure coordination between state, regional, and national efforts to support and accelerate efforts to effectively use health information technology to improve the quality and coordination of health care and the continuity of patient care among health care providers, to reduce medical errors, to improve population health, to reduce health disparities, and to reduce chronic disease. The commissioner's coordination efforts shall include but not be limited to:

~~(1) assisting in the development and support of health information technology regional extension centers established under section 3012(c) of the HITECH Act to provide technical assistance and disseminate best practices;~~

~~(2) providing supplemental information to the best practices gathered by regional centers to ensure that the information is relayed in a meaningful way to the Minnesota health care community;~~

~~(3)~~ (1) providing financial and technical support to Minnesota health care providers to encourage implementation of admission, discharge and transfer alerts, and care summary document exchange transactions and to evaluate the impact of health information technology on cost and quality of care. Communications about available financial and technical support shall include clear information about the interoperable health record requirements in subdivision 1, including a separate statement in bold-face type clarifying the exceptions to those requirements;

~~(4)~~ (2) providing educational resources and technical assistance to health care providers and patients related to state and national privacy, security, and consent laws governing clinical health information, including the requirements in sections 144.291 to 144.298. In carrying out these activities, the commissioner's technical assistance does not constitute legal advice;

~~(5)~~ (3) assessing Minnesota's legal, financial, and regulatory framework for health information exchange, including the requirements in sections 144.291 to 144.298, and making recommendations for modifications that would strengthen the ability of Minnesota health care providers to securely exchange data in compliance with patient preferences and in a way that is efficient and financially sustainable; and

~~(6)~~ (4) seeking public input on both patient impact and costs associated with requirements related to patient consent for release of health records for the purposes of treatment, payment, and health care operations, as required in section 144.293, subdivision 2. The commissioner shall provide a report to the legislature on the findings of this public input process no later than February 1, 2017.

(c) The commissioner, in consultation with the e-Health Advisory Committee, shall monitor national activity related to health information technology and shall coordinate statewide input on policy development. The commissioner shall coordinate statewide responses to proposed federal health information technology regulations in order to ensure that the needs of the Minnesota health care community are adequately and efficiently addressed in the proposed regulations. The commissioner's responses may include, but are not limited to:

(1) reviewing and evaluating any standard, implementation specification, or certification criteria proposed by the national HIT standards ~~committee~~ committees;

(2) reviewing and evaluating policy proposed by the national HIT policy ~~committee~~ committees relating to the implementation of a nationwide health information technology infrastructure; and

~~(3) monitoring and responding to activity related to the development of quality measures and other measures as required by section 4101 of the HITECH Act. Any response related to quality measures shall consider and address the quality efforts required under chapter 62U; and~~

~~(4) monitoring and responding to national activity related to privacy, security, and data stewardship of electronic health information and individually identifiable health information.~~

(d) To the extent that the state is either required or allowed to apply, or designate an entity to apply for or carry out activities and programs ~~under section 3013 of the HITECH Act~~, the commissioner of health, in consultation with the e-Health Advisory Committee and the commissioner of human services, shall be the lead applicant or sole designating authority. The commissioner shall make such designations consistent with the goals and objectives of sections 62J.495 to 62J.497 and 62J.50 to 62J.61.

(e) The commissioner of human services shall apply for funding necessary to administer the incentive payments to providers authorized under title IV of the American Recovery and Reinvestment Act.

~~(f) The commissioner shall include in the report to the legislature information on the activities of this subdivision and provide recommendations on any relevant policy changes that should be considered in Minnesota.~~

Sec. 4. Minnesota Statutes 2020, section 62J.497, subdivision 1, is amended to read:

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

~~(b) "Backward compatible" means that the newer version of a data transmission standard would retain, at a minimum, the full functionality of the versions previously adopted, and would permit the successful completion of the applicable transactions with entities that continue to use the older versions.~~

~~(e)~~ (b) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a licensed health care professional.

~~(d)~~ (c) "Dispenser" means a person authorized by law to dispense a controlled substance, pursuant to a valid prescription.

~~(e)~~ (d) "Electronic media" has the meaning given under Code of Federal Regulations, title 45, part 160.103.

~~(f)~~ (e) "E-prescribing" means the transmission using electronic media of prescription or prescription-related information between a prescriber, dispenser, pharmacy benefit manager, or group purchaser, either directly or through an intermediary, including an e-prescribing network. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the dispenser and two-way transmissions related to eligibility, formulary, and medication history information.

~~(g)~~ (f) "Electronic prescription drug program" means a program that provides for e-prescribing.

~~(h)~~ (g) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

~~(i)~~ (h) "HL7 messages" means a standard approved by the standards development organization known as Health Level Seven.

~~(j)~~ (i) "National Provider Identifier" or "NPI" means the identifier described under Code of Federal Regulations, title 45, part 162.406.

~~(k)~~ (j) "NCPDP" means the National Council for Prescription Drug Programs, Inc.

~~(l)~~ (k) "NCPDP Formulary and Benefits Standard" means the most recent version of the National Council for Prescription Drug Programs Formulary and Benefits Standard, Implementation Guide, Version 1, Release 0, October 2005 or the most recent standard adopted by the Centers for Medicare and Medicaid Services for e-prescribing under Medicare Part D as required by section 1860D-4(e)(4)(D) of the Social Security Act and regulations adopted under it. The standards shall be implemented according to the Centers for Medicare and Medicaid Services schedule for compliance.

~~(m)~~ (l) "NCPDP SCRIPT Standard" means the most recent version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide Version 8, Release

~~1 (Version 8.1), October 2005~~, or the most recent standard adopted by the Centers for Medicare and Medicaid Services for e-prescribing under Medicare Part D as required by section 1860D-4(e)(4)(D) of the Social Security Act, and regulations adopted under it. The standards shall be implemented according to the Centers for Medicare and Medicaid Services schedule for compliance. ~~Subsequently released versions of the NCPDP SCRIPT Standard may be used, provided that the new version of the standard is backward compatible to the current version adopted by the Centers for Medicare and Medicaid Services.~~

~~(m)~~ (m) "Pharmacy" has the meaning given in section 151.01, subdivision 2.

~~(n)~~ (n) "Prescriber" means a licensed health care practitioner, other than a veterinarian, as defined in section 151.01, subdivision 23.

~~(o)~~ (o) "Prescription-related information" means information regarding eligibility for drug benefits, medication history, or related health or drug information.

~~(p)~~ (p) "Provider" or "health care provider" has the meaning given in section 62J.03, subdivision 8.

Sec. 5. Minnesota Statutes 2020, section 62J.497, subdivision 3, is amended to read:

Subd. 3. **Standards for electronic prescribing.** (a) Prescribers and dispensers must use the NCPDP SCRIPT Standard for the communication of a prescription or prescription-related information. ~~The NCPDP SCRIPT Standard shall be used to conduct the following transactions:~~

- ~~(1) get message transaction;~~
- ~~(2) status response transaction;~~
- ~~(3) error response transaction;~~
- ~~(4) new prescription transaction;~~
- ~~(5) prescription change request transaction;~~
- ~~(6) prescription change response transaction;~~
- ~~(7) refill prescription request transaction;~~
- ~~(8) refill prescription response transaction;~~
- ~~(9) verification transaction;~~
- ~~(10) password change transaction;~~
- ~~(11) cancel prescription request transaction; and~~
- ~~(12) cancel prescription response transaction.~~

(b) Providers, group purchasers, prescribers, and dispensers must use the NCPDP SCRIPT Standard for communicating and transmitting medication history information.

(c) Providers, group purchasers, prescribers, and dispensers must use the NCPDP Formulary and Benefits Standard for communicating and transmitting formulary and benefit information.

(d) Providers, group purchasers, prescribers, and dispensers must use the national provider identifier to identify a health care provider in e-prescribing or prescription-related transactions when a health care provider's identifier is required.

(e) Providers, group purchasers, prescribers, and dispensers must communicate eligibility information and conduct health care eligibility benefit inquiry and response transactions according to the requirements of section 62J.536.

Sec. 6. Minnesota Statutes 2020, section 62J.63, subdivision 1, is amended to read:

Subdivision 1. ~~Establishment; administration~~ **Support for state health care purchasing and performance measurement.** The commissioner of health shall ~~establish and administer the Center for Health Care Purchasing Improvement as an administrative unit within the Department of Health. The Center for Health Care Purchasing Improvement shall~~ support the state in its efforts to be a more prudent and efficient purchaser of quality health care services. ~~The center shall,~~ aid the state in developing and using more common strategies and approaches for health care performance measurement and health care purchasing. ~~The common strategies and approaches shall,~~ promote greater transparency of health care costs and quality; and greater accountability for health care results and improvement. ~~The center shall also,~~ and identify barriers to more efficient, effective, quality health care and options for overcoming the barriers.

Sec. 7. Minnesota Statutes 2020, section 62J.63, subdivision 2, is amended to read:

Subd. 2. **Staffing; Duties; scope.** (a) The commissioner of health may ~~appoint a director, and up to three additional senior level staff or codirectors, and other staff as needed who are under the direction of the commissioner. The staff of the center are in the unclassified service.:~~

(b) ~~With the authorization of the commissioner of health, and in consultation or interagency agreement with the appropriate commissioners of state agencies, the director, or codirectors, may:~~

~~(1) initiate projects to develop plan designs for state health care purchasing;~~

~~(2) (1) require reports or surveys to evaluate the performance of current health care purchasing or administrative simplification strategies;~~

~~(3) (2) calculate fiscal impacts, including net savings and return on investment, of health care purchasing strategies and initiatives;~~

~~(4) conduct policy audits of state programs to measure conformity to state statute or other purchasing initiatives or objectives;~~

~~(5) (3) support the Administrative Uniformity Committee under section sections 62J.50 and 62J.536 and other relevant groups or activities to advance agreement on health care administrative process streamlining;~~

~~(6) consult with the Health Economics Unit of the Department of Health regarding reports and assessments of the health care marketplace;~~

~~(7) consult with the Department of Commerce regarding health care regulatory issues and legislative initiatives;~~

~~(8) work with appropriate Department of Human Services staff and the Centers for Medicare and Medicaid Services to address federal requirements and conformity issues for health care purchasing;~~



~~(9) assist the Minnesota Comprehensive Health Association in health care purchasing strategies;~~

~~(10) convene medical directors of agencies engaged in health care purchasing for advice, collaboration, and exploring possible synergies;~~

~~(11)~~ (4) contact and participate with other relevant health care task forces, study activities, and similar efforts with regard to health care performance measurement and performance-based purchasing; and

~~(12)~~ (5) assist in seeking external funding through appropriate grants or other funding opportunities and may administer grants and externally funded projects.

Sec. 8. Minnesota Statutes 2020, section 62U.04, subdivision 4, is amended to read:

Subd. 4. **Encounter data.** (a) ~~Beginning July 1, 2009, and every six months thereafter,~~ All health plan companies and third-party administrators shall submit encounter data on a monthly basis to a private entity designated by the commissioner of health. The data shall be submitted in a form and manner specified by the commissioner subject to the following requirements:

(1) the data must be de-identified data as described under the Code of Federal Regulations, title 45, section 164.514;

(2) the data for each encounter must include an identifier for the patient's health care home if the patient has selected a health care home and, for claims incurred on or after January 1, 2019, data deemed necessary by the commissioner to uniquely identify claims in the individual health insurance market; and

(3) except for the identifier described in clause (2), the data must not include information that is not included in a health care claim or equivalent encounter information transaction that is required under section 62J.536.

(b) The commissioner or the commissioner's designee shall only use the data submitted under paragraph (a) to carry out the commissioner's responsibilities in this section, including supplying the data to providers so they can verify their results of the peer grouping process consistent with the recommendations developed pursuant to subdivision 3c, paragraph (d), and adopted by the commissioner and, if necessary, submit comments to the commissioner or initiate an appeal.

(c) Data on providers collected under this subdivision are private data on individuals or nonpublic data, as defined in section 13.02. Notwithstanding the definition of summary data in section 13.02, subdivision 19, summary data prepared under this subdivision may be derived from nonpublic data. The commissioner or the commissioner's designee shall establish procedures and safeguards to protect the integrity and confidentiality of any data that it maintains.

(d) The commissioner or the commissioner's designee shall not publish analyses or reports that identify, or could potentially identify, individual patients.

(e) The commissioner shall compile summary information on the data submitted under this subdivision. The commissioner shall work with its vendors to assess the data submitted in terms of compliance with the data submission requirements and the completeness of the data submitted by comparing the data with summary information compiled by the commissioner and with established and emerging data quality standards to ensure data quality.

Sec. 9. Minnesota Statutes 2020, section 62U.04, subdivision 5, is amended to read:

Subd. 5. **Pricing data.** (a) ~~Beginning July 1, 2009, and annually on January 1 thereafter,~~ All health plan companies and third-party administrators shall submit, on a monthly basis, data on their contracted prices with health care providers to a private entity designated by the commissioner of health for the purposes of performing the analyses required under this subdivision. The data shall be submitted in the form and manner specified by the commissioner of health.

(b) The commissioner or the commissioner's designee shall only use the data submitted under this subdivision to carry out the commissioner's responsibilities under this section, including supplying the data to providers so they can verify their results of the peer grouping process consistent with the recommendations developed pursuant to subdivision 3c, paragraph (d), and adopted by the commissioner and, if necessary, submit comments to the commissioner or initiate an appeal.

(c) Data collected under this subdivision are nonpublic data as defined in section 13.02. Notwithstanding the definition of summary data in section 13.02, subdivision 19, summary data prepared under this section may be derived from nonpublic data. The commissioner shall establish procedures and safeguards to protect the integrity and confidentiality of any data that it maintains.

Sec. 10. Minnesota Statutes 2020, section 103H.201, subdivision 1, is amended to read:

Subdivision 1. **Procedure.** (a) If groundwater quality monitoring results show that there is a degradation of groundwater, the commissioner of health may promulgate health risk limits under subdivision 2 for substances degrading the groundwater.

(b) Health risk limits shall be determined by two methods depending on their toxicological end point.

(c) For systemic toxicants that are not carcinogens, the adopted health risk limits shall be derived using United States Environmental Protection Agency risk assessment methods using a reference dose, a drinking water equivalent, and a relative source contribution factor.

(d) For toxicants that are known or probable carcinogens, the adopted health risk limits shall be derived from a quantitative estimate of the chemical's carcinogenic potency published by the United States Environmental Protection Agency ~~and~~ or determined by the commissioner to have undergone thorough scientific review.

Sec. 11. [144.064] THE VIVIAN ACT.

Subdivision 1. **Short title.** This section shall be known and may be cited as the "Vivian Act."

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "CMV" means the human herpesvirus cytomegalovirus, also called HCMV, human herpesvirus 5, and HHV-5;

(2) "commissioner" means the commissioner of health;

(3) "congenital CMV" means the transmission of a CMV infection from a pregnant mother to her fetus;  
and

(4) "health care practitioner" means a health care professional who provides prenatal or postnatal care or care to infants.

**Subd. 3. Commissioner duties.** (a) The commissioner shall make available to health care practitioners, women who may become pregnant, expectant parents, and parents of infants up-to-date and evidence-based information about congenital CMV that has been reviewed by experts with knowledge of the disease. The information shall include the following:

(1) the recommendation to consider testing for congenital CMV if the parent or legal guardian of the infant elected not to have newborn screening performed under section 144.125, the infant failed a newborn hearing screening, or pregnancy history suggests increased risk for congenital CMV infection;

(2) the incidence of CMV;

(3) the transmission of CMV to pregnant women and women who may become pregnant;

(4) birth defects caused by congenital CMV;

(5) available preventative measures to avoid the infection of women who are pregnant or may become pregnant; and

(6) resources available for families of children born with congenital CMV.

(b) The commissioner shall follow existing department practice, inclusive of community engagement, to ensure that the information in paragraph (a) is culturally and linguistically appropriate for all recipients.

(c) The commissioner shall establish an outreach program to:

(1) educate women who may become pregnant, expectant parents, and parents of infants about CMV;  
and

(2) raise awareness for CMV among health care practitioners.

(d) The Advisory Committee on Heritable and Congenital Disorders established under section 144.1255 shall review congenital CMV for inclusion on the list of tests to be performed under section 144.125. If the committee recommends and the commissioner approves the recommendation of adding congenital CMV to the newborn screening panel, the commissioner shall publish the addition in the State Register and the per specimen fee for screening under section 144.125, subdivision 1, paragraph (c), shall be increased by \$43, for a total of \$220 per specimen, effective upon publication in the State Register.

Sec. 12. Minnesota Statutes 2020, section 144.0724, subdivision 1, is amended to read:

Subdivision 1. **Resident reimbursement case mix classifications.** The commissioner of health shall establish resident reimbursement case mix classifications based upon the assessments of residents of nursing homes and boarding care homes conducted under this section and according to section 256R.17.

Sec. 13. Minnesota Statutes 2020, section 144.0724, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Assessment reference date" or "ARD" means the specific end point for look-back periods in the MDS assessment process. This look-back period is also called the observation or assessment period.

(b) "Case mix index" means the weighting factors assigned to the RUG-IV classifications.

(c) "Index maximization" means classifying a resident who could be assigned to more than one category, to the category with the highest case mix index.

(d) "Minimum Data Set" or "MDS" means a core set of screening, clinical assessment, and functional status elements, that include common definitions and coding categories specified by the Centers for Medicare and Medicaid Services and designated by the ~~Minnesota~~ Department of Health.

(e) "Representative" means a person who is the resident's guardian or conservator, the person authorized to pay the nursing home expenses of the resident, a representative of the Office of Ombudsman for Long-Term Care whose assistance has been requested, or any other individual designated by the resident.

(f) "Resource utilization groups" or "RUG" means the system for grouping a nursing facility's residents according to their clinical and functional status identified in data supplied by the facility's Minimum Data Set.

(g) "Activities of daily living" ~~means grooming, includes personal hygiene, dressing, bathing, transferring, bed mobility, positioning, locomotion, eating, and toileting.~~

(h) "Nursing facility level of care determination" means the assessment process that results in a determination of a resident's or prospective resident's need for nursing facility level of care as established in subdivision 11 for purposes of medical assistance payment of long-term care services for:

- (1) nursing facility services under section 256B.434 or chapter 256R;
- (2) elderly waiver services under chapter 256S;
- (3) CADI and BI waiver services under section 256B.49; and
- (4) state payment of alternative care services under section 256B.0913.

Sec. 14. Minnesota Statutes 2020, section 144.0724, subdivision 3a, is amended to read:

Subd. 3a. **Resident reimbursement case mix classifications beginning January 1, 2012.** (a) Beginning January 1, 2012, resident reimbursement case mix classifications shall be based on the Minimum Data Set, version 3.0 assessment instrument, or its successor version mandated by the Centers for Medicare and Medicaid Services that nursing facilities are required to complete for all residents. The commissioner of health shall establish resident classifications according to the RUG-IV, 48 group, resource utilization groups. Resident classification must be established based on the individual items on the Minimum Data Set, which must be completed according to the Long Term Care Facility Resident Assessment Instrument User's Manual Version 3.0 or its successor issued by the Centers for Medicare and Medicaid Services.

(b) Each resident must be classified based on the information from the Minimum Data Set according to general categories ~~as defined in the Case Mix Classification Manual for Nursing Facilities~~ issued by the Minnesota Department of Health.

Sec. 15. Minnesota Statutes 2020, section 144.0724, subdivision 5, is amended to read:

Subd. 5. **Short stays.** (a) A facility must submit to the commissioner of health an admission assessment for all residents who stay in the facility 14 days or less; unless the resident is admitted and discharged from the facility on the same day, in which case the admission assessment is not required. When an admission assessment is not submitted, the case mix classification shall be the rate with a case mix index of 1.0.

(b) Notwithstanding the admission assessment requirements of paragraph (a), a facility may elect to accept a short stay rate with a case mix index of 1.0 for all facility residents who stay 14 days or less in lieu of submitting an admission assessment. Facilities shall make this election annually.

(c) Nursing facilities must elect one of the options described in paragraphs (a) and (b) by reporting to the commissioner of health, as prescribed by the commissioner. The election is effective on July 1 each year.

Sec. 16. Minnesota Statutes 2020, section 144.0724, subdivision 7, is amended to read:

Subd. 7. **Notice of resident reimbursement case mix classification.** (a) The commissioner of health shall provide to a nursing facility a notice for each resident of the ~~reimbursement~~ case mix classification established under subdivision 1. The notice must inform the resident of the case mix classification that was assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, and the opportunity to request a reconsideration of the classification and the address and telephone number of the Office of Ombudsman for Long-Term Care. The commissioner must transmit the notice of resident classification by electronic means to the nursing facility. ~~A~~ The nursing facility is responsible for the distribution of the notice to each resident, to the person responsible for the payment of the resident's nursing home expenses, or to another person designated by the resident or the resident's representative. This notice must be distributed within three working business days after the facility's receipt of the ~~electronic file of notice of case mix classifications from the commissioner of health.~~

(b) ~~If a facility submits a modification to the most recent assessment used to establish a case mix classification conducted under subdivision 3 that results~~ modifying assessment resulting in a change in the case mix classification, the facility shall give must provide a written notice to the resident or the resident's representative ~~about~~ regarding the item or items that ~~was~~ were modified and the reason for the ~~modification~~ modifications. The notice ~~of modified assessment may~~ must be provided ~~at the same time that the resident or resident's representative is provided the resident's modified notice of classification~~ within three business days after distribution of the resident case mix classification notice.

Sec. 17. Minnesota Statutes 2020, section 144.0724, subdivision 8, is amended to read:

Subd. 8. **Request for reconsideration of resident classifications.** (a) The resident, or resident's representative, or the nursing facility or boarding care home may request that the commissioner of health reconsider the assigned reimbursement case mix classification and any item or items changed during the audit process. The request for reconsideration must be submitted in writing to the commissioner ~~within 30 days of the day the resident or the resident's representative receives the resident classification notice of health.~~

(b) For reconsideration requests initiated by the resident or the resident's representative:

(1) The resident or the resident's representative must submit in writing a reconsideration request to the facility administrator within 30 days of receipt of the resident classification notice. The written request for reconsideration must include the name of the resident, the name and address of the facility in which the resident resides, the reasons for the reconsideration, and documentation supporting the request. The documentation accompanying the reconsideration request is limited to a copy of the MDS that determined the classification and other documents that would support or change the MDS findings.

(2) Within three business days of receiving the reconsideration request, the nursing facility must submit to the commissioner of health a completed reconsideration request form, a copy of the resident's or resident's representative's written request, and all supporting documentation used to complete the assessment being considered. If the facility fails to provide the required information, the reconsideration will be completed with the information submitted and the facility cannot make further reconsideration requests on this classification.

~~(b)~~ (3) Upon written request and within three business days, the nursing facility must give the resident or the resident's representative a copy of the assessment form being reconsidered and the other all supporting documentation that was given to the commissioner of health used to support complete the assessment findings. The nursing facility shall also provide access to and a copy of other information from the resident's record that has been requested by or on behalf of the resident to support a resident's reconsideration request. A copy of any requested material must be provided within three working days of receipt of a written request for the ~~information~~. Notwithstanding any law to the contrary, the facility may not charge a fee for providing copies of the requested documentation. If a facility fails to provide the material required documents within this time, it is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the nursing facility immediately comply with the request for information, and ~~that~~ as of the date of the issuance of the correction order, the facility shall forfeit to the state a \$100 fine for the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues.

(c) ~~in addition to the information required under paragraphs (a) and (b), a reconsideration request from a nursing facility must contain the following information: (i) the date the reimbursement classification notices were received by the facility; (ii) the date the classification notices were distributed to the resident or the resident's representative; and (iii)~~ For reconsideration requests initiated by the facility:

(1) The facility is required to inform the resident or the resident's representative in writing that a reconsideration of the resident's case mix classification is being requested. The notice must inform the resident or the resident's representative:

- (i) of the date and reason for the reconsideration request;
- (ii) of the potential for a classification and subsequent rate change;
- (iii) of the extent of the potential rate change;
- (iv) that copies of the request and supporting documentation are available for review; and
- (v) that the resident or the resident's representative has the right to request a reconsideration.

(2) Within 30 days of receipt of the audit exit report or resident classification notice, the facility must submit to the commissioner of health a completed reconsideration request form, all supporting documentation used to complete the assessment being reconsidered, and a copy of a the notice sent to informing the resident or to the resident's representative. This notice must inform the resident or the resident's representative that a reconsideration of the resident's classification is being requested, the reason for the request, that the resident's rate will change if the request is approved by the commissioner, the extent of the change, that copies of the facility's request and supporting documentation are available for review, and that the resident also has the right to request a reconsideration.

(3) If the facility fails to provide the required information listed in item (iii) with the reconsideration request, the commissioner may request that the facility provide the information within 14 calendar days., the reconsideration request ~~must~~ may be denied if the information is then not provided, and the facility may not make further reconsideration requests on that specific reimbursement this classification.

(d) Reconsideration by the commissioner must be made by individuals not involved in reviewing the assessment, audit, or reconsideration that established the disputed classification. The reconsideration must be based upon the assessment that determined the classification and upon the information provided to the commissioner of health under paragraphs (a) ~~and (b)~~ to (c). If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. Within 15 ~~working~~ business days of receiving the

request for reconsideration, the commissioner shall affirm or modify the original resident classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect characteristics of the resident at the time of the assessment. ~~The resident and the nursing facility or boarding care home shall be notified within five working days after the decision is made.~~ The commissioner must transmit the reconsideration classification notice by electronic means to the nursing facility. The nursing facility is responsible for the distribution of the notice to the resident or the resident's representative. The notice must be distributed by the nursing facility within three business days after receipt. A decision by the commissioner under this subdivision is the final administrative decision of the agency for the party requesting reconsideration.

(e) The ~~resident case mix~~ resident case mix classification established by the commissioner shall be the classification ~~that~~ which applies to the resident while the request for reconsideration is pending. If a request for reconsideration applies to an assessment used to determine nursing facility level of care under subdivision 4, paragraph (c), the resident shall continue to be eligible for nursing facility level of care while the request for reconsideration is pending.

(f) The commissioner may request additional documentation regarding a reconsideration necessary to make an accurate reconsideration determination.

Sec. 18. Minnesota Statutes 2020, section 144.0724, subdivision 9, is amended to read:

Subd. 9. **Audit authority.** (a) The commissioner shall audit the accuracy of resident assessments performed under section 256R.17 through any of the following: desk audits; on-site review of residents and their records; and interviews with staff, residents, or residents' families. The commissioner shall reclassify a resident if the commissioner determines that the resident was incorrectly classified.

(b) The commissioner is authorized to conduct on-site audits on an unannounced basis.

(c) A facility must grant the commissioner access to examine the medical records relating to the resident assessments selected for audit under this subdivision. The commissioner may also observe and speak to facility staff and residents.

(d) The commissioner shall consider documentation under the time frames for coding items on the minimum data set as set out in the Long-Term Care Facility Resident Assessment Instrument User's Manual published by the Centers for Medicare and Medicaid Services.

(e) The commissioner shall develop an audit selection procedure that includes the following factors:

(1) Each facility shall be audited annually. If a facility has two successive audits in which the percentage of change is five percent or less and the facility has not been the subject of a special audit in the past 36 months, the facility may be audited biannually. A stratified sample of 15 percent, with a minimum of ten assessments, of the most current assessments shall be selected for audit. If more than 20 percent of the RUG-IV classifications are changed as a result of the audit, the audit shall be expanded to a second 15 percent sample, with a minimum of ten assessments. If the total change between the first and second samples is 35 percent or greater, the commissioner may expand the audit to all of the remaining assessments.

(2) If a facility qualifies for an expanded audit, the commissioner may audit the facility again within six months. If a facility has two expanded audits within a 24-month period, that facility will be audited at least every six months for the next 18 months.

(3) The commissioner may conduct special audits if the commissioner determines that circumstances exist that could alter or affect the validity of case mix classifications of residents. These circumstances include, but are not limited to, the following:

- (i) frequent changes in the administration or management of the facility;
- (ii) an unusually high percentage of residents in a specific case mix classification;
- (iii) a high frequency in the number of reconsideration requests received from a facility;
- (iv) frequent adjustments of case mix classifications as the result of reconsiderations or audits;
- (v) a criminal indictment alleging provider fraud;
- (vi) other similar factors that relate to a facility's ability to conduct accurate assessments;
- (vii) an atypical pattern of scoring minimum data set items;
- (viii) nonsubmission of assessments;
- (ix) late submission of assessments; or
- (x) a previous history of audit changes of 35 percent or greater.

~~(f) Within 15 working days of completing the audit process, the commissioner shall make available electronically the results of the audit to the facility. If the results of the audit reflect a change in the resident's case mix classification, a case mix classification notice will be made available electronically to the facility, using the procedure in subdivision 7, paragraph (a). The notice must contain the resident's classification and a statement informing the resident, the resident's authorized representative, and the facility of their right to review the commissioner's documents supporting the classification and to request a reconsideration of the classification. This notice must also include the address and telephone number of the Office of Ombudsman for Long-Term Care. If the audit results in a case mix classification change, the commissioner must transmit the audit classification notice by electronic means to the nursing facility within 15 business days of completing an audit. The nursing facility is responsible for distribution of the notice to each resident or the resident's representative. This notice must be distributed by the nursing facility within three business days after receipt. The notice must inform the resident of the case mix classification assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, the opportunity to request a reconsideration of the classification, and the address and telephone number of the Office of Ombudsman for Long-Term Care.~~

Sec. 19. Minnesota Statutes 2020, 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 (i). This paragraph is in effect for appeals filed between January 1, 2015, and December 31, 2016.~~

Sec. 20. Minnesota Statutes 2020, section 144.125, subdivision 1, is amended to read:

Subdivision 1. **Duty to perform testing.** (a) It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age, (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, or (3) the nurse midwife or midwife in attendance at the birth, to arrange to have administered to every infant or child in its care tests for heritable and congenital disorders according to subdivision 2 and rules prescribed by the state commissioner of health.

(b) Testing, recording of test results, reporting of test results, and follow-up of infants with heritable congenital disorders, including hearing loss detected through the early hearing detection and intervention program in section 144.966, shall be performed at the times and in the manner prescribed by the commissioner of health.

(c) The fee to support the newborn screening program, including tests administered under this section and section 144.966, shall be ~~\$135~~ \$177 per specimen. This fee amount shall be deposited in the state treasury and credited to the state government special revenue fund.

(d) The fee to offset the cost of the support services provided under section 144.966, subdivision 3a, shall be \$15 per specimen. This fee shall be deposited in the state treasury and credited to the general fund.

Sec. 21. **[144.1461] DIGNITY IN PREGNANCY AND CHILDBIRTH.**

Subdivision 1. **Citation.** This section may be cited as the "Dignity in Pregnancy and Childbirth Act."

Subd. 2. **Continuing education.** (a) Hospitals with obstetric care and birth centers must develop or access a continuing education curriculum and must make available to direct care employees and contractors who routinely care for patients who are pregnant or postpartum a continuing education course on anti-racism training and implicit bias. The continuing education curriculum and course must:

- (1) be evidence-based;
- (2) to the extent practicable, conform with standards for continuing education established by the applicable health-related licensing boards; and
- (3) include, at a minimum, the following elements:
  - (i) education aimed at identifying personal, interpersonal, institutional, structural, and cultural barriers to inclusion;
  - (ii) identifying and implementing corrective measures to promote anti-racism practices and decrease implicit bias at the interpersonal and institutional levels, including the facility's ongoing policies and practices;

(iii) providing information on the ongoing effects of historical and contemporary exclusion and oppression of Black and Indigenous communities with the greatest health disparities in maternal and infant mortality and morbidity;

(iv) providing information on and discussion of health disparities in the perinatal health care field, including how systemic racism and implicit bias have different impacts on health outcomes for different racial and ethnic communities; and

(v) soliciting perspectives of diverse local constituency groups and experts on racial, identity, cultural, and provider-community relationship issues.

(b) In addition to the initial continuing education course made available under paragraph (a), hospitals with obstetric care and birth centers must make available an annual refresher course that reflects current trends on race, culture, identity, and anti-racism principles and institutional implicit bias.

(c) The commissioner of health, in coordination with the Minnesota Hospital Association, shall monitor implementation of this subdivision by hospitals with obstetric care and birth centers and may inspect course records or require reports from hospitals with obstetric care and birth centers on the continuing education curricula used and courses offered under this subdivision. Initial continuing education courses under this subdivision must be made available by December 31, 2022.

(d) Hospitals with obstetric care and birth centers must provide a certificate of course completion to another facility or to a course attendee upon request. A facility may accept a course certificate from another facility for a health care provider who works at more than one facility.

Subd. 3. **Midwife and doula care.** (a) In order to improve maternal and infant health and birth outcomes in groups with the most significant disparities, including Black communities, Indigenous communities, and other communities of color; rural communities; and low-income families, the commissioner of health, in partnership with patient groups and culturally based community organizations, shall:

(1) identify barriers to obtaining midwife and doula services for groups with the most significant disparities in maternal and infant mortality and morbidity, and develop procedures and services designed to increase the availability of midwife and doula services for these groups;

(2) promote racial, ethnic, and language diversity in the midwife and doula workforce that better aligns with the childbearing populations in groups with the most significant disparities in maternal and infant mortality and morbidity; and

(3) explore ways to ensure that midwife and doula training and education are culturally responsive and tailored to the specific needs of groups with the most significant disparities in maternal and infant mortality and morbidity, including trauma-informed care, maternal mood disorders, intimate partner violence, and implicit bias and anti-racism.

(b) For purposes of this subdivision, midwife and doula services include traditional midwife services as defined in section 147D.03; nurse midwife services as defined in section 148.171, subdivision 10; and doula services as defined in section 148.995, subdivision 4; and the midwife and doula workforce includes traditional midwives, nurse midwives, and certified doulas.

Sec. 22. Minnesota Statutes 2020, section 144.1501, subdivision 1, is amended to read:

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

(b) "Advanced dental therapist" means an individual who is licensed as a dental therapist under section 150A.06, and who is certified as an advanced dental therapist under section 150A.106.

(c) "Alcohol and drug counselor" means an individual who is licensed as an alcohol and drug counselor under chapter 148F.

~~(e)~~ (d) "Dental therapist" means an individual who is licensed as a dental therapist under section 150A.06.

~~(d)~~ (e) "Dentist" means an individual who is licensed to practice dentistry.

~~(e)~~ (f) "Designated rural area" means a statutory and home rule charter city or township that is outside the seven-county metropolitan area as defined in section 473.121, subdivision 2, excluding the cities of Duluth, Mankato, Moorhead, Rochester, and St. Cloud.

~~(f)~~ (g) "Emergency circumstances" means those conditions that make it impossible for the participant to fulfill the service commitment, including death, total and permanent disability, or temporary disability lasting more than two years.

~~(g)~~ (h) "Mental health professional" means an individual providing clinical services in the treatment of mental illness who is qualified in at least one of the ways specified in section 245.462, subdivision 18.

~~(h)~~ (i) "Medical resident" means an individual participating in a medical residency in family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

~~(i)~~ (j) "Midlevel practitioner" means a nurse practitioner, nurse-midwife, nurse anesthetist, advanced clinical nurse specialist, or physician assistant.

~~(j)~~ (k) "Nurse" means an individual who has completed training and received all licensing or certification necessary to perform duties as a licensed practical nurse or registered nurse.

~~(k)~~ (l) "Nurse-midwife" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse-midwives.

~~(l)~~ (m) "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare registered nurses for advanced practice as nurse practitioners.

~~(m)~~ (n) "Pharmacist" means an individual with a valid license issued under chapter 151.

~~(n)~~ (o) "Physician" means an individual who is licensed to practice medicine in the areas of family practice, internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

~~(o)~~ (p) "Physician assistant" means a person licensed under chapter 147A.

~~(p)~~ (q) "Public health nurse" means a registered nurse licensed in Minnesota who has obtained a registration certificate as a public health nurse from the Board of Nursing in accordance with Minnesota Rules, chapter 6316.

~~(q)~~ (r) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a health care professional.

~~(r)~~ (s) "Underserved urban community" means a Minnesota urban area or population included in the list of designated primary medical care health professional shortage areas (HPSAs), medically underserved

areas (MUAs), or medically underserved populations (MUPs) maintained and updated by the United States Department of Health and Human Services.

**EFFECTIVE DATE.** This section is effective July 1, 2025.

Sec. 23. Minnesota Statutes 2020, section 144.1501, subdivision 2, is amended to read:

Subd. 2. **Creation of account.** (a) A health professional education loan forgiveness program account is established. The commissioner of health shall use money from the account to establish a loan forgiveness program:

(1) for medical residents ~~and~~, mental health professionals, and alcohol and drug counselors agreeing to practice in designated rural areas or underserved urban communities or specializing in the area of pediatric psychiatry;

(2) for midlevel practitioners agreeing to practice in designated rural areas or to teach at least 12 credit hours, or 720 hours per year in the nursing field in a postsecondary program at the undergraduate level or the equivalent at the graduate level;

(3) for nurses who agree to practice in a Minnesota nursing home; an intermediate care facility for persons with developmental disability; a hospital if the hospital owns and operates a Minnesota nursing home and a minimum of 50 percent of the hours worked by the nurse is in the nursing home; a housing with services establishment as defined in section 144D.01, subdivision 4; or for a home care provider as defined in section 144A.43, subdivision 4; or agree to teach at least 12 credit hours, or 720 hours per year in the nursing field in a postsecondary program at the undergraduate level or the equivalent at the graduate level;

(4) for other health care technicians agreeing to teach at least 12 credit hours, or 720 hours per year in their designated field in a postsecondary program at the undergraduate level or the equivalent at the graduate level. The commissioner, in consultation with the Healthcare Education-Industry Partnership, shall determine the health care fields where the need is the greatest, including, but not limited to, respiratory therapy, clinical laboratory technology, radiologic technology, and surgical technology;

(5) for pharmacists, advanced dental therapists, dental therapists, and public health nurses who agree to practice in designated rural areas; and

(6) for dentists agreeing to deliver at least 25 percent of the dentist's yearly patient encounters to state public program enrollees or patients receiving sliding fee schedule discounts through a formal sliding fee schedule meeting the standards established by the United States Department of Health and Human Services under Code of Federal Regulations, title 42, section 51, chapter 303.

(b) Appropriations made to the account do not cancel and are available until expended, except that at the end of each biennium, any remaining balance in the account that is not committed by contract and not needed to fulfill existing commitments shall cancel to the fund.

**EFFECTIVE DATE.** This section is effective July 1, 2025.

Sec. 24. Minnesota Statutes 2020, section 144.1501, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** (a) To be eligible to participate in the loan forgiveness program, an individual must:

(1) be a medical or dental resident; a licensed pharmacist; or be enrolled in a training or education program to become a dentist, dental therapist, advanced dental therapist, mental health professional, alcohol and drug counselor, pharmacist, public health nurse, midlevel practitioner, registered nurse, or a licensed practical nurse. The commissioner may also consider applications submitted by graduates in eligible professions who are licensed and in practice; and

(2) submit an application to the commissioner of health.

(b) An applicant selected to participate must sign a contract to agree to serve a minimum three-year full-time service obligation according to subdivision 2, which shall begin no later than March 31 following completion of required training, with the exception of a nurse, who must agree to serve a minimum two-year full-time service obligation according to subdivision 2, which shall begin no later than March 31 following completion of required training.

**EFFECTIVE DATE.** This section is effective July 1, 2025.

Sec. 25. Minnesota Statutes 2020, section 144.212, is amended by adding a subdivision to read:

Subd. 12. **Homeless youth.** "Homeless youth" has the meaning given in section 256K.45, subdivision 1a.

Sec. 26. Minnesota Statutes 2020, section 144.225, subdivision 2, is amended to read:

Subd. 2. **Data about births.** (a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, including the original record of birth and the certified vital record, are confidential data. At the time of the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, the mother may designate demographic data pertaining to the birth as public. Notwithstanding the designation of the data as confidential, it may be disclosed:

(1) to a parent or guardian of the child;

(2) to the child when the child is 16 years of age or older, except as provided in clause (3);

(3) to the child if the child is a homeless youth;

~~(4)~~ (4) under paragraph (b), (e), or (f); or

~~(4)~~ (5) pursuant to a court order. For purposes of this section, a subpoena does not constitute a court order.

(b) Unless the child is adopted, data pertaining to the birth of a child that are not accessible to the public become public data if 100 years have elapsed since the birth of the child who is the subject of the data, or as provided under section 13.10, whichever occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.218, subdivision 1; 144.2252; and 259.89.

(d) The name and address of a mother under paragraph (a) and the child's date of birth may be disclosed to the county social services, tribal health department, or public health member of a family services collaborative for purposes of providing services under section 124D.23.

(e) The commissioner of human services shall have access to birth records for:

- (1) the purposes of administering medical assistance and the MinnesotaCare program;
- (2) child support enforcement purposes; and
- (3) other public health purposes as determined by the commissioner of health.

(f) Tribal child support programs shall have access to birth records for child support enforcement purposes.

Sec. 27. **[144.2255] CERTIFIED BIRTH RECORD FOR HOMELESS YOUTH.**

Subdivision 1. **Application; certified birth record.** A subject of a birth record who is a homeless youth in Minnesota or another state may apply to the state registrar or a local issuance office for a certified birth record according to this section. The state registrar or local issuance office shall issue a certified birth record or statement of no vital record found to a subject of a birth record who submits:

(1) a completed application signed by the subject of the birth record;

(2) a statement that the subject of the birth record is a homeless youth, signed by the subject of the birth record; and

(3) one of the following:

(i) a document of identity listed in Minnesota Rules, part 4601.2600, subpart 8, or, at the discretion of the state registrar or local issuance office, Minnesota Rules, part 4601.2600, subpart 9;

(ii) a statement that complies with Minnesota Rules, part 4601.2600, subparts 6 and 7; or

(iii) a statement verifying that the subject of the birth record is a homeless youth that complies with the requirements in subdivision 2 and is from an employee of a human services agency that receives public funding to provide services to homeless youth, runaway youth, youth with mental illness, or youth with substance use disorders; a school staff person who provides services to homeless youth; or a school social worker.

Subd. 2. **Statement verifying subject is a homeless youth.** A statement verifying that a subject of a birth record is a homeless youth must include:

(1) the following information regarding the individual providing the statement: first name, middle name, if any, and last name; home or business address; telephone number, if any; and e-mail address, if any;

(2) the first name, middle name, if any, and last name of the subject of the birth record; and

(3) a statement specifying the relationship of the individual providing the statement to the subject of the birth record and verifying that the subject of the birth record is a homeless youth.

The individual providing the statement must also provide a copy of the individual's employment identification.

Subd. 3. **Expiration; reissuance.** If a subject of a birth record obtains a certified birth record under this section using the statement specified in subdivision 1, clause (3), item (iii), the certified birth record issued shall expire six months after the date of issuance. Upon expiration of the certified birth record, the subject of the birth record may surrender the expired birth record to the state registrar or a local issuance office and obtain another birth record. Each certified birth record obtained under this subdivision shall expire six months after the date of issuance. If the subject of the birth record does not surrender the expired birth record, the subject may apply for a certified birth record using the process in subdivision 1.

Subd. 4. **Data practices.** Data listed under subdivision 1, clauses (2) and (3), item (iii), are private data on individuals.

**EFFECTIVE DATE.** This section is effective the day following final enactment for applications for and the issuance of certified birth records on or after January 1, 2022.

Sec. 28. Minnesota Statutes 2020, section 144.226, is amended by adding a subdivision to read:

Subd. 7. **Transaction fees.** The state registrar may charge and permit agents to charge a convenience fee and a transaction fee for electronic transactions and transactions by telephone or Internet, as well as the fees established under subdivisions 1 to 4. The convenience fee may not exceed three percent of the cost of the charges for payment. The state registrar may permit agents to charge and retain a transaction fee as payment agreed upon under contract. When an electronic convenience fee or transaction fee is charged, the agent charging the fee is required to post information on their web page informing individuals of the fee. The information must be near the point of payment, clearly visible, include the amount of the fee, and state: "This contracted agent is allowed by state law to charge a convenience fee and transaction fee for this electronic transaction."

Sec. 29. Minnesota Statutes 2020, section 144.226, is amended by adding a subdivision to read:

Subd. 8. **Birth record fees waived for homeless youth.** A subject of a birth record who is a homeless youth shall not be charged any of the fees specified in this section for a certified birth record or statement of no vital record found under section 144.2255.

**EFFECTIVE DATE.** This section is effective the day following final enactment for applications for and the issuance of certified birth records on or after January 1, 2022.

Sec. 30. Minnesota Statutes 2020, section 144.551, subdivision 1, is amended to read:

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

- (4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;
- (5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;
- (6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;
- (7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;
- (8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; ~~and~~ (iv) the relocation or redistribution does not involve the construction of a new hospital building; and (v) the transferred beds are used first to replace within the hospital corporate system the total number of beds previously used in the closed facility site or complex for mental health services and substance use disorder services. Only after the hospital corporate system has fulfilled the requirements of this item may the remainder of the available capacity of the closed facility site or complex be transferred for any other purpose;
- (9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;
- (10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;
- (11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;
- (12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27 beds, of which 12 serve mental health needs, may be transferred from Hennepin County Medical Center to Regions Hospital under this clause;
- (13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;



(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds in an existing hospital in Carver County serving the southwest suburban metropolitan area;

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County;

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

(19) a critical access hospital established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33, to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law;

(20) notwithstanding section 144.552, a project for the construction of a new hospital in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

(i) the project, including each hospital or health system that will own or control the entity that will hold the new hospital license, is approved by a resolution of the Maple Grove City Council as of March 1, 2006;

(ii) the entity that will hold the new hospital license will be owned or controlled by one or more not-for-profit hospitals or health systems that have previously submitted a plan or plans for a project in Maple Grove as required under section 144.552, and the plan or plans have been found to be in the public interest by the commissioner of health as of April 1, 2005;

(iii) the new hospital's initial inpatient services must include, but are not limited to, medical and surgical services, obstetrical and gynecological services, intensive care services, orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health services, and emergency room services;

(iv) the new hospital:

(A) will have the ability to provide and staff sufficient new beds to meet the growing needs of the Maple Grove service area and the surrounding communities currently being served by the hospital or health system that will own or control the entity that will hold the new hospital license;

(B) will provide uncompensated care;

(C) will provide mental health services, including inpatient beds;

(D) will be a site for workforce development for a broad spectrum of health-care-related occupations and have a commitment to providing clinical training programs for physicians and other health care providers;

(E) will demonstrate a commitment to quality care and patient safety;

(F) will have an electronic medical records system, including physician order entry;

(G) will provide a broad range of senior services;

(H) will provide emergency medical services that will coordinate care with regional providers of trauma services and licensed emergency ambulance services in order to enhance the continuity of care for emergency medical patients; and

(I) will be completed by December 31, 2009, unless delayed by circumstances beyond the control of the entity holding the new hospital license; and

(v) as of 30 days following submission of a written plan, the commissioner of health has not determined that the hospitals or health systems that will own or control the entity that will hold the new hospital license are unable to meet the criteria of this clause;

(21) a project approved under section 144.553;

(22) a project for the construction of a hospital with up to 25 beds in Cass County within a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder is approved by the Cass County Board;

(23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing a separately licensed 13-bed skilled nursing facility;

(24) notwithstanding section 144.552, a project for the construction and expansion of a specialty psychiatric hospital in Hennepin County for up to 50 beds, exclusively for patients who are under 21 years of age on the date of admission. The commissioner conducted a public interest review of the mental health needs of Minnesota and the Twin Cities metropolitan area in 2008. No further public interest review shall be conducted for the construction or expansion project under this clause;

(25) a project for a 16-bed psychiatric hospital in the city of Thief River Falls, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(26)(i) a project for a 20-bed psychiatric hospital, within an existing facility in the city of Maple Grove, exclusively for patients who are under 21 years of age on the date of admission, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(ii) this project shall serve patients in the continuing care benefit program under section 256.9693. The project may also serve patients not in the continuing care benefit program; and

(iii) if the project ceases to participate in the continuing care benefit program, the commissioner must complete a subsequent public interest review under section 144.552. If the project is found not to be in the public interest, the license must be terminated six months from the date of that finding. If the commissioner of human services terminates the contract without cause or reduces per diem payment rates for patients under the continuing care benefit program below the rates in effect for services provided on December 31, 2015, the project may cease to participate in the continuing care benefit program and continue to operate without a subsequent public interest review;

(27) a project involving the addition of 21 new beds in an existing psychiatric hospital in Hennepin County that is exclusively for patients who are under 21 years of age on the date of admission; or

(28) a project to add 55 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5, of which 15 beds are to be used for inpatient mental health and 40 are to be used for other services. In addition, five unlicensed observation mental health beds shall be added;

(29) upon submission of a plan to the commissioner for public interest review under section 144.552 and the addition of the 15 inpatient mental health beds specified in clause (28), to its bed capacity, a project to add 45 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5. Five of the 45 additional beds authorized under this clause must be designated for use for inpatient mental health and must be added to the hospital's bed capacity before the remaining 40 beds are added. Notwithstanding section 144.552, the hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552; or

(30) upon submission of a plan to the commissioner for public interest review under section 144.552, a project to add up to 30 licensed beds in an existing psychiatric hospital in Hennepin County that exclusively provides care to patients who are under 21 years of age on the date of admission. Notwithstanding section 144.552, the psychiatric hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552.

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

Sec. 31. Minnesota Statutes 2020, section 144.555, is amended to read:

**144.555 HOSPITAL FACILITY OR CAMPUS CLOSINGS, RELOCATING SERVICES, OR CEASING TO OFFER CERTAIN SERVICES; PATIENT RELOCATIONS.**

Subdivision 1. **Notice of closing or curtailing service operations; facilities other than hospitals.** If a facility licensed under sections 144.50 to 144.56, other than a hospital, voluntarily plans to cease operations or to curtail operations to the extent that patients or residents must be relocated, the controlling persons of the facility must notify the commissioner of health at least 90 days before the scheduled cessation or curtailment. The commissioner shall cooperate with the controlling persons and advise them about relocating the patients or residents.

Subd. 1a. **Notice of closing, curtailing operations, relocating services, or ceasing to offer certain services; hospitals.** (a) The controlling persons of a hospital licensed under sections 144.50 to 144.56 or a hospital campus must notify the commissioner of health and the public at least 120 days before the hospital or hospital campus voluntarily plans to implement one of the following scheduled actions:

(1) cease operations;

(2) curtail operations to the extent that patients must be relocated;

(3) relocate the provision of health services to another hospital or another hospital campus; or

(4) cease offering maternity care and newborn care services, intensive care unit services, inpatient mental health services, or inpatient substance use disorder treatment services.

(b) The commissioner shall cooperate with the controlling persons and advise them about relocating the patients.

**Subd. 1b. Public hearing.** Within 45 days after receiving notice under subdivision 1a, the commissioner shall conduct a public hearing on the scheduled cessation of operations, curtailment of operations, relocation of health services, or cessation in offering health services. The commissioner must provide adequate public notice of the hearing in a time and manner determined by the commissioner. The controlling persons of the hospital or hospital campus must participate in the public hearing. The public hearing must include:

(1) an explanation by the controlling persons of the reasons for ceasing or curtailing operations, relocating health services, or ceasing to offer any of the listed health services;

(2) a description of the actions that controlling persons will take to ensure that residents in the hospital's or campus's service area have continued access to the health services being eliminated, curtailed, or relocated;

(3) an opportunity for public testimony on the scheduled cessation or curtailment of operations, relocation of health services, or cessation in offering any of the listed health services, and on the hospital's or campus's plan to ensure continued access to those health services being eliminated, curtailed, or relocated; and

(4) an opportunity for the controlling persons to respond to questions from interested persons.

**Subd. 1c. Exceptions.** (a) Notwithstanding the time period in subdivision 1a by which notice must be provided to the commissioner and the public, the controlling persons of a hospital or hospital campus must notify the commissioner of health and the public as soon as practicable after deciding to take an action listed in subdivision 1a, paragraph (a), if the action is caused by:

(1) a natural disaster or other emergency; or

(2) an inability of the hospital to provide health services according to the applicable standard of care due to the hospital's inability to retain or secure essential staff after reasonable effort.

(b) Notwithstanding the time period in subdivision 1b by which a public hearing must be held, the commissioner must hold a public hearing according to subdivision 1b as soon as practicable after the controlling persons of the hospital or hospital campus governed by this subdivision decide to take the action.

**Subd. 2. Penalty.** Failure to notify the commissioner under subdivision 1, 1a, or 1c or failure to participate in a public hearing under subdivision 1b may result in issuance of a correction order under section 144.653, subdivision 5.

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

Sec. 32. Minnesota Statutes 2020, section 144.9501, subdivision 17, is amended to read:

**Subd. 17. Lead hazard reduction.** "Lead hazard reduction" means abatement or interim controls undertaken to make a residence, child care facility, school, ~~or~~ playground, or other location where lead hazards are identified lead-safe by complying with the lead standards and methods adopted under section 144.9508.

Sec. 33. Minnesota Statutes 2020, section 144.9502, subdivision 3, is amended to read:

**Subd. 3. Reports of blood lead analysis required.** (a) Every hospital, medical clinic, medical laboratory, other facility, or individual performing blood lead analysis shall report the results after the analysis of each specimen analyzed, for both capillary and venous specimens, and epidemiologic information required in this section to the commissioner of health, within the time frames set forth in clauses (1) and (2):

(1) within two working days by telephone, fax, or electronic transmission as prescribed by the commissioner, with written or electronic confirmation within one month as prescribed by the commissioner, for a venous blood lead level equal to or greater than 15 micrograms of lead per deciliter of whole blood;  
or

(2) within one month in writing or by electronic transmission as prescribed by the commissioner, for any capillary result or for a venous blood lead level less than 15 micrograms of lead per deciliter of whole blood.

(b) If a blood lead analysis is performed outside of Minnesota and the facility performing the analysis does not report the blood lead analysis results and epidemiological information required in this section to the commissioner, the provider who collected the blood specimen must satisfy the reporting requirements of this section. For purposes of this section, "provider" has the meaning given in section 62D.02, subdivision 9.

(c) The commissioner shall coordinate with hospitals, medical clinics, medical laboratories, and other facilities performing blood lead analysis to develop a universal reporting form and mechanism.

Sec. 34. Minnesota Statutes 2020, section 144.9504, subdivision 2, is amended to read:

Subd. 2. **Lead risk assessment.** (a) Notwithstanding section 144.9501, subdivision 6a, for purposes of this subdivision, "child" means an individual under 18 years of age.

(b) An assessing agency shall conduct a lead risk assessment of a residence, residential or commercial child care facility, playground, school, or other location where lead hazards are suspected according to the venous blood lead level and time frame set forth in clauses (1) to (4) for purposes of secondary prevention:

(1) within 48 hours of a child or pregnant female in the residence, residential or commercial child care facility, playground, school, or other location where lead hazards are suspected being identified to the agency as having a venous blood lead level equal to or greater than 60 micrograms of lead per deciliter of whole blood;

(2) within five working days of a child or pregnant female in the residence, residential or commercial child care facility, playground, school, or other location where lead hazards are suspected being identified to the agency as having a venous blood lead level equal to or greater than 45 micrograms of lead per deciliter of whole blood;

~~(3) within ten working days of a child in the residence being identified to the agency as having a venous blood lead level equal to or greater than 15 micrograms of lead per deciliter of whole blood; or~~

~~(4) (3) within ten working days of a child or pregnant female in the residence, residential or commercial child care facility, playground, school, or other location where lead hazards are suspected being identified to the agency as having a venous blood lead level equal to or greater than ten micrograms of lead per deciliter of whole blood; or~~

(4) within 20 working days of a child or pregnant female in the residence, residential or commercial child care facility, playground, school, or other location where lead hazards are suspected being identified to the agency as having a venous blood lead level equal to or greater than five micrograms per deciliter of whole blood.

An assessing agency may refer investigations at sites other than the child's or pregnant female's residence to the commissioner.

~~(b)~~ (c) Within the limits of available local, state, and federal appropriations, an assessing agency may also conduct a lead risk assessment for children with any elevated blood lead level.

~~(e)~~ (d) In a building with two or more dwelling units, an assessing agency shall assess the individual unit in which the conditions of this section are met and shall inspect all common areas accessible to a child. If a child visits one or more other sites such as another residence, or a residential or commercial child care facility, playground, or school, the assessing agency shall also inspect the other sites. The assessing agency shall have one additional day added to the time frame set forth in this subdivision to complete the lead risk assessment for each additional site.

~~(d)~~ (e) Within the limits of appropriations, the assessing agency shall identify the known addresses for the previous 12 months of the child or pregnant female with venous blood lead levels of at least 15 micrograms per deciliter for the child or at least ten micrograms per deciliter for the pregnant female; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them primary prevention information. Within the limits of appropriations, the assessing agency may perform a risk assessment and issue corrective orders in the properties, if it is likely that the previous address contributed to the child's or pregnant female's blood lead level. The assessing agency shall provide the notice required by this subdivision without identifying the child or pregnant female with the elevated blood lead level. The assessing agency is not required to obtain the consent of the child's parent or guardian or the consent of the pregnant female for purposes of this subdivision. This information shall be classified as private data on individuals as defined under section 13.02, subdivision 12.

~~(e)~~ (f) The assessing agency shall conduct the lead risk assessment according to rules adopted by the commissioner under section 144.9508. An assessing agency shall have lead risk assessments performed by lead risk assessors licensed by the commissioner according to rules adopted under section 144.9508. If a property owner refuses to allow a lead risk assessment, the assessing agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead risk assessment set forth in this subdivision no longer applies. A lead risk assessor or assessing agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under section 144.9509. Deteriorated painted surfaces, bare soil, and dust must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces. The lead content of drinking water must be measured if another probable source of lead exposure is not identified. Within a standard metropolitan statistical area, an assessing agency may order lead hazard reduction of bare soil without measuring the lead content of the bare soil if the property is in a census tract in which soil sampling has been performed according to rules established by the commissioner and at least 25 percent of the soil samples contain lead concentrations above the standard in section 144.9508.

~~(f)~~ (g) Each assessing agency shall establish an administrative appeal procedure which allows a property owner to contest the nature and conditions of any lead order issued by the assessing agency. Assessing agencies must consider appeals that propose lower cost methods that make the residence lead safe. The commissioner shall use the authority and appeal procedure granted under sections 144.989 to 144.993.

~~(g)~~ (h) Sections 144.9501 to 144.9512 neither authorize nor prohibit an assessing agency from charging a property owner for the cost of a lead risk assessment.

Sec. 35. Minnesota Statutes 2020, section 144.9504, subdivision 5, is amended to read:

Subd. 5. **Lead orders.** (a) An assessing agency, after conducting a lead risk assessment, shall order a property owner to perform lead hazard reduction on all lead sources that exceed a standard adopted according

to section 144.9508. If lead risk assessments and lead orders are conducted at times when weather or soil conditions do not permit the lead risk assessment or lead hazard reduction, external surfaces and soil lead shall be assessed, and lead orders complied with, if necessary, at the first opportunity that weather and soil conditions allow.

(b) If, after conducting a lead risk assessment, an assessing agency determines that the property owner's lead hazard originated from another source location, the assessing agency may order the responsible person of the source location to:

(1) perform lead hazard reduction at the site where the assessing agency conducted the lead risk assessment; and

(2) remediate the conditions at the source location that allowed the lead hazard, pollutant, or contaminant to migrate from the source location.

(c) For purposes of this subdivision, "pollutant or contaminant" has the meaning given in section 115B.02, subdivision 13, and "responsible person" has the meaning given in section 115B.03.

~~(b)~~ (d) If the paint standard under section 144.9508 is violated, but the paint is intact, the assessing agency shall not order the paint to be removed unless the intact paint is a known source of actual lead exposure to a specific person. Before the assessing agency may order the intact paint to be removed, a reasonable effort must be made to protect the child and preserve the intact paint by the use of guards or other protective devices and methods.

~~(e)~~ (e) Whenever windows and doors or other components covered with deteriorated lead-based paint have sound substrate or are not rotting, those components should be repaired, sent out for stripping or planed down to remove deteriorated lead-based paint, or covered with protective guards instead of being replaced, provided that such an activity is the least cost method. However, a property owner who has been ordered to perform lead hazard reduction may choose any method to address deteriorated lead-based paint on windows, doors, or other components, provided that the method is approved in rules adopted under section 144.9508 and that it is appropriate to the specific property.

~~(f)~~ (f) Lead orders must require that any source of damage, such as leaking roofs, plumbing, and windows, be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces.

~~(g)~~ (g) The assessing agency is not required to pay for lead hazard reduction. The assessing agency shall enforce the lead orders issued to a property owner under this section.

Sec. 36. Minnesota Statutes 2020, section 145.32, subdivision 1, is amended to read:

Subdivision 1. **Hospital records.** The superintendent or other chief administrative officer of any public or private hospital, by and with the consent and approval of the board of directors or other governing body of the hospital, may divest the files and records of that hospital of any individual case records and, with that consent and approval, may destroy the records. The records shall first have been transferred and recorded as authorized in section 145.30.

Portions of individual hospital medical records that comprise an individual permanent medical record, as defined by the commissioner of health, shall be retained as authorized in section 145.30. Other portions of the individual medical record, including any miscellaneous documents, papers, and correspondence in connection with them, may be divested and destroyed after seven years without transfer to photographic film, electronic image, or other state-of-the-art electronic preservation technology.

All portions of individual hospital medical records of minors shall be maintained for seven years ~~following the age of majority~~ or until the individual reaches the age of majority, whichever occurs last, at which time the individual may request that the patient's hospital records be destroyed, unless the hospital is required to retain the records as part of the individual's permanent medical record as defined in accordance with subdivision 2.

Nothing in this section shall be construed to prohibit the retention of hospital medical records beyond the periods described in this section. Nor shall anything in this section be construed to prohibit patient access to hospital medical records as provided in sections 144.291 to 144.298.

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

Sec. 37. Minnesota Statutes 2020, section 145.901, subdivision 2, is amended to read:

Subd. 2. **Access to data.** (a) The commissioner of health has access to medical data as defined in section 13.384, subdivision 1, paragraph (b), medical examiner data as defined in section 13.83, subdivision 1, and health records created, maintained, or stored by providers as defined in section 144.291, subdivision 2, paragraph ~~(i)~~ (c), without the consent of the subject of the data, and without the consent of the parent, spouse, other guardian, or legal representative of the subject of the data, when the subject of the data is a woman who died during a pregnancy or within 12 months of a fetal death, a live birth, or other termination of a pregnancy.

The commissioner has access only to medical data and health records related to deaths that occur on or after July 1, 2000, including the names of the providers, clinics, or other health services such as family home visiting programs; the women, infants, and children (WIC) program; prescription monitoring programs; and behavioral health services, where care was received before, during, or related to the pregnancy or death. The commissioner has access to records maintained by a medical examiner, a coroner, or hospitals or to hospital discharge data, for the purpose of providing the name and location of any pre-pregnancy, prenatal, or other care received by the subject of the data up to one year after the end of the pregnancy.

(b) The provider or responsible authority that creates, maintains, or stores the data shall furnish the data upon the request of the commissioner. The provider or responsible authority may charge a fee for providing the data, not to exceed the actual cost of retrieving and duplicating the data.

(c) The commissioner shall make a good faith reasonable effort to notify the parent, spouse, other guardian, or legal representative of the subject of the data before collecting data on the subject. For purposes of this paragraph, "reasonable effort" means one notice is sent by certified mail to the last known address of the parent, spouse, guardian, or legal representative informing the recipient of the data collection and offering a public health nurse support visit if desired.

(d) The commissioner does not have access to coroner or medical examiner data that are part of an active investigation as described in section 13.83.

(e) The commissioner may request and receive from a coroner or medical examiner the name of the health care provider that provided prenatal, postpartum, or other health services to the subject of the data.

(f) The commissioner may access Department of Human Services data to identify sources of care and services to assist with the evaluation of welfare systems, including housing, to reduce preventable maternal deaths.



(g) The commissioner may request and receive law enforcement reports or incident reports related to the subject of the data.

Sec. 38. Minnesota Statutes 2020, section 145.901, subdivision 4, is amended to read:

Subd. 4. **Classification of data.** (a) Data provided to the commissioner from source records under subdivision 2, including identifying information on individual providers, data subjects, or their children, and data derived by the commissioner under subdivision 3 for the purpose of carrying out maternal death studies, are classified as confidential data on individuals or confidential data on decedents, as defined in sections 13.02, subdivision 3, and 13.10, subdivision 1, paragraph (a).

(b) Information classified under paragraph (a) shall not be subject to discovery or introduction into evidence in any administrative, civil, or criminal proceeding. Such information otherwise available from an original source shall not be immune from discovery or barred from introduction into evidence merely because it was utilized by the commissioner in carrying out maternal death studies.

(c) Summary data on maternal death studies created by the commissioner, which does not identify individual data subjects or individual providers, shall be public in accordance with section 13.05, subdivision 7.

(d) Data provided by the commissioner of human services to the commissioner of health under this section retain the same classification the data held when retained by the commissioner of human services, as required under section 13.03, subdivision 4, paragraph (c).

Sec. 39. Minnesota Statutes 2020, section 145.901, is amended by adding a subdivision to read:

Subd. 5. **Maternal Mortality Review Committee.** (a) The commissioner of health shall convene a Maternal Mortality Review Committee to conduct maternal death study reviews, make recommendations, and publicly share summary information. The commissioner shall appoint members to the review committee, and membership may include but is not limited to medical examiners or coroners, representatives of health care institutions that provide care to pregnant women, obstetric and midwifery practitioners, Medicaid representatives, representatives of state agencies, individuals from communities with disparate rates of maternal mortality, and other subject matter experts as appropriate. Committee membership shall not exceed 25 members. The review committee shall review data from source records obtained under subdivision 2, other than data identifying the subject or the provider.

(b) A person attending a Maternal Mortality Review Committee meeting shall not disclose what transpired at the meeting, except as necessary to carry out the purposes of the review committee. The proceedings and records of the review committee are protected nonpublic data as defined in section 13.02, subdivision 13. Discovery and introduction into evidence in legal proceedings of case review committee proceedings and records, and testimony in legal proceedings by review committee members and persons presenting information to the review committee, shall occur in compliance with the requirements in section 256.01, subdivision 12, paragraph (e).

Sec. 40. Minnesota Statutes 2020, section 171.07, is amended by adding a subdivision to read:

Subd. 3b. **Identification card for homeless youth.** (a) A homeless youth, as defined in section 256K.45, subdivision 1a, who meets the requirements of this subdivision may obtain a noncompliant identification card, notwithstanding section 171.06, subdivision 3.

(b) An applicant under this subdivision must:

(1) provide the applicant's full name, date of birth, and sex;

(2) provide the applicant's height in feet and inches, weight in pounds, and eye color;

(3) submit a certified copy of a birth certificate issued by a government bureau of vital statistics or equivalent agency in the applicant's state of birth, which must bear the raised or authorized seal of the issuing government entity; and

(4) submit a statement verifying that the applicant is a homeless youth who resides in Minnesota that is signed by:

(i) an employee of a human services agency receiving public funding to provide services to homeless youth, runaway youth, youth with mental illness, or youth with substance use disorders; or

(ii) staff at a school who provide services to homeless youth or a school social worker.

(c) For a noncompliant identification card under this subdivision:

(1) the commissioner must not impose a fee, surcharge, or filing fee under section 171.06, subdivision 2; and

(2) a driver's license agent must not impose a filing fee under section 171.061, subdivision 4.

(d) Minnesota Rules, parts 7410.0400 and 7410.0410, or successor rules, do not apply for an identification card under this subdivision.

**EFFECTIVE DATE.** This section is effective the day following final enactment for application and issuance of Minnesota identification cards on and after January 1, 2022.

Sec. 41. Minnesota Statutes 2020, section 256B.0625, subdivision 52, is amended to read:

Subd. 52. **Lead risk assessments.** (a) Effective October 1, 2007, or six months after federal approval, whichever is later, medical assistance covers lead risk assessments provided by a lead risk assessor who is licensed by the commissioner of health under section 144.9505 and employed by an assessing agency as defined in section 144.9501. Medical assistance covers a onetime on-site investigation of a recipient's home or primary residence to determine the existence of lead so long as the recipient is under the age of 21 and has a venous blood lead level specified in section 144.9504, subdivision 2, paragraph ~~(a)~~ (b).

(b) Medical assistance reimbursement covers the lead risk assessor's time to complete the following activities:

(1) gathering samples;

(2) interviewing family members;

(3) gathering data, including meter readings; and

(4) providing a report with the results of the investigation and options for reducing lead-based paint hazards.

Medical assistance coverage of lead risk assessment does not include testing of environmental substances such as water, paint, or soil or any other laboratory services. Medical assistance coverage of lead risk assessments is not included in the capitated services for children enrolled in health plans through the prepaid medical assistance program and the MinnesotaCare program.

(c) Payment for lead risk assessment must be cost-based and must meet the criteria for federal financial participation under the Medicaid program. The rate must be based on allowable expenditures from cost information gathered. Under section 144.9507, subdivision 5, federal medical assistance funds may not replace existing funding for lead-related activities. The nonfederal share of costs for services provided under this subdivision must be from state or local funds and is the responsibility of the agency providing the risk assessment. When the risk assessment is conducted by the commissioner of health, the state share must be from appropriations to the commissioner of health for this purpose. Eligible expenditures for the nonfederal share of costs may not be made from federal funds or funds used to match other federal funds. Any federal disallowances are the responsibility of the agency providing risk assessment services.

**Sec. 42. RECOMMENDATIONS ON EXPANDING ACCESS TO DATA IN ALL-PAYER CLAIMS DATABASE.**

The commissioner of health shall develop recommendations to expand access to data in the all-payer claims database under Minnesota Statutes, section 62U.04, to additional outside entities for public health or research purposes. In the recommendations, the commissioner must address an application process for outside entities to access the data, how the department will exercise ongoing oversight over data use by outside entities, purposes for which outside entities may use the data, establishment of a data access committee to advise the department on selecting outside entities permitted to access the data, steps outside entities must take to protect data held by outside entities from unauthorized use, and whether and how data released to outside entities may identify health care facilities, practices, and professionals. The commissioner, in consultation with the commissioner of human services, may also address whether the state should participate in a state-university partnership or network to promote research using Medicaid data. In developing the recommendations, the commissioner must examine best practices of other states regarding access to and uses of data in all-payer claims databases. The commissioner shall submit preliminary recommendations by December 15, 2021, and final recommendations and proposed amendments to statutes by December 15, 2022, to the chairs and ranking minority members of the legislative committees with jurisdiction over health policy and civil law.

**Sec. 43. HEALTH PROFESSIONAL EDUCATION LOAN FORGIVENESS PROGRAM; TEMPORARY ADDITION OF CERTAIN PROVIDERS.**

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

(b) "Alcohol and drug counselor" means an individual who is licensed as an alcohol and drug counselor under Minnesota Statutes, chapter 148F.

(c) "Medical resident" and "mental health professional" have the meanings given in Minnesota Statutes, section 144.1501, subdivision 1.

Subd. 2. **Loan forgiveness.** Notwithstanding any provision to the contrary in Minnesota Statutes, section 144.1501, subdivision 2 or 4, the commissioner of health may award grants under the health professional education loan forgiveness program under Minnesota Statutes, section 144.1501, to alcohol and drug counselors, medical residents, and mental health professionals:

(1) agreeing to deliver at least 25 percent of their yearly patient encounters to state public program enrollees or patients receiving sliding fee schedule discounts through a formal sliding fee schedule meeting the standards established by the United States Department of Health and Human Services under Code of Federal Regulations, title 42, section 51, chapter 303; or

(2) specializing in the area of pediatric psychiatry and agreeing to deliver at least 25 percent of their yearly patient encounters to state public program enrollees or patients receiving sliding fee schedule discounts through a formal sliding fee schedule meeting the standards established by the United States Department of Health and Human Services under Code of Federal Regulations, title 42, section 51, chapter 303.

Subd. 3. **Expiration.** This section expires June 30, 2025.

**Sec. 44. MENTAL HEALTH CULTURAL COMMUNITY CONTINUING EDUCATION GRANT PROGRAM.**

The commissioner of health shall develop a grant program, in consultation with the relevant mental health licensing boards, to provide for the continuing education necessary for social workers, marriage and family therapists, psychologists, and professional clinical counselors to become supervisors for individuals pursuing licensure in mental health professions. Social workers, marriage and family therapists, psychologists, and professional clinical counselors obtaining continuing education under this section must:

(1) be members of communities of color or underrepresented communities as defined in Minnesota Statutes, section 148E.010, subdivision 20; and

(2) work for community mental health providers and agree to deliver at least 25 percent of their yearly patient encounters to state public program enrollees or patients receiving sliding fee schedule discounts through a formal sliding fee schedule meeting the standards established by the United States Department of Health and Human Services under Code of Federal Regulations, title 42, section 51, chapter 303.

**Sec. 45. PUBLIC HEALTH INFRASTRUCTURE FUNDS.**

Subdivision 1. **Uses of funds.** The commissioner of health, with guidance from the State Community Health Services Advisory Committee established under Minnesota Statutes, section 145A.04, subdivision 15, shall provide funds to community health boards and Tribal governments for projects to build foundational public health capacity across the state, improve public health services to underserved populations, pilot new organizational models for providing public health services including multijurisdictional partnerships, or otherwise improve the state's public health system so that it satisfies national standards, including standards for health equity.

Subd. 2. **Distribution of funds.** The commissioner shall work with the State Community Health Services Advisory Committee to determine the process for distributing funds under this section. Community health boards and Tribal governments may be jointly funded under this section.

Subd. 3. **Evaluation and reporting.** A community health board, Tribal government, or multijurisdictional unit receiving funds under this section shall report to the commissioner data specified by the commissioner for evaluation of the program.

Subd. 4. **No supplantation of current expenditures.** Funds received under this section must be used to supplement and not supplant current county or Tribal expenditures for public health purposes.

Subd. 5. **Oversight.** The commissioner shall assess the capacity of the public health system and oversee improvement efforts conducted with funds under this section.

Subd. 6. **Recommendations on changes to organization and funding of public health system.** By February 1, 2023, the commissioner shall develop and provide to the chairs and ranking minority members

of the legislative committees with jurisdiction over public health recommendations on changes to the organization and funding of Minnesota's public health system.

Sec. 46. **REVISOR INSTRUCTIONS.**

(a) The revisor of statutes shall amend the section headnote for Minnesota Statutes, section 62J.63, to read "HEALTH CARE PURCHASING AND PERFORMANCE MEASUREMENT."

(b) If the fee to support the newborn screening program is increased in accordance with Minnesota Statutes, section 144.064, subdivision 3, paragraph (d), the revisor of statutes shall update Minnesota Statutes, section 144.125, subdivision 1, paragraph (c), to include the revised per-specimen fee.

Sec. 47. **REPEALER.**

Minnesota Statutes 2020, sections 62J.63, subdivision 3; 144.0721, subdivision 1; 144.0722; 144.0724, subdivision 10; and 144.693, are repealed.

## ARTICLE 4

### HEALTH-RELATED LICENSING BOARDS

Section 1. Minnesota Statutes 2020, section 148.90, subdivision 2, is amended to read:

Subd. 2. **Members.** (a) The members of the board shall:

- (1) be appointed by the governor;
- (2) be residents of the state;
- (3) serve for not more than two consecutive terms;
- (4) designate the officers of the board; and
- (5) administer oaths pertaining to the business of the board.

(b) A public member of the board shall represent the public interest and shall not:

- (1) be a psychologist or have engaged in the practice of psychology;
- (2) be an applicant or former applicant for licensure;
- (3) be a member of another health profession and be licensed by a health-related licensing board as defined under section 214.01, subdivision 2; the commissioner of health; or licensed, certified, or registered by another jurisdiction;
- (4) be a member of a household that includes a psychologist; or
- (5) have conflicts of interest or the appearance of conflicts with duties as a board member.

(c) At the time of their appointments, at least two members of the board must reside outside of the seven-county metropolitan area.

(d) At the time of their appointments, at least two members of the board must be members of:

(1) a community of color; or

(2) an underrepresented community, defined as a group that is not represented in the majority with respect to race, ethnicity, national origin, sexual orientation, gender identity, or physical ability.

Sec. 2. Minnesota Statutes 2020, section 148.911, is amended to read:

**148.911 CONTINUING EDUCATION.**

(a) Upon application for license renewal, a licensee shall provide the board with satisfactory evidence that the licensee has completed continuing education requirements established by the board. Continuing education programs shall be approved under section 148.905, subdivision 1, clause (10). The board shall establish by rule the number of continuing education training hours required each year and may specify subject or skills areas that the licensee shall address.

(b) At least four of the required continuing education hours must be on increasing the knowledge, understanding, self-awareness, and practice skills to competently address the psychological needs of individuals from diverse socioeconomic and cultural backgrounds. Topics include but are not limited to:

(1) understanding culture, its functions, and strengths that exist in varied cultures;

(2) understanding clients' cultures and differences among and between cultural groups;

(3) understanding the nature of social diversity and oppression;

(4) understanding cultural humility; and

(5) understanding human diversity, meaning individual client differences that are associated with the client's cultural group, including race, ethnicity, national origin, religious affiliation, language, age, gender, gender identity, physical and mental capabilities, sexual orientation, and socioeconomic status.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 3. Minnesota Statutes 2020, section 148.995, subdivision 2, is amended to read:

Subd. 2. **Certified doula.** "Certified doula" means an individual who has received a certification to perform doula services from the International Childbirth Education Association, the Doulas of North America (DONA), the Association of Labor Assistants and Childbirth Educators (ALACE), Birthworks, the Childbirth and Postpartum Professional Association (CAPP), Childbirth International, the International Center for Traditional Childbearing, ~~or~~ Commonsense Childbirth, Inc., Modern Doula Education (MDE), or an organization designated by the commissioner under section 148.9965.

Sec. 4. Minnesota Statutes 2020, section 148.996, subdivision 2, is amended to read:

Subd. 2. **Qualifications.** The commissioner shall include on the registry any individual who:

(1) submits an application on a form provided by the commissioner. The form must include the applicant's name, address, and contact information;

(2) ~~maintains~~ submits evidence of maintaining a current certification from one of the organizations listed in section 148.995, subdivision 2, or from an organization designated by the commissioner under section 148.9965; and

(3) pays the fees required under section 148.997.

Sec. 5. Minnesota Statutes 2020, section 148.996, subdivision 4, is amended to read:

Subd. 4. **Renewal.** Inclusion on the registry maintained by the commissioner is valid for three years, provided the doula meets the requirement in subdivision 2, clause (2), during the entire period. At the end of the three-year period, the certified doula may submit a new application to remain on the doula registry by meeting the requirements described in subdivision 2.

Sec. 6. Minnesota Statutes 2020, section 148.996, is amended by adding a subdivision to read:

Subd. 6. **Removal from registry.** (a) If the commissioner determines that a doula included on the registry does not meet the requirement in subdivision 2, clause (2), the commissioner shall notify the affected doula that the doula no longer meets the requirement in subdivision 2, clause (2), specify steps the doula must take to maintain inclusion on the registry, and specify the effect of failing to take such steps. The commissioner must provide this notice by first class mail to the address on file with the commissioner for the affected doula.

(b) Following the provision of notice under paragraph (a), the commissioner shall remove from the registry any doula who no longer meets the requirement in subdivision 2, clause (2), and who does not take the steps specified by the commissioner to maintain inclusion on the registry.

Sec. 7. **[148.9965] DESIGNATION OF DOULA CERTIFICATION ORGANIZATIONS BY COMMISSIONER.**

Subdivision 1. **Review and designation by commissioner.** The commissioner shall periodically review the doula certification organizations listed in section 148.995, subdivision 2, or designated by the commissioner under this section. The commissioner may: (1) designate additional organizations from which individuals, if maintaining current doula certification from such an organization, are eligible for inclusion on the registry of certified doulas; and (2) remove the designation of a doula certification organization previously designated by the commissioner.

Subd. 2. **Designation.** A doula certification organization seeking designation under this section shall provide the commissioner with evidence that the organization satisfies designation criteria established by the commissioner. If the commissioner designates a doula certification organization under this section, the commissioner shall provide notice of the designation by publication in the State Register and on the Department of Health website for the registry of certified doulas and shall specify the date after which a certification by the organization authorizes a doula certified by the organization to be included on the registry.

Subd. 3. **Removal of designation.** (a) The commissioner may remove the designation of a doula certification organization previously designated by the commissioner under this section upon a determination by the commissioner that the organization does not meet the commissioner's criteria for designation. If the commissioner removes a designation, the commissioner shall provide notice of the removal by publication in the State Register and shall specify the date after which a certification by the organization no longer authorizes a doula certified by the organization to be included on the registry.

(b) Following removal of a designation, the Department of Health website for the registry of certified doulas shall be modified to reflect the removal.

Sec. 8. Minnesota Statutes 2020, section 148B.30, subdivision 1, is amended to read:

Subdivision 1. **Creation.** (a) There is created a Board of Marriage and Family Therapy that consists of seven members appointed by the governor. Four members shall be licensed, practicing marriage and family therapists, each of whom shall for at least five years immediately preceding appointment, have been actively engaged as a marriage and family therapist, rendering professional services in marriage and family therapy. One member shall be engaged in the professional teaching and research of marriage and family therapy. Two members shall be representatives of the general public who have no direct affiliation with the practice of marriage and family therapy. All members shall have been a resident of the state two years preceding their appointment. Of the first board members appointed, three shall continue in office for two years, two members for three years, and two members, including the chair, for terms of four years respectively. Their successors shall be appointed for terms of four years each, except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member whom the newly appointed member succeeds. Upon the expiration of a board member's term of office, the board member shall continue to serve until a successor is appointed and qualified.

(b) At the time of their appointments, at least two members must reside outside of the seven-county metropolitan area.

(c) At the time of their appointments, at least two members must be members of:

(1) a community of color; or

(2) an underrepresented community, defined as a group that is not represented in the majority with respect to race, ethnicity, national origin, sexual orientation, gender identity, or physical ability.

Sec. 9. Minnesota Statutes 2020, section 148B.31, is amended to read:

**148B.31 DUTIES OF THE BOARD.**

(a) The board shall:

(1) adopt and enforce rules for marriage and family therapy licensing, which shall be designed to protect the public;

(2) develop by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified under sections 148B.29 to 148B.392;

(3) issue licenses to individuals who are qualified under sections 148B.29 to 148B.392;

(4) establish and implement procedures designed to assure that licensed marriage and family therapists will comply with the board's rules;

(5) study and investigate the practice of marriage and family therapy within the state in order to improve the standards imposed for the licensing of marriage and family therapists and to improve the procedures and methods used for enforcement of the board's standards;

(6) formulate and implement a code of ethics for all licensed marriage and family therapists; and

(7) establish continuing education requirements for marriage and family therapists.

(b) At least four of the 40 continuing education training hours required under Minnesota Rules, part 5300.0320, subpart 2, must be on increasing the knowledge, understanding, self-awareness, and practice



skills that enable a marriage and family therapist to serve clients from diverse socioeconomic and cultural backgrounds. Topics include but are not limited to:

- (1) understanding culture, its functions, and strengths that exist in varied cultures;
- (2) understanding clients' cultures and differences among and between cultural groups;
- (3) understanding the nature of social diversity and oppression; and
- (4) understanding cultural humility.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 10. Minnesota Statutes 2020, section 148B.51, is amended to read:

**148B.51 BOARD OF BEHAVIORAL HEALTH AND THERAPY.**

(a) The Board of Behavioral Health and Therapy consists of 13 members appointed by the governor. Five of the members shall be professional counselors licensed or eligible for licensure under sections 148B.50 to 148B.593. Five of the members shall be alcohol and drug counselors licensed under chapter 148F. Three of the members shall be public members as defined in section 214.02. The board shall annually elect from its membership a chair and vice-chair. The board shall appoint and employ an executive director who is not a member of the board. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a. Chapter 214 applies to the Board of Behavioral Health and Therapy unless superseded by sections 148B.50 to 148B.593.

(b) At the time of their appointments, at least three members must reside outside of the seven-county metropolitan area.

(c) At the time of their appointments, at least three members must be members of:

- (1) a community of color; or
- (2) an underrepresented community, defined as a group that is not represented in the majority with respect to race, ethnicity, national origin, sexual orientation, gender identity, or physical ability.

Sec. 11. Minnesota Statutes 2020, section 148B.54, subdivision 2, is amended to read:

Subd. 2. **Continuing education.** (a) At the completion of the first four years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. In addition to completing the requisite graduate coursework, each licensee shall also complete in the first four years of licensure a minimum of 40 hours of continuing education activities approved by the board under Minnesota Rules, part 2150.2540. Graduate credit hours successfully completed in the first four years of licensure may be applied to both the graduate credit requirement and to the requirement for 40 hours of continuing education activities. A licensee may receive 15 continuing education hours per semester credit hour or ten continuing education hours per quarter credit hour. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

(b) At least four of the required 40 continuing education clock hours must be on increasing the knowledge, understanding, self-awareness, and practice skills that enable a licensed professional counselor and licensed professional clinical counselor to serve clients from diverse socioeconomic and cultural backgrounds. Topics include but are not limited to:

- (1) understanding culture, culture's functions, and strengths that exist in varied cultures;
- (2) understanding clients' cultures and differences among and between cultural groups;
- (3) understanding the nature of social diversity and oppression; and
- (4) understanding cultural humility.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 12. Minnesota Statutes 2020, section 148E.010, is amended by adding a subdivision to read:

Subd. 7f. **Cultural responsiveness.** "Cultural responsiveness" means increasing the knowledge, understanding, self-awareness, and practice skills that enable a social worker to serve clients from diverse socioeconomic and cultural backgrounds including:

- (1) understanding culture, its functions, and strengths that exist in varied cultures;
- (2) understanding clients' cultures and differences among and between cultural groups;
- (3) understanding the nature of social diversity and oppression; and
- (4) understanding cultural humility.

Sec. 13. Minnesota Statutes 2020, section 148E.130, subdivision 1, is amended to read:

Subdivision 1. **Total clock hours required.** (a) A licensee must complete 40 hours of continuing education for each two-year renewal term. At the time of license renewal, a licensee must provide evidence satisfactory to the board that the licensee has completed the required continuing education hours during the previous renewal term. Of the total clock hours required:

- (1) all licensees must complete:
    - (i) two hours in social work ethics as defined in section 148E.010; and
    - (ii) four hours in cultural responsiveness;
  - (2) licensed independent clinical social workers must complete 12 clock hours in one or more of the clinical content areas specified in section 148E.055, subdivision 5, paragraph (a), clause (2);
  - (3) licensees providing licensing supervision according to sections 148E.100 to 148E.125, must complete six clock hours in supervision as defined in section 148E.010; and
  - (4) no more than half of the required clock hours may be completed via continuing education independent learning as defined in section 148E.010.
- (b) If the licensee's renewal term is prorated to be less or more than 24 months, the total number of required clock hours is prorated proportionately.

Sec. 14. Minnesota Statutes 2020, section 148E.130, is amended by adding a subdivision to read:

Subd. 1b. **New content clock hours required effective July 1, 2021.** (a) The content clock hours in subdivision 1, paragraph (a), clause (1), item (ii), apply to all new licenses issued effective July 1, 2021, under section 148E.055.

(b) Any licensee issued a license prior to July 1, 2021, under section 148E.055 must comply with the clock hours in subdivision 1, including the content clock hours in subdivision 1, paragraph (a), clause (1), item (ii), at the first two-year renewal term after July 1, 2021.

## ARTICLE 5 PRESCRIPTION DRUGS

Section 1. Minnesota Statutes 2020, section 16A.151, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) If a state official litigates or settles a matter on behalf of specific injured persons or entities, this section does not prohibit distribution of money to the specific injured persons or entities on whose behalf the litigation or settlement efforts were initiated. If money recovered on behalf of injured persons or entities cannot reasonably be distributed to those persons or entities because they cannot readily be located or identified or because the cost of distributing the money would outweigh the benefit to the persons or entities, the money must be paid into the general fund.

(b) Money recovered on behalf of a fund in the state treasury other than the general fund may be deposited in that fund.

(c) This section does not prohibit a state official from distributing money to a person or entity other than the state in litigation or potential litigation in which the state is a defendant or potential defendant.

(d) State agencies may accept funds as directed by a federal court for any restitution or monetary penalty under United States Code, title 18, section 3663(a)(3), or United States Code, title 18, section 3663A(a)(3). Funds received must be deposited in a special revenue account and are appropriated to the commissioner of the agency for the purpose as directed by the federal court.

(e) Tobacco settlement revenues as defined in section 16A.98, subdivision 1, paragraph (t), may be deposited as provided in section 16A.98, subdivision 12.

(f) Any money received by the state resulting from a settlement agreement or an assurance of discontinuance entered into by the attorney general of the state, or a court order in litigation brought by the attorney general of the state, on behalf of the state or a state agency, ~~against one or more opioid manufacturers or opioid wholesale drug distributors~~ related to alleged violations of consumer fraud laws in the marketing, sale, or distribution of opioids in this state or other alleged illegal actions that contributed to the excessive use of opioids, must be deposited in a separate account in the state treasury and the commissioner shall notify the chairs and ranking minority members of the Finance Committee in the senate and the Ways and Means Committee in the house of representatives that an account has been created. Notwithstanding section 11A.20, all investment income and all investment losses attributable to the investment of this account shall be credited to the account. This paragraph does not apply to attorney fees and costs awarded to the state or the Attorney General's Office, to contract attorneys hired by the state or Attorney General's Office, or to other state agency attorneys. If the licensing fees under section 151.065, subdivision 1, clause (16), and subdivision 3, clause (14), are reduced and the registration fee under section 151.066, subdivision 3, is repealed in accordance with section 256.043, subdivision 4, then the commissioner shall transfer from the

separate account created in this paragraph to the opiate epidemic response fund under section 256.043 an amount that ensures that \$20,940,000 each fiscal year is available for distribution in accordance with section 256.043, ~~subdivisions 2 and~~ subdivision 3.

(g) Notwithstanding paragraph (f), if money is received from a settlement agreement or an assurance of discontinuance entered into by the attorney general of the state or a court order in litigation brought by the attorney general of the state on behalf of the state or a state agency against a consulting firm working for an opioid manufacturer or opioid wholesale drug distributor and deposited into the separate account created under paragraph (f), the commissioner shall annually transfer from the separate account to the opiate epidemic response fund under section 256.043 an amount equal to the estimated amount submitted to the commissioner by the Board of Pharmacy in accordance with section 151.066, subdivision 3, paragraph (b). The amount transferred shall be included in the amount available for distribution in accordance with section 256.043, subdivision 3. This transfer shall occur each year until the registration fee under section 151.066, subdivision 3, is repealed in accordance with section 256.043, subdivision 4, or the money deposited in the account in accordance with this paragraph has been transferred, whichever occurs first.

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

Sec. 2. Minnesota Statutes 2020, section 151.066, subdivision 3, is amended to read:

Subd. 3. **Determination of an opiate product registration fee.** (a) The board shall annually assess an opiate product registration fee on any manufacturer of an opiate that annually sells, delivers, or distributes an opiate within or into the state 2,000,000 or more units as reported to the board under subdivision 2.

(b) For purposes of assessing the annual registration fee under this section and determining the number of opiate units a manufacturer sold, delivered, or distributed within or into the state, the board shall not consider any opiate that is used for medication-assisted therapy for substance use disorders. If there is money deposited into the separate account as described in section 16A.151, subdivision 2, paragraph (g), the board shall submit to the commissioner of management and budget an estimate of the difference in the annual fee revenue collected under this section due to this exception.

(c) The annual registration fee for each manufacturer meeting the requirement under paragraph (a) is \$250,000.

~~(d)~~ (d) In conjunction with the data reported under this section, and notwithstanding section 152.126, subdivision 6, the board may use the data reported under section 152.126, subdivision 4, to determine which manufacturers meet the requirement under paragraph (a) and are required to pay the registration fees under this subdivision.

~~(e)~~ (e) By April 1 of each year, beginning April 1, 2020, the board shall notify a manufacturer that the manufacturer meets the requirement in paragraph (a) and is required to pay the annual registration fee in accordance with section 151.252, subdivision 1, paragraph (b).

~~(f)~~ (f) A manufacturer may dispute the board's determination that the manufacturer must pay the registration fee no later than 30 days after the date of notification. However, the manufacturer must still remit the fee as required by section 151.252, subdivision 1, paragraph (b). The dispute must be filed with the board in the manner and using the forms specified by the board. A manufacturer must submit, with the required forms, data satisfactory to the board that demonstrates that the assessment of the registration fee was incorrect. The board must make a decision concerning a dispute no later than 60 days after receiving the required dispute forms. If the board determines that the manufacturer has satisfactorily demonstrated that the fee was incorrectly assessed, the board must refund the amount paid in error.

(f) (g) For purposes of this subdivision, a unit means the individual dosage form of the particular drug product that is prescribed to the patient. One unit equals one tablet, capsule, patch, syringe, milliliter, or gram.

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

**Sec. 3. [151.335] DELIVERY THROUGH COMMON CARRIER; COMPLIANCE WITH TEMPERATURE REQUIREMENTS.**

In addition to complying with the requirements of Minnesota Rules, part 6800.3000, a mail order or specialty pharmacy that employs the United States Postal Service or other common carrier to deliver a filled prescription directly to a patient must ensure that the drug is delivered in compliance with temperature requirements established by the manufacturer of the drug. The pharmacy must develop written policies and procedures that are consistent with United States Pharmacopeia, chapters 1079 and 1118, and with nationally recognized standards issued by standard-setting or accreditation organizations recognized by the board through guidance. The policies and procedures must be provided to the board upon request.

Sec. 4. Minnesota Statutes 2020, section 256.043, subdivision 4, is amended to read:

Subd. 4. **Settlement; sunset.** (a) If the state receives a total sum of \$250,000,000 either as a result of a settlement agreement or an assurance of discontinuance entered into by the attorney general of the state, or resulting from a court order in litigation brought by the attorney general of the state on behalf of the state or a state agency, ~~against one or more opioid manufacturers or opioid wholesale drug distributors~~ related to alleged violations of consumer fraud laws in the marketing, sale, or distribution of opioids in this state, or other alleged illegal actions that contributed to the excessive use of opioids, or from the fees collected under sections 151.065, subdivisions 1 and 3, and 151.066, that are deposited into the opiate epidemic response fund established in this section, or from a combination of both, the fees specified in section 151.065, subdivisions 1, clause (16), and 3, clause (14), shall be reduced to \$5,260, and the opiate registration fee in section 151.066, subdivision 3, shall be repealed.

(b) The commissioner of management and budget shall inform the Board of Pharmacy, the governor, and the legislature when the amount specified in paragraph (a) has been reached. The board shall apply the reduced license fee for the next licensure period.

(c) Notwithstanding paragraph (a), the reduction of the license fee in section 151.065, subdivisions 1 and 3, and the repeal of the registration fee in section 151.066 shall not occur before July 1, 2024.

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

**Sec. 5. STUDY OF TEMPERATURE MONITORING.**

The Board of Pharmacy shall conduct a study to determine the appropriateness and feasibility of requiring mail order and specialty pharmacies to enclose in each medication's packaging a method by which the patient can easily detect improper storage or temperature variations that may have occurred during the delivery of a medication. The board shall report the results of the study by January 15, 2022, to the chairs and ranking minority members of the legislative committees with jurisdiction over health finance and policy.

**Sec. 6. OPIATE REGISTRATION FEE REDUCTION.**

(a) For purposes of assessing the opiate registration fee under Minnesota Statutes, section 151.066, subdivision 3, that is required to be paid on June 1, 2021, in accordance with Minnesota Statutes, section 151.252, subdivision 1, paragraph (b), the Board of Pharmacy shall not consider any injectable opiate product distributed to a hospital or hospital pharmacy. If there is money deposited into the separate account as described in Minnesota Statutes, section 16A.151, subdivision 2, paragraph (g), the board shall submit to the commissioner of management and budget an estimate of the difference in the annual opiate registration fee revenue collected under Minnesota Statutes, section 151.066, due to the exception described in this paragraph.

(b) Any estimated loss to the opiate registration fee revenue attributable to paragraph (a) must be included in any transfer that occurs under Minnesota Statutes, section 16A.151, subdivision 2, paragraph (g), in calendar year 2021.

(c) If a manufacturer has already paid the opiate registration fee due on June 1, 2021, the Board of Pharmacy shall return the amount of the fee to the manufacturer if the manufacturer would not have been required to pay the fee after the calculations described in paragraph (a) were made.

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

**ARTICLE 6****TELEHEALTH****Section 1. [62A.673] COVERAGE OF SERVICES PROVIDED THROUGH TELEHEALTH.**

Subdivision 1. **Citation.** This section may be cited as the "Minnesota Telehealth Act."

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Distant site" means a site at which a health care provider is located while providing health care services or consultations by means of telehealth.

(c) "Health care provider" means a health care professional who is licensed or registered by the state to perform health care services within the provider's scope of practice and in accordance with state law. A health care provider includes a mental health professional as defined under section 245.462, subdivision 18, or 245.4871, subdivision 27; a mental health practitioner as defined under section 245.462, subdivision 17, or 245.4871, subdivision 26; a treatment coordinator under section 245G.11, subdivision 7; an alcohol and drug counselor under section 245G.11, subdivision 5; and a recovery peer under section 245G.11, subdivision 8.

(d) "Health carrier" has the meaning given in section 62A.011, subdivision 2.

(e) "Health plan" has the meaning given in section 62A.011, subdivision 3. Health plan includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental plans that provide indemnity-based benefits, regardless of expenses incurred, and are designed to pay benefits directly to the policy holder.

(f) "Originating site" means a site at which a patient is located at the time health care services are provided to the patient by means of telehealth. For purposes of store-and-forward technology, the originating site also means the location at which a health care provider transfers or transmits information to the distant site.

(g) "Store-and-forward technology" means the asynchronous electronic transfer or transmission of a patient's medical information or data from an originating site to a distant site for the purposes of diagnostic and therapeutic assistance in the care of a patient.

(h) "Telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communications to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Until July 1, 2023, telehealth also includes audio-only communication between a health care provider and a patient in accordance with subdivision 6, paragraph (b). Telehealth does not include communication between health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission. Telehealth does not include communication between a health care provider and a patient that consists solely of an e-mail or facsimile transmission. Telehealth does not include telemonitoring services as defined in paragraph (i).

(i) "Telemonitoring services" means the remote monitoring of clinical data related to the enrollee's vital signs or biometric data by a monitoring device or equipment that transmits the data electronically to a health care provider for analysis. Telemonitoring is intended to collect an enrollee's health-related data for the purpose of assisting a health care provider in assessing and monitoring the enrollee's medical condition or status.

**Subd. 3. Coverage of telehealth.** (a) A health plan sold, issued, or renewed by a health carrier in Minnesota must (1) cover benefits delivered through telehealth in the same manner as any other benefits covered under the health plan, and (2) comply with this section.

(b) Coverage for services delivered through telehealth must not be limited on the basis of geography, location, or distance for travel subject to the health care provider network available to the enrollee through the enrollee's health plan.

(c) A health carrier must not create a separate provider network to deliver services through telehealth that does not include network providers who provide in-person care to patients for the same service or require an enrollee to use a specific provider within the network to receive services through telehealth.

(d) A health carrier may require a deductible, co-payment, or coinsurance payment for a health care service provided through telehealth, provided that the deductible, co-payment, or coinsurance payment is not in addition to, and does not exceed, the deductible, co-payment, or coinsurance applicable for the same service provided through in-person contact.

(e) Nothing in this section:

(1) requires a health carrier to provide coverage for services that are not medically necessary or are not covered under the enrollee's health plan; or

(2) prohibits a health carrier from:

(i) establishing criteria that a health care provider must meet to demonstrate the safety or efficacy of delivering a particular service through telehealth for which the health carrier does not already reimburse other health care providers for delivering the service through telehealth;

(ii) establishing reasonable medical management techniques, provided the criteria or techniques are not unduly burdensome or unreasonable for the particular service; or

(iii) requiring documentation or billing practices designed to protect the health carrier or patient from fraudulent claims, provided the practices are not unduly burdensome or unreasonable for the particular service.

(f) Nothing in this section requires the use of telehealth when a health care provider determines that the delivery of a health care service through telehealth is not appropriate or when an enrollee chooses not to receive a health care service through telehealth.

**Subd. 4. Parity between telehealth and in-person services.** (a) A health carrier must not restrict or deny coverage of a health care service that is covered under a health plan solely:

(1) because the health care service provided by the health care provider through telehealth is not provided through in-person contact; or

(2) based on the communication technology or application used to deliver the health care service through telehealth, provided the technology or application complies with this section and is appropriate for the particular service.

(b) Prior authorization may be required for health care services delivered through telehealth only if prior authorization is required before the delivery of the same service through in-person contact.

(c) A health carrier may require a utilization review for services delivered through telehealth, provided the utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for the same services delivered through in-person contact.

(d) A health carrier or health care provider shall not require an enrollee to pay a fee to download a specific communication technology or application.

**Subd. 5. Reimbursement for services delivered through telehealth.** (a) A health carrier must reimburse the health care provider for services delivered through telehealth on the same basis and at the same rate as the health carrier would apply to those services if the services had been delivered by the health care provider through in-person contact.

(b) A health carrier must not deny or limit reimbursement based solely on a health care provider delivering the service or consultation through telehealth instead of through in-person contact.

(c) A health carrier must not deny or limit reimbursement based solely on the technology and equipment used by the health care provider to deliver the health care service or consultation through telehealth, provided the technology and equipment used by the provider meets the requirements of this section and is appropriate for the particular service.

(d) Nothing in this subdivision prohibits a health carrier and health care provider from entering into a contract that includes a value-based reimbursement arrangement for the delivery of covered services that may include services delivered through telehealth, and such an arrangement shall not be considered a violation of this subdivision.



**Subd. 6. Telehealth equipment.** (a) A health carrier must not require a health care provider to use specific telecommunications technology and equipment as a condition of coverage under this section, provided the health care provider uses telecommunications technology and equipment that complies with current industry interoperable standards and complies with standards required under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated under that Act, unless authorized under this section.

(b) A health carrier must provide coverage for health care services delivered through telehealth by means of the use of audio-only communication if the communication is a scheduled appointment and the standard of care for that particular service can be met through the use of audio-only communication. Substance use disorder treatment services and mental health care services delivered through telehealth by means of audio-only communication may be covered without a scheduled appointment if the communication was initiated by the enrollee while in an emergency or crisis situation and a scheduled appointment was not possible due to the need of an immediate response. This paragraph expires July 1, 2023.

**Subd. 7. Telemonitoring services.** A health carrier must provide coverage for telemonitoring services if:

(1) the telemonitoring service is medically appropriate based on the enrollee's medical condition or status;

(2) the enrollee is cognitively and physically capable of operating the monitoring device or equipment, or the enrollee has a caregiver who is willing and able to assist with the monitoring device or equipment; and

(3) the enrollee resides in a setting that is suitable for telemonitoring and not in a setting that has health care staff on site.

**Subd. 8. Exception.** This section does not apply to coverage provided to state public health care program enrollees under chapter 256B or 256L.

Sec. 2. Minnesota Statutes 2020, section 147.033, is amended to read:

**147.033 PRACTICE OF ~~TELEMEDICINE~~ TELEHEALTH.**

Subdivision 1. **Definition.** ~~For the purposes of this section, "telemedicine" means the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site. A communication between licensed health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission does not constitute telemedicine consultations or services. A communication between a licensed health care provider and a patient that consists solely of an e-mail or facsimile transmission does not constitute telemedicine consultations or services. Telemedicine may be provided by means of real-time two-way interactive audio, and visual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, that facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. "telehealth" has the meaning given in section 62A.673, subdivision 2, paragraph (h).~~

Subd. 2. **Physician-patient relationship.** A physician-patient relationship may be established through telemedicine telehealth.

Subd. 3. **Standards of practice and conduct.** A physician providing health care services by ~~telemedicine~~ telehealth in this state shall be held to the same standards of practice and conduct as provided in this chapter for in-person health care services.

Sec. 3. Minnesota Statutes 2020, section 151.37, subdivision 2, is amended to read:

Subd. 2. **Prescribing and filing.** (a) A licensed practitioner in the course of professional practice only, may prescribe, administer, and dispense a legend drug, and may cause the same to be administered by a nurse, a physician assistant, or medical student or resident under the practitioner's direction and supervision, and may cause a person who is an appropriately certified, registered, or licensed health care professional to prescribe, dispense, and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes. A licensed practitioner may prescribe a legend drug, without reference to a specific patient, by directing a licensed dietitian or licensed nutritionist, pursuant to section 148.634; a nurse, pursuant to section 148.235, subdivisions 8 and 9; physician assistant; medical student or resident; or pharmacist according to section 151.01, subdivision 27, to adhere to a particular practice guideline or protocol when treating patients whose condition falls within such guideline or protocol, and when such guideline or protocol specifies the circumstances under which the legend drug is to be prescribed and administered. An individual who verbally, electronically, or otherwise transmits a written, oral, or electronic order, as an agent of a prescriber, shall not be deemed to have prescribed the legend drug. This paragraph applies to a physician assistant only if the physician assistant meets the requirements of ~~section 147A.18~~ sections 147A.02 and 147A.09.

(b) The commissioner of health, if a licensed practitioner, or a person designated by the commissioner who is a licensed practitioner, may prescribe a legend drug to an individual or by protocol for mass dispensing purposes where the commissioner finds that the conditions triggering section 144.4197 or 144.4198, subdivision 2, paragraph (b), exist. The commissioner, if a licensed practitioner, or a designated licensed practitioner, may prescribe, dispense, or administer a legend drug or other substance listed in subdivision 10 to control tuberculosis and other communicable diseases. The commissioner may modify state drug labeling requirements, and medical screening criteria and documentation, where time is critical and limited labeling and screening are most likely to ensure legend drugs reach the maximum number of persons in a timely fashion so as to reduce morbidity and mortality.

(c) A licensed practitioner that dispenses for profit a legend drug that is to be administered orally, is ordinarily dispensed by a pharmacist, and is not a vaccine, must file with the practitioner's licensing board a statement indicating that the practitioner dispenses legend drugs for profit, the general circumstances under which the practitioner dispenses for profit, and the types of legend drugs generally dispensed. It is unlawful to dispense legend drugs for profit after July 31, 1990, unless the statement has been filed with the appropriate licensing board. For purposes of this paragraph, "profit" means (1) any amount received by the practitioner in excess of the acquisition cost of a legend drug for legend drugs that are purchased in prepackaged form, or (2) any amount received by the practitioner in excess of the acquisition cost of a legend drug plus the cost of making the drug available if the legend drug requires compounding, packaging, or other treatment. The statement filed under this paragraph is public data under section 13.03. This paragraph does not apply to a licensed doctor of veterinary medicine or a registered pharmacist. Any person other than a licensed practitioner with the authority to prescribe, dispense, and administer a legend drug under paragraph (a) shall not dispense for profit. To dispense for profit does not include dispensing by a community health clinic when the profit from dispensing is used to meet operating expenses.

(d) A prescription drug order for the following drugs is not valid, unless it can be established that the prescription drug order was based on a documented patient evaluation, including an examination, adequate to establish a diagnosis and identify underlying conditions and contraindications to treatment:

- (1) controlled substance drugs listed in section 152.02, subdivisions 3 to 5;
- (2) drugs defined by the Board of Pharmacy as controlled substances under section 152.02, subdivisions 7, 8, and 12;
- (3) muscle relaxants;
- (4) centrally acting analgesics with opioid activity;
- (5) drugs containing butalbital; or
- (6) phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.

~~For purposes of prescribing drugs listed in clause (6), the requirement for a documented patient evaluation, including an examination, may be met through the use of telemedicine, as defined in section 147.033, subdivision 1.~~

(e) For the purposes of paragraph (d), the requirement for an examination shall be met if:

- (1) an in-person examination has been completed in any of the following circumstances:
  - ~~(+)~~ (i) the prescribing practitioner examines the patient at the time the prescription or drug order is issued;
  - ~~(-)~~ (ii) the prescribing practitioner has performed a prior examination of the patient;
  - ~~(-)~~ (iii) another prescribing practitioner practicing within the same group or clinic as the prescribing practitioner has examined the patient;
  - ~~(+)~~ (iv) a consulting practitioner to whom the prescribing practitioner has referred the patient has examined the patient; or
  - ~~(-)~~ (v) the referring practitioner has performed an examination in the case of a consultant practitioner issuing a prescription or drug order when providing services by means of telemedicine; or
- (2) the prescription order is for a drug listed in paragraph (d), clause (6), or for medication assisted therapy for a substance use disorder, and the prescribing practitioner has completed an examination of the patient via telehealth as defined in section 62A.673, subdivision 2, paragraph (h).

(f) Nothing in paragraph (d) or (e) prohibits a licensed practitioner from prescribing a drug through the use of a guideline or protocol pursuant to paragraph (a).

(g) Nothing in this chapter prohibits a licensed practitioner from issuing a prescription or dispensing a legend drug in accordance with the Expedited Partner Therapy in the Management of Sexually Transmitted Diseases guidance document issued by the United States Centers for Disease Control.

(h) Nothing in paragraph (d) or (e) limits prescription, administration, or dispensing of legend drugs through a public health clinic or other distribution mechanism approved by the commissioner of health or a community health board in order to prevent, mitigate, or treat a pandemic illness, infectious disease outbreak, or intentional or accidental release of a biological, chemical, or radiological agent.

(i) No pharmacist employed by, under contract to, or working for a pharmacy located within the state and licensed under section 151.19, subdivision 1, may dispense a legend drug based on a prescription that the pharmacist knows, or would reasonably be expected to know, is not valid under paragraph (d).

(j) No pharmacist employed by, under contract to, or working for a pharmacy located outside the state and licensed under section 151.19, subdivision 1, may dispense a legend drug to a resident of this state based on a prescription that the pharmacist knows, or would reasonably be expected to know, is not valid under paragraph (d).

(k) Nothing in this chapter prohibits the commissioner of health, if a licensed practitioner, or, if not a licensed practitioner, a designee of the commissioner who is a licensed practitioner, from prescribing legend drugs for field-delivered therapy in the treatment of a communicable disease according to the Centers For Disease Control and Prevention Partner Services Guidelines.

Sec. 4. Minnesota Statutes 2020, section 245G.01, subdivision 13, is amended to read:

Subd. 13. **Face-to-face.** "Face-to-face" means two-way, real-time, interactive and visual communication between a client and a treatment service provider and includes services delivered in person or via ~~telemedicine~~ telehealth.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 5. Minnesota Statutes 2020, section 245G.01, subdivision 26, is amended to read:

Subd. 26. ~~Telemedicine~~ **Telehealth.** "~~Telemedicine~~" "Telehealth" means the delivery of a substance use disorder treatment service while the client is at an originating site and the ~~licensed~~ health care provider is at a distant site via telehealth as defined in section 256B.0625, subdivision 3b, and as specified in section 254B.05, subdivision 5, paragraph (f).

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 6. Minnesota Statutes 2020, section 245G.06, subdivision 1, is amended to read:

Subdivision 1. **General.** Each client must have a person-centered individual treatment plan developed by an alcohol and drug counselor within ten days from the day of service initiation for a residential program and within five calendar days on which a treatment session has been provided from the day of service initiation for a client in a nonresidential program. Opioid treatment programs must complete the individual treatment plan within 21 days from the day of service initiation. The individual treatment plan must be signed by the client and the alcohol and drug counselor and document the client's involvement in the development of the plan. The individual treatment plan is developed upon the qualified staff member's dated signature. Treatment planning must include ongoing assessment of client needs. An individual treatment plan must be updated based on new information gathered about the client's condition, the client's level of participation, and on whether methods identified have the intended effect. A change to the plan must be signed by the client and the alcohol and drug counselor. If the client chooses to have family or others involved in treatment services, the client's individual treatment plan must include how the family or others will be involved in the client's treatment. If a client is receiving treatment services or an assessment via telehealth and the alcohol

and drug counselor documents the reason the client's signature cannot be obtained, the alcohol and drug counselor may document the client's verbal approval or electronic written approval of the treatment plan or change to the treatment plan in lieu of the client's signature.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 7. Minnesota Statutes 2020, section 254A.19, subdivision 5, is amended to read:

Subd. 5. **Assessment via ~~telemedicine~~ telehealth.** Notwithstanding Minnesota Rules, part 9530.6615, subpart 3, item A, a chemical use assessment may be conducted via ~~telemedicine~~ telehealth as defined in section 256B.0625, subdivision 3b.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 8. Minnesota Statutes 2020, section 254B.05, subdivision 5, is amended to read:

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

(b) Eligible substance use disorder treatment services include:

(1) outpatient treatment services that are licensed according to sections 245G.01 to 245G.17, or applicable tribal license;

(2) comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05;

(3) care coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(4) peer recovery support services provided according to section 245G.07, subdivision 2, clause (8);

(5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management services provided according to chapter 245F;

(6) medication-assisted therapy services that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable tribal license;

(7) medication-assisted therapy plus enhanced treatment services that meet the requirements of clause (6) and provide nine hours of clinical services each week;

(8) high, medium, and low intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which provide, respectively, 30, 15, and five hours of clinical services each week;

(9) hospital-based treatment services that are licensed according to sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

(10) adolescent treatment programs that are licensed as outpatient treatment programs according to sections 245G.01 to 245G.18 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;

(11) high-intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

(12) room and board facilities that meet the requirements of subdivision 1a.

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

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

(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 section 245G.19, subdivision 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 4a, or programs or subprograms serving special populations, if the program or subprogram meets the following requirements:

(i) is designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background;

(ii) is governed with significant input from individuals of that specific background; and

(iii) employs individuals to provide individual or group therapy, at least 50 percent of whom are of that specific background, except when the common social background of the individuals served is a traumatic brain injury or cognitive disability and the program employs treatment staff who have the necessary professional training, as approved by the commissioner, to serve clients with the specific disabilities that the program is designed to serve;

(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 section 245G.20;

(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 shall 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 section 245G.19.

(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~~ telehealth as defined in section 256B.0625, subdivision 3b. The use of ~~two-way interactive video~~ telehealth to deliver services 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.~~

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 9. Minnesota Statutes 2020, section 256B.0621, subdivision 10, is amended to read:

Subd. 10. **Payment rates.** The commissioner shall set payment rates for targeted case management under this subdivision. Case managers may bill according to the following criteria:

(1) for relocation targeted case management, case managers may bill for direct case management activities, including face-to-face contact, telephone contact, and interactive video contact ~~according to section 256B.0924, subdivision 4a,~~ as defined in section 256B.0625, subdivision 20b, paragraph (f), in the lesser of:

(i) 180 days preceding an eligible recipient's discharge from an institution; or

(ii) the limits and conditions which apply to federal Medicaid funding for this service;

(2) for home care targeted case management, case managers may bill for direct case management activities, including face-to-face and telephone contacts; and

(3) billings for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2020, section 256B.0622, subdivision 7a, as amended by Laws 2021, chapter 30, article 17, section 60, is amended to read:

Subd. 7a. **Assertive community treatment team staff requirements and roles.** (a) The required treatment staff qualifications and roles for an ACT team are:

(1) the team leader:

(i) shall be a mental health professional. Individuals who are not licensed but who are eligible for licensure and are otherwise qualified may also fulfill this role but must obtain full licensure within 24 months of assuming the role of team leader;

(ii) must be an active member of the ACT team and provide some direct services to clients;

(iii) must be a single full-time staff member, dedicated to the ACT team, who is responsible for overseeing the administrative operations of the team, providing treatment supervision of services in conjunction with the psychiatrist or psychiatric care provider, and supervising team members to ensure delivery of best and ethical practices; and

(iv) must be available to provide overall treatment supervision to the ACT team after regular business hours and on weekends and holidays. The team leader may delegate this duty to another qualified member of the ACT team;

(2) the psychiatric care provider:

(i) must be a mental health professional permitted to prescribe psychiatric medications as part of the mental health professional's scope of practice. The psychiatric care provider must have demonstrated clinical experience working with individuals with serious and persistent mental illness;

(ii) shall collaborate with the team leader in sharing overall clinical responsibility for screening and admitting clients; monitoring clients' treatment and team member service delivery; educating staff on psychiatric and nonpsychiatric medications, their side effects, and health-related conditions; actively collaborating with nurses; and helping provide treatment supervision to the team;

(iii) shall fulfill the following functions for assertive community treatment clients: provide assessment and treatment of clients' symptoms and response to medications, including side effects; provide brief therapy to clients; provide diagnostic and medication education to clients, with medication decisions based on shared decision making; monitor clients' nonpsychiatric medical conditions and nonpsychiatric medications; and conduct home and community visits;

(iv) shall serve as the point of contact for psychiatric treatment if a client is hospitalized for mental health treatment and shall communicate directly with the client's inpatient psychiatric care providers to ensure continuity of care;



(v) shall have a minimum full-time equivalency that is prorated at a rate of 16 hours per 50 clients. Part-time psychiatric care providers shall have designated hours to work on the team, with sufficient blocks of time on consistent days to carry out the provider's clinical, supervisory, and administrative responsibilities. No more than two psychiatric care providers may share this role; and

~~(vi) may not provide specific roles and responsibilities by telemedicine unless approved by the commissioner; and~~

~~(vii)~~ (vi) shall provide psychiatric backup to the program after regular business hours and on weekends and holidays. The psychiatric care provider may delegate this duty to another qualified psychiatric provider;

(3) the nursing staff:

(i) shall consist of one to three registered nurses or advanced practice registered nurses, of whom at least one has a minimum of one-year experience working with adults with serious mental illness and a working knowledge of psychiatric medications. No more than two individuals can share a full-time equivalent position;

(ii) are responsible for managing medication, administering and documenting medication treatment, and managing a secure medication room; and

(iii) shall develop strategies, in collaboration with clients, to maximize taking medications as prescribed; screen and monitor clients' mental and physical health conditions and medication side effects; engage in health promotion, prevention, and education activities; communicate and coordinate services with other medical providers; facilitate the development of the individual treatment plan for clients assigned; and educate the ACT team in monitoring psychiatric and physical health symptoms and medication side effects;

(4) the co-occurring disorder specialist:

(i) shall be a full-time equivalent co-occurring disorder specialist who has received specific training on co-occurring disorders that is consistent with national evidence-based practices. The training must include practical knowledge of common substances and how they affect mental illnesses, the ability to assess substance use disorders and the client's stage of treatment, motivational interviewing, and skills necessary to provide counseling to clients at all different stages of change and treatment. The co-occurring disorder specialist may also be an individual who is a licensed alcohol and drug counselor as described in section 148F.01, subdivision 5, or a counselor who otherwise meets the training, experience, and other requirements in section 245G.11, subdivision 5. No more than two co-occurring disorder specialists may occupy this role; and

(ii) shall provide or facilitate the provision of co-occurring disorder treatment to clients. The co-occurring disorder specialist shall serve as a consultant and educator to fellow ACT team members on co-occurring disorders;

(5) the vocational specialist:

(i) shall be a full-time vocational specialist who has at least one-year experience providing employment services or advanced education that involved field training in vocational services to individuals with mental illness. An individual who does not meet these qualifications may also serve as the vocational specialist upon completing a training plan approved by the commissioner;

(ii) shall provide or facilitate the provision of vocational services to clients. The vocational specialist serves as a consultant and educator to fellow ACT team members on these services; and

(iii) must not refer individuals to receive any type of vocational services or linkage by providers outside of the ACT team;

(6) the mental health certified peer specialist:

(i) shall be a full-time equivalent. No more than two individuals can share this position. The mental health certified peer specialist is a fully integrated team member who provides highly individualized services in the community and promotes the self-determination and shared decision-making abilities of clients. This requirement may be waived due to workforce shortages upon approval of the commissioner;

(ii) must provide coaching, mentoring, and consultation to the clients to promote recovery, self-advocacy, and self-direction, promote wellness management strategies, and assist clients in developing advance directives; and

(iii) must model recovery values, attitudes, beliefs, and personal action to encourage wellness and resilience, provide consultation to team members, promote a culture where the clients' points of view and preferences are recognized, understood, respected, and integrated into treatment, and serve in a manner equivalent to other team members;

(7) the program administrative assistant shall be a full-time office-based program administrative assistant position assigned to solely work with the ACT team, providing a range of supports to the team, clients, and families; and

(8) additional staff:

(i) shall be based on team size. Additional treatment team staff may include mental health professionals; clinical trainees; certified rehabilitation specialists; mental health practitioners; or mental health rehabilitation workers. These individuals shall have the knowledge, skills, and abilities required by the population served to carry out rehabilitation and support functions; and

(ii) shall be selected based on specific program needs or the population served.

(b) Each ACT team must clearly document schedules for all ACT team members.

(c) Each ACT team member must serve as a primary team member for clients assigned by the team leader and are responsible for facilitating the individual treatment plan process for those clients. The primary team member for a client is the responsible team member knowledgeable about the client's life and circumstances and writes the individual treatment plan. The primary team member provides individual supportive therapy or counseling, and provides primary support and education to the client's family and support system.

(d) Members of the ACT team must have strong clinical skills, professional qualifications, experience, and competency to provide a full breadth of rehabilitation services. Each staff member shall be proficient in their respective discipline and be able to work collaboratively as a member of a multidisciplinary team to deliver the majority of the treatment, rehabilitation, and support services clients require to fully benefit from receiving assertive community treatment.

(e) Each ACT team member must fulfill training requirements established by the commissioner.

Sec. 11. Minnesota Statutes 2020, section 256B.0625, subdivision 3b, as amended by Laws 2021, chapter 30, article 17, section 71, is amended to read:

Subd. 3b. ~~Telemedicine~~ **Telehealth services.** (a) Medical assistance covers medically necessary services and consultations delivered by a ~~licensed~~ health care provider ~~via telemedicine~~ through telehealth in the same manner as if the service or consultation was delivered ~~in person through in-person contact~~. ~~Coverage is limited to three telemedicine services per enrollee per calendar week, except as provided in paragraph (f).~~ Telemedicine Services or consultations delivered through telehealth shall be paid at the full allowable rate.

(b) The commissioner ~~shall~~ may establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service ~~via telemedicine~~ through telehealth. The attestation may include that the health care provider:

(1) has identified the categories or types of services the health care provider will provide ~~via telemedicine~~ through telehealth;

(2) has written policies and procedures specific to ~~telemedicine~~ services delivered through telehealth that are regularly reviewed and updated;

(3) has policies and procedures that adequately address patient safety before, during, and after the ~~telemedicine~~ service is rendered delivered through telehealth;

(4) has established protocols addressing how and when to discontinue telemedicine services; and

(5) has an established quality assurance process related to ~~telemedicine~~ delivering services through telehealth.

(c) As a condition of payment, a licensed health care provider must document each occurrence of a health service ~~provided by telemedicine~~ delivered through telehealth to a medical assistance enrollee. Health care service records for services ~~provided by telemedicine~~ delivered through telehealth must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:

(1) the type of service ~~provided by telemedicine~~ delivered through telehealth;

(2) the time the service began and the time the service ended, including an a.m. and p.m. designation;

(3) the ~~licensed~~ health care provider's basis for determining that ~~telemedicine~~ telehealth is an appropriate and effective means for delivering the service to the enrollee;

(4) the mode of transmission ~~of~~ used to deliver the telemedicine service through telehealth and records evidencing that a particular mode of transmission was utilized;

(5) the location of the originating site and the distant site;

(6) if the claim for payment is based on a physician's ~~telemedicine~~ consultation with another physician through telehealth, the written opinion from the consulting physician providing the ~~telemedicine~~ telehealth consultation; and

(7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).

(d) Telehealth visits, as described in this subdivision provided through audio and visual communication, may be used to satisfy the face-to-face requirement for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 tribal clinic, and certified

community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.

(e) For mental health services or assessments delivered through telehealth that are based on an individual treatment plan, the provider may document the client's verbal approval or electronic written approval of the treatment plan or change in the treatment plan in lieu of the client's signature in accordance with Minnesota Rules, part 9505.0371.

~~(d) (f) For purposes of this subdivision, unless otherwise covered under this chapter, "telemedicine" is defined as the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site. A communication between licensed health care providers, or a licensed health care provider and a patient that consists solely of a telephone conversation, e-mail, or facsimile transmission does not constitute telemedicine consultations or services. Telemedicine may be provided by means of real-time two-way, interactive audio and visual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care.;~~

(1) "telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communication to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Telehealth does not include communication between health care providers, or between a health care provider and a patient that consists solely of an audio-only communication, e-mail, or facsimile transmission or specified by law;

~~(e) For purposes of this section, "licensed (2) "health care provider" means a licensed health care provider under section 62A.671, subdivision 6 as defined under section 62A.673, a community paramedic as defined under section 144E.001, subdivision 5f, a clinical trainee who is qualified according to section 245I.04, subdivision 6, a mental health practitioner qualified according to section 245I.04, subdivision 4, and a community health worker who meets the criteria under subdivision 49, paragraph (a); "health care provider" is defined under section 62A.671, subdivision 3, a mental health certified peer specialist under section 256B.0615, subdivision 5, a mental health certified family peer specialist under section 256B.0616, subdivision 5, a mental health rehabilitation worker under section 256B.0623, subdivision 5, paragraph (a), clause (4), and paragraph (b), a mental health behavioral aide under section 256B.0943, subdivision 7, paragraph (b), clause (3), a treatment coordinator under section 245G.11, subdivision 7, an alcohol and drug counselor under section 245G.11, subdivision 5, a recovery peer under section 245G.11, subdivision 8; and~~

(3) "originating site," is defined under section 62A.671, subdivision 7 "distant site," and "store-and-forward technology" have the meanings given in section 62A.673, subdivision 2.

~~(f) The limit on coverage of three telemedicine services per enrollee per calendar week does not apply if:~~

~~(1) the telemedicine services provided by the licensed health care provider are for the treatment and control of tuberculosis; and~~

~~(2) the services are provided in a manner consistent with the recommendations and best practices specified by the Centers for Disease Control and Prevention and the commissioner of health.~~

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 12. Minnesota Statutes 2020, section 256B.0625, is amended by adding a subdivision to read:

**Subd. 3h. Telemonitoring services.** (a) Medical assistance covers telemonitoring services if:

(1) the telemonitoring service is medically appropriate based on the recipient's medical condition or status;

(2) the recipient's health care provider has identified that telemonitoring services would likely prevent the recipient's admission or readmission to a hospital, emergency room, or nursing facility;

(3) the recipient is cognitively and physically capable of operating the monitoring device or equipment, or the recipient has a caregiver who is willing and able to assist with the monitoring device or equipment; and

(4) the recipient resides in a setting that is suitable for telemonitoring and not in a setting that has health care staff on site.

(b) For purposes of this subdivision, "telemonitoring services" means the remote monitoring of data related to a recipient's vital signs or biometric data by a monitoring device or equipment that transmits the data electronically to a provider for analysis. The assessment and monitoring of the health data transmitted by telemonitoring must be performed by one of the following licensed health care professionals: physician, podiatrist, registered nurse, advanced practice registered nurse, physician assistant, respiratory therapist, or licensed professional working under the supervision of a medical director.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 13. Minnesota Statutes 2020, section 256B.0625, subdivision 13h, is amended to read:

**Subd. 13h. Medication therapy management services.** (a) Medical assistance covers medication therapy management services for a recipient taking prescriptions to treat or prevent one or more chronic medical conditions. For purposes of this subdivision, "medication therapy management" means the provision of the following pharmaceutical care services by a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

(1) performing or obtaining necessary assessments of the patient's health status;

(2) formulating a medication treatment plan, which may include prescribing medications or products in accordance with section 151.37, subdivision 14, 15, or 16;

(3) monitoring and evaluating the patient's response to therapy, including safety and effectiveness;

(4) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;

(5) documenting the care delivered and communicating essential information to the patient's other primary care providers;

(6) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications;

(7) providing information, support services, and resources designed to enhance patient adherence with the patient's therapeutic regimens; and

(8) coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient.

Nothing in this subdivision shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

(b) To be eligible for reimbursement for services under this subdivision, a pharmacist must meet the following requirements:

(1) have a valid license issued by the Board of Pharmacy of the state in which the medication therapy management service is being performed;

(2) have graduated from an accredited college of pharmacy on or after May 1996, or completed a structured and comprehensive education program approved by the Board of Pharmacy and the American Council of Pharmaceutical Education for the provision and documentation of pharmaceutical care management services that has both clinical and didactic elements; and

~~(3) be practicing in an ambulatory care setting as part of a multidisciplinary team or have developed a structured patient care process that is offered in a private or semiprivate patient care area that is separate from the commercial business that also occurs in the setting, or in home settings, including long-term care settings, group homes, and facilities providing assisted living services, but excluding skilled nursing facilities; and~~

~~(4)~~ (3) make use of an electronic patient record system that meets state standards.

(c) For purposes of reimbursement for medication therapy management services, the commissioner may enroll individual pharmacists as medical assistance providers. The commissioner may also establish ~~contact requirements between the pharmacist and recipient, including limiting~~ limits on the number of reimbursable consultations per recipient.

~~(d) If there are no pharmacists who meet the requirements of paragraph (b) practicing within a reasonable geographic distance of the patient, a pharmacist who meets the requirements may provide The Medication therapy management services may be provided via two-way interactive video telehealth as defined in subdivision 3b and may be delivered into a patient's residence. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to the services provided. To qualify for reimbursement under this paragraph, the pharmacist providing the services must meet the requirements of paragraph (b), and must be located within an ambulatory care setting that meets the requirements of paragraph (b), clause (3). The patient must also be located within an ambulatory care setting that meets the requirements of paragraph (b), clause (3). Services provided under this paragraph may not be transmitted into the patient's residence.~~

~~(e) Medication therapy management services may be delivered into a patient's residence via secure interactive video if the medication therapy management services are performed electronically during a covered home care visit by an enrolled provider. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to the services provided. To qualify for reimbursement under~~

~~this paragraph, the pharmacist providing the services must meet the requirements of paragraph (b) and must be located within an ambulatory care setting that meets the requirements of paragraph (b), clause (3).~~

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 14. Minnesota Statutes 2020, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. **Mental health case management.** (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4887, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact either in person or by interactive video that meets the requirements of subdivision 20b with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) ~~at least a face-to-face contact with the adult or the adult's legal representative or a contact by interactive video~~ either in person or by interactive video that meets the requirements of subdivision 20b; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact ~~or a contact by interactive video~~ either in person or by interactive video that meets the requirements of subdivision 20b with the adult or the adult's legal representative within the preceding two months.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by Indian health services or by agencies operated by Indian tribes may be made according to this section or other relevant federally approved rate setting methodology.

(f) Payment for mental health case management provided by vendors who contract with a county or Indian tribe shall be based on a monthly rate negotiated by the host county or tribe. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribe may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribe, except to reimburse the county or tribe for advance funding provided by the county or tribe to the vendor.

(g) If the service is provided by a team which includes contracted vendors, tribal staff, and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for

county-provided services. In this case, the contracted vendor, the tribal agency, and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(h) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds. If the service is provided by a tribal agency, the nonfederal share, if any, shall be provided by the recipient's tribe. When this service is paid by the state without a federal share through fee-for-service, 50 percent of the cost shall be provided by the recipient's county of responsibility.

(i) Notwithstanding any administrative rule to the contrary, prepaid medical assistance and MinnesotaCare include mental health case management. When the service is provided through prepaid capitation, the nonfederal share is paid by the state and the county pays no share.

(j) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, or, if applicable, the tribal agency, is responsible for any federal disallowances. The county or tribe may share this responsibility with its contracted vendors.

(k) The commissioner shall set aside a portion of the federal funds earned for county expenditures under this section to repay the special revenue maximization account under section 256.01, subdivision 2, paragraph (o). The repayment is limited to:

- (1) the costs of developing and implementing this section; and
- (2) programming the information systems.

(l) Payments to counties and tribal agencies for case management expenditures under this section shall only be made from federal earnings from services provided under this section. When this service is paid by the state without a federal share through fee-for-service, 50 percent of the cost shall be provided by the state. Payments to county-contracted vendors shall include the federal earnings, the state share, and the county share.

(m) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(n) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the lesser of:

- (1) the last 180 days of the recipient's residency in that facility and may not exceed more than six months in a calendar year; or
- (2) the limits and conditions which apply to federal Medicaid funding for this service.

(o) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(p) If the recipient is receiving care in a hospital, nursing facility, or residential setting licensed under chapter 245A or 245D that is staffed 24 hours a day, seven days a week, mental health targeted case



management services must actively support identification of community alternatives for the recipient and discharge planning.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 15. Minnesota Statutes 2020, section 256B.0625, subdivision 20b, is amended to read:

Subd. 20b. ~~Mental health~~ **Targeted case management through interactive video.** (a) ~~Subject to federal approval, contact made for targeted case management by interactive video shall be eligible for payment if:~~ Minimum required face-to-face contacts for targeted case management may be provided through interactive video if interactive video is in the best interests of the person and is deemed appropriate by the person receiving targeted case management or the person's legal guardian and the case management provider.

~~(1) the person receiving targeted case management services is residing in:~~

~~(i) a hospital;~~

~~(ii) a nursing facility; or~~

~~(iii) a residential setting licensed under chapter 245A or 245D or a boarding and lodging establishment or lodging establishment that provides supportive services or health supervision services according to section 157.17 that is staffed 24 hours a day, seven days a week;~~

~~(2) interactive video is in the best interests of the person and is deemed appropriate by the person receiving targeted case management or the person's legal guardian, the case management provider, and the provider operating the setting where the person is residing;~~

~~(3) the use of interactive video is approved as part of the person's written personal service or case plan, taking into consideration the person's vulnerability and active personal relationships; and~~

~~(4) interactive video is used for up to, but not more than, 50 percent of the minimum required face-to-face contact.~~

(b) The person receiving targeted case management or the person's legal guardian has the right to choose and consent to the use of interactive video under this subdivision and has the right to refuse the use of interactive video at any time.

(c) The commissioner ~~shall~~ may establish criteria that a targeted case management provider must attest to in order to demonstrate the safety or efficacy of ~~delivering the service via interactive video. The attestation may include that the case management provider has:~~ meeting the minimum face-to-face contact requirements for targeted case management through interactive video.

~~(1) written policies and procedures specific to interactive video services that are regularly reviewed and updated;~~

~~(2) policies and procedures that adequately address client safety before, during, and after the interactive video services are rendered;~~

~~(3) established protocols addressing how and when to discontinue interactive video services; and~~

~~(4) established a quality assurance process related to interactive video services.~~

(d) As a condition of payment, the targeted case management provider must document the following for each occurrence of targeted case management provided by interactive video for the purpose of face-to-face contact:

(1) the time the ~~service~~ contact began and the time the ~~service~~ contact ended, including an a.m. and p.m. designation;

(2) the basis for determining that interactive video is an appropriate and effective means for ~~delivering the service to~~ contacting the person receiving targeted case management services;

(3) the mode of transmission ~~of the interactive video~~ used to deliver the services and records evidencing stating that a particular mode of transmission was utilized; and

(4) the location of the originating site and the distant site; ~~and~~

~~(5) compliance with the criteria attested to by the targeted case management provider as provided in paragraph (e).~~

(e) Interactive video must not be used to meet minimum face-to-face contact requirements for children who are in out-of-home placement or receiving case management services for child protection reasons.

(f) For purposes of this subdivision, "interactive video" means the delivery of targeted case management services in real time through the use of two-way interactive audio and visual communication.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 16. Minnesota Statutes 2020, section 256B.0625, subdivision 46, is amended to read:

Subd. 46. **Mental health ~~telemedicine telehealth~~.** ~~Effective January 1, 2006, and~~ Subject to federal approval, mental health services that are otherwise covered by medical assistance as direct face-to-face services may be provided via ~~two-way interactive video~~ telehealth in accordance with subdivision 3b. ~~Use of two-way interactive video must be medically appropriate to the condition and needs of the person being served. Reimbursement is at the same rates and under the same conditions that would otherwise apply to the service. The interactive video equipment and connection must comply with Medicare standards in effect at the time the service is provided.~~

Sec. 17. Minnesota Statutes 2020, 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 conducted according to subdivision 3a, 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 chapter 256S and sections 256B.0913, 256B.092, and 256B.49, including level of care determination for individuals who need an institutional level of care as determined under subdivision 4e, based on a long-term care consultation 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;

(9) providing information about competitive employment, with or without supports, for school-age youth and working-age adults and referrals to the Disability Hub 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;

(10) providing information about independent living to ensure that an informed choice about independent living can be made; and

(11) providing information about self-directed services and supports, including self-directed funding options, to ensure that an informed choice about self-directed options can be made.

(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 the following state plan services:

(i) personal care assistance services under section 256B.0625, subdivisions 19a and 19c;

(ii) consumer support grants under section 256.476; or

(iii) community first services and supports under section 256B.85;

(2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024, gaining access to:

(i) relocation targeted case management services available under section 256B.0621, subdivision 2, clause (4);

(ii) case management services targeted to vulnerable adults or developmental disabilities under section 256B.0924; and

(iii) case management services targeted to people with developmental disabilities under Minnesota Rules, part 9525.0016;

(3) determination of eligibility for semi-independent living services under section 252.275; 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 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 this chapter 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 services.

(f) "Person-centered planning" is a process that includes the active participation of a person in the planning of the person's services, including in making meaningful and informed choices about the person's own goals, talents, and objectives, as well as making meaningful and informed choices about the services the person receives, the settings in which the person receives the services, and the setting in which the person lives.

(g) "Informed choice" means a voluntary choice of services, settings, living arrangement, and work by a person from all available service and setting options based on accurate and complete information concerning all available service and setting options and concerning the person's own preferences, abilities, goals, and objectives. In order for a person to make an informed choice, all available options must be developed and presented to the person in a way the person can understand to empower the person to make fully informed choices.

(h) "Available service and setting options" or "available options," with respect to the home and community-based waivers under chapter 256S and sections 256B.092 and 256B.49, means all services and settings defined under the waiver plan for which a waiver applicant or waiver participant is eligible.

(i) "Independent living" means living in a setting that is not controlled by a provider.

Sec. 18. Minnesota Statutes 2020, section 256B.0911, subdivision 3a, as amended by Laws 2021, chapter 30, article 12, section 2, 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. 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 ~~(r)~~ (r).

(b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified assessors to conduct the assessment. 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, conversation-based, person-centered assessment. The assessment must include

the health, psychological, functional, environmental, and social needs of the individual necessary to develop a person-centered community support plan that meets the individual's needs and preferences.

(d) Except as provided in paragraph (r), the assessment must be conducted by a certified assessor in a face-to-face conversational interview with the person being assessed. The person's legal representative must provide input during the assessment process and may do so remotely if requested. At the request of the person, other individuals may participate in the assessment to 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. Except for legal representatives or family members invited by the person, persons participating in the assessment may not be a provider of service or have any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living or adult day services under chapter 256S, 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 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 the person completed in consultation with someone who is known to the person and has interaction with the person on a regular basis. The provider must submit the report at least 60 days before the end of the person's current service agreement. The certified assessor must consider the content of the submitted report prior to finalizing the person's assessment or reassessment.

(e) The certified assessor and the individual responsible for developing the coordinated service and support plan must complete the community support plan and the coordinated service and support plan no more than 60 calendar days from the assessment visit. The person or the person's legal representative must be provided with a written community support plan within the timelines established by the commissioner, regardless of whether the person is eligible for Minnesota health care programs.

(f) For a person being assessed for elderly waiver services under chapter 256S, a provider who submitted information under paragraph (d) shall receive the final written community support plan when available and the Residential Services Workbook.

(g) 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:

(i) all available options for case management services and providers;

(ii) all available options for employment services, settings, and providers;

(iii) all available options for living arrangements;

(iv) all available options for self-directed services and supports, including self-directed budget options;  
and

(v) service provided in a non-disability-specific setting;

(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.

(h) 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.

(i) The person has the right to make the final decision:

(1) between institutional placement and community placement after the recommendations have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d);

(2) between community placement in a setting controlled by a provider and living independently in a setting not controlled by a provider;

(3) between day services and employment services; and

(4) regarding available options for self-directed services and supports, including self-directed funding options.

(j) The lead agency must give the person receiving long-term care consultation services 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 chapter 256S or section 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);

(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. The certified assessor must verbally communicate this appeal right to the person and must visually point out where in the document the right to appeal is stated; and

(10) documentation that available options for employment services, independent living, and self-directed services and supports were described to the individual.

(k) ~~Face-to-face~~ An assessment that is completed as part of an eligibility determination for multiple programs for the alternative care, elderly waiver, developmental disabilities, community access for disability inclusion, community alternative care, and brain injury waiver programs under chapter 256S and sections 256B.0913, 256B.092, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of the assessment.

(l) The effective eligibility start date for programs in paragraph (k) 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 (k) cannot be prior to the date the most recent updated assessment is completed.

(m) If an eligibility update is completed within 90 days of the previous ~~face-to-face~~ assessment and documented in the department's Medicaid Management Information System (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date of the previous face-to-face assessment when all other eligibility requirements are met.

(n) If a person who receives home and community-based waiver services under section 256B.0913, 256B.092, or 256B.49 or chapter 256S temporarily enters for 121 days or fewer a hospital, institution of mental disease, nursing facility, intensive residential treatment services program, transitional care unit, or inpatient substance use disorder treatment setting, the person may return to the community with home and community-based waiver services under the same waiver, without requiring an assessment or reassessment under this section, unless the person's annual reassessment is otherwise due. Nothing in this paragraph shall change annual long-term care consultation reassessment requirements, payment for institutional or treatment services, medical assistance financial eligibility, or any other law.

(o) At the time of reassessment, the certified assessor shall assess each person receiving waiver residential supports and services currently residing in a community residential setting, licensed adult foster care home that is either not the primary residence of the license holder or in which the license holder is not the primary caregiver, family adult foster care residence, customized living setting, or supervised living facility to determine if that person would prefer to be served in a community-living setting as defined in section 256B.49, subdivision 23, in a setting not controlled by a provider, or to receive integrated community supports as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified assessor shall offer

the person, through a person-centered planning process, the option to receive alternative housing and service options.

(p) At the time of reassessment, the certified assessor shall assess each person receiving waiver day services to determine if that person would prefer to receive employment services as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified assessor shall describe to the person through a person-centered planning process the option to receive employment services.

(q) At the time of reassessment, the certified assessor shall assess each person receiving non-self-directed waiver services to determine if that person would prefer an available service and setting option that would permit self-directed services and supports. The certified assessor shall describe to the person through a person-centered planning process the option to receive self-directed services and supports.

(r) All assessments performed according to this subdivision must be face-to-face unless the assessment is a reassessment meeting the requirements of this paragraph. Remote reassessments conducted by interactive video or telephone may substitute for face-to-face reassessments. For services provided by the developmental disabilities waiver under section 256B.092, and the community access for disability inclusion, community alternative care, and brain injury waiver programs under section 256B.49, remote reassessments may be substituted for two consecutive reassessments if followed by a face-to-face reassessment. For services provided by alternative care under section 256B.0913, essential community supports under section 256B.0922, and the elderly waiver under chapter 256S, remote reassessments may be substituted for one reassessment if followed by a face-to-face reassessment. A remote reassessment is permitted only if the person being reassessed, or the person's legal representative, and the lead agency case manager both agree that there is no change in the person's condition, there is no need for a change in service, and that a remote reassessment is appropriate. The person being reassessed, or the person's legal representative, has the right to refuse a remote reassessment at any time. During a remote reassessment, if the certified assessor determines a face-to-face reassessment is necessary in order to complete the assessment, the lead agency shall schedule a face-to-face reassessment. All other requirements of a face-to-face reassessment shall apply to a remote reassessment, including updates to a person's support plan.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 19. Minnesota Statutes 2020, section 256B.0911, subdivision 3f, is amended to read:

Subd. 3f. **Long-term care reassessments and community support plan updates.** (a) Prior to a ~~face-to-face~~ reassessment, the certified assessor must review the person's most recent assessment. Reassessments must be tailored using the professional judgment of the assessor to the person's known needs, strengths, preferences, and circumstances. Reassessments provide information to support the person's informed choice and opportunities to express choice regarding activities that contribute to quality of life, as well as information and opportunity to identify goals related to desired employment, community activities, and preferred living environment. Reassessments require a review of the most recent assessment, review of the current coordinated service and support plan's effectiveness, monitoring of services, and the development of an updated person-centered community support plan. Reassessments must verify continued eligibility, offer alternatives as warranted, and provide an opportunity for quality assurance of service delivery. ~~Face-to-face~~ Reassessments must be conducted annually or as required by federal and state laws and rules. For reassessments, the certified assessor and the individual responsible for developing the coordinated service and support plan must ensure the continuity of care for the person receiving services and complete the



updated community support plan and the updated coordinated service and support plan no more than 60 days from the reassessment visit.

(b) The commissioner shall develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process tailored to the person's current needs and preferences.

Sec. 20. Minnesota Statutes 2020, section 256B.0924, subdivision 6, is amended to read:

**Subd. 6. Payment for targeted case management.** (a) Medical assistance and MinnesotaCare payment for targeted case management shall be made on a monthly basis. In order to receive payment for an eligible adult, the provider must document at least one contact per month and not more than two consecutive months without a face-to-face contact either in person or by interactive video that meets the requirements in section 256B.0625, subdivision 20b with the adult or the adult's legal representative, family, primary caregiver, or other relevant persons identified as necessary to the development or implementation of the goals of the personal service plan.

(b) Payment for targeted case management provided by county staff under this subdivision shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), calculated as one combined average rate together with adult mental health case management under section 256B.0625, subdivision 20, except for calendar year 2002. In calendar year 2002, the rate for case management under this section shall be the same as the rate for adult mental health case management in effect as of December 31, 2001. Billing and payment must identify the recipient's primary population group to allow tracking of revenues.

(c) Payment for targeted case management provided by county-contracted vendors shall be based on a monthly rate negotiated by the host county. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county, except to reimburse the county for advance funding provided by the county to the vendor.

(d) If the service is provided by a team that includes contracted vendors and county staff, the costs for county staff participation on the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, the county must document, in the recipient's file, the need for team targeted case management and a description of the different roles of the team members.

(e) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for targeted case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds.

(f) The commissioner may suspend, reduce, or terminate reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, is responsible for any federal disallowances. The county may share this responsibility with its contracted vendors.

(g) The commissioner shall set aside five percent of the federal funds received under this section for use in reimbursing the state for costs of developing and implementing this section.

(h) Payments to counties for targeted case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(i) Notwithstanding section 256B.041, county payments for the cost of case management services provided by county staff shall not be made to the commissioner of management and budget. For the purposes of targeted case management services provided by county staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(j) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for targeted case management services under this subdivision is limited to the lesser of:

- (1) the last 180 days of the recipient's residency in that facility; or
- (2) the limits and conditions which apply to federal Medicaid funding for this service.

(k) Payment for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(l) Any growth in targeted case management services and cost increases under this section shall be the responsibility of the counties.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 21. Minnesota Statutes 2020, section 256B.094, subdivision 6, is amended to read:

Subd. 6. **Medical assistance reimbursement of case management services.** (a) Medical assistance reimbursement for services under this section shall be made on a monthly basis. Payment is based on face-to-face contacts either in person or by interactive video, or telephone contacts between the case manager and the client, client's family, primary caregiver, legal representative, or other relevant person identified as necessary to the development or implementation of the goals of the individual service plan regarding the status of the client, the individual service plan, or the goals for the client. These contacts must meet the minimum standards in clauses (1) and (2) following requirements:

(1) there must be a face-to-face contact either in person or by interactive video that meets the requirements of section 256B.0625, subdivision 20b, at least once a month except as provided in clause (2); and

(2) for a client placed outside of the county of financial responsibility, or a client served by tribal social services placed outside the reservation, in an excluded time facility under section 256G.02, subdivision 6, or through the Interstate Compact for the Placement of Children, section 260.93, and the placement in either case is more than 60 miles beyond the county or reservation boundaries, there must be at least one contact per month and not more than two consecutive months without a face-to-face, in-person contact.

(b) Except as provided under paragraph (c), the payment rate is established using time study data on activities of provider service staff and reports required under sections 245.482 and 256.01, subdivision 2, paragraph (p).

(c) Payments for tribes may be made according to section 256B.0625 or other relevant federally approved rate setting methodology for child welfare targeted case management provided by Indian health services and facilities operated by a tribe or tribal organization.

(d) Payment for case management provided by county or tribal social services contracted vendors shall be based on a monthly rate negotiated by the host county or tribal social services. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribal social services may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribal social services, except to reimburse the county or tribal social services for advance funding provided by the county or tribal social services to the vendor.

(e) If the service is provided by a team that includes contracted vendors and county or tribal social services staff, the costs for county or tribal social services staff participation in the team shall be included in the rate for county or tribal social services provided services. In this case, the contracted vendor and the county or tribal social services may each receive separate payment for services provided by each entity in the same month. To prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles and services of the team members.

Separate payment rates may be established for different groups of providers to maximize reimbursement as determined by the commissioner. The payment rate will be reviewed annually and revised periodically to be consistent with the most recent time study and other data. Payment for services will be made upon submission of a valid claim and verification of proper documentation described in subdivision 7. Federal administrative revenue earned through the time study, or under paragraph (c), shall be distributed according to earnings, to counties, reservations, or groups of counties or reservations which have the same payment rate under this subdivision, and to the group of counties or reservations which are not certified providers under section 256F.10. The commissioner shall modify the requirements set out in Minnesota Rules, parts 9550.0300 to 9550.0370, as necessary to accomplish this.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 22. Minnesota Statutes 2020, section 256B.0943, subdivision 1, as amended by Laws 2021, chapter 30, article 17, section 81, 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 trainee" means a staff person who is qualified according to section 245I.04, subdivision 6.

(c) "Crisis planning" has the meaning given in section 245.4871, subdivision 9a.

(d) "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.

(e) "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 team, under the treatment supervision of a mental health professional.

(f) "Standard diagnostic assessment" means the assessment described in 245I.10, subdivision 6.

(g) "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 through telehealth as defined under section 256B.0625, subdivision 3b. 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.

(h) "Direction of mental health behavioral aide" means the activities of a mental health professional, clinical trainee, 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 individual treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (5).

(i) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15.

(j) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or a clinical trainee or mental health practitioner under the treatment 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.

(k) "Individual treatment plan" means the plan described in section 245I.10, subdivisions 7 and 8.

(l) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a mental health behavioral aide qualified according to section 245I.04, subdivision 16, to assist a child retain or generalize psychosocial skills as previously trained by a mental health professional, clinical trainee, 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).

(m) "Mental health certified family peer specialist" means a staff person who is qualified according to section 245I.04, subdivision 12.

(n) "Mental health practitioner" means a staff person who is qualified according to section 245I.04, subdivision 4.

(o) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

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

(1) the development, review, and revision of a child's individual treatment plan, 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 and reporting the standardized outcome measurements in section 245I.10, subdivision 6, paragraph (d), clauses (3) and (4), and other standardized outcome measurements approved by the commissioner, as periodically needed to evaluate the effectiveness of treatment.

(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 described in section 256B.0671, subdivision 11.

(s) "Rehabilitative services" or "psychiatric rehabilitation services" means 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 coordinated 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.

(t) "Skills training" means individual, family, or group training, delivered by or under the 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 service delivery requirements under subdivision 9, paragraph (b), clause (2).

(u) "Treatment supervision" means the supervision described in section 245I.06.

Sec. 23. Minnesota Statutes 2020, section 256B.0949, subdivision 13, is amended to read:

Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to (l) are eligible for reimbursement by medical assistance under this section. Services must be provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must address the person's medically necessary treatment goals and must be targeted to develop, enhance, or maintain the individual developmental skills of a person with ASD or a related condition to improve functional communication, including nonverbal or social communication, social or interpersonal interaction, restrictive or repetitive behaviors, hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation, cognition, learning and play, self-care, and safety.

(b) EIDBI treatment must be delivered consistent with the standards of an approved modality, as published by the commissioner. EIDBI modalities include:

- (1) applied behavior analysis (ABA);
- (2) developmental individual-difference relationship-based model (DIR/Floortime);
- (3) early start Denver model (ESDM);

(4) PLAY project;

(5) relationship development intervention (RDI); or

(6) additional modalities not listed in clauses (1) to (5) upon approval by the commissioner.

(c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b), clauses (1) to (5), as the primary modality for treatment as a covered service, or several EIDBI modalities in combination as the primary modality of treatment, as approved by the commissioner. An EIDBI provider that identifies and provides assurance of qualifications for a single specific treatment modality must document the required qualifications to meet fidelity to the specific model.

(d) Each qualified EIDBI provider must identify and provide assurance of qualifications for professional licensure certification, or training in evidence-based treatment methods, and must document the required qualifications outlined in subdivision 15 in a manner determined by the commissioner.

(e) CMDE is a comprehensive evaluation of the person's developmental status to determine medical necessity for EIDBI services and meets the requirements of subdivision 5. The services must be provided by a qualified CMDE provider.

(f) EIDBI intervention observation and direction is the clinical direction and oversight of EIDBI services by the QSP, level I treatment provider, or level II treatment provider, including developmental and behavioral techniques, progress measurement, data collection, function of behaviors, and generalization of acquired skills for the direct benefit of a person. EIDBI intervention observation and direction informs any modification of the current treatment protocol to support the outcomes outlined in the ITP.

(g) Intervention is medically necessary direct treatment provided to a person with ASD or a related condition as outlined in their ITP. All intervention services must be provided under the direction of a QSP. Intervention may take place across multiple settings. The frequency and intensity of intervention services are provided based on the number of treatment goals, person and family or caregiver preferences, and other factors. Intervention services may be provided individually or in a group. Intervention with a higher provider ratio may occur when deemed medically necessary through the person's ITP.

(1) Individual intervention is treatment by protocol administered by a single qualified EIDBI provider delivered ~~face-to-face~~ to one person.

(2) Group intervention is treatment by protocol provided by one or more qualified EIDBI providers, delivered to at least two people who receive EIDBI services.

(h) ITP development and ITP progress monitoring is development of the initial, annual, and progress monitoring of an ITP. ITP development and ITP progress monitoring documents provide oversight and ongoing evaluation of a person's treatment and progress on targeted goals and objectives and integrate and coordinate the person's and the person's legal representative's information from the CMDE and ITP progress monitoring. This service must be reviewed and completed by the QSP, and may include input from a level I provider or a level II provider.

(i) Family caregiver training and counseling is specialized training and education for a family or primary caregiver to understand the person's developmental status and help with the person's needs and development. This service must be provided by the QSP, level I provider, or level II provider.

(j) A coordinated care conference is a voluntary ~~face-to-face~~ meeting with the person and the person's family to review the CMDE or ITP progress monitoring and to integrate and coordinate services across

providers and service-delivery systems to develop the ITP. This service must be provided by the QSP and may include the CMDE provider or a level I provider or a level II provider.

(k) Travel time is allowable billing for traveling to and from the person's home, school, a community setting, or place of service outside of an EIDBI center, clinic, or office from a specified location to provide ~~face-to-face~~ in-person EIDBI intervention, observation and direction, or family caregiver training and counseling. The person's ITP must specify the reasons the provider must travel to the person.

(l) Medical assistance covers medically necessary EIDBI services and consultations delivered by a licensed health care provider via ~~telemedicine~~ telehealth, as defined under section 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered in person.

Sec. 24. Minnesota Statutes 2020, section 256B.49, subdivision 14, is amended to read:

Subd. 14. **Assessment and reassessment.** (a) Assessments and reassessments shall be conducted by certified assessors according to section 256B.0911, subdivision 2b.

(b) There must be a determination that the client requires a hospital level of care or a nursing facility level of care as defined in section 256B.0911, subdivision 4e, at initial and subsequent assessments to initiate and maintain participation in the waiver program.

(c) Regardless of other assessments identified in section 144.0724, subdivision 4, as appropriate to determine nursing facility level of care for purposes of medical assistance payment for nursing facility services, only ~~face-to-face~~ assessments conducted according to section 256B.0911, subdivisions 3a, 3b, and 4d, that result in a hospital level of care determination or a nursing facility level of care determination must be accepted for purposes of initial and ongoing access to waiver services payment.

(d) Recipients who are found eligible for home and community-based services under this section before their 65th birthday may remain eligible for these services after their 65th birthday if they continue to meet all other eligibility factors.

Sec. 25. Minnesota Statutes 2020, section 256S.05, subdivision 2, is amended to read:

Subd. 2. **Nursing facility level of care determination required.** Notwithstanding other assessments identified in section 144.0724, subdivision 4, only ~~face-to-face~~ assessments conducted according to section 256B.0911, subdivisions 3, 3a, and 3b, that result in a nursing facility level of care determination at initial and subsequent assessments shall be accepted for purposes of a participant's initial and ongoing participation in the elderly waiver and a service provider's access to service payments under this chapter.

Sec. 26. **COMMISSIONER OF HUMAN SERVICES; EXTENSION OF COVID-19 HUMAN SERVICES PROGRAM MODIFICATIONS.**

Notwithstanding Laws 2020, First Special Session chapter 7, section 1, subdivision 2, as amended by Laws 2020, Third Special Session chapter 1, section 3, when the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, the following modifications issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12, and including any amendments to the modification issued before the peacetime emergency expires, shall remain in effect until July 1, 2023:

(1) CV16: expanding access to telemedicine services for Children's Health Insurance Program, Medical Assistance, and MinnesotaCare enrollees; and

(2) CV21: allowing telemedicine alternative for school-linked mental health services and intermediate school district mental health services.

Sec. 27. **STUDIES OF TELEHEALTH EXPANSION AND PAYMENT PARITY.**

(a) The commissioner of health, in consultation with the commissioners of human services and commerce, shall study the impact of telehealth expansion and payment parity under this article on the coverage and provision of health care services under private sector health insurance.

(b) The commissioner of human services, in consultation with the commissioners of health and commerce, shall study the impact of telehealth expansion and payment parity under this article on the coverage and provision of health care services under public health care programs.

(c) The studies required under paragraphs (a) and (b) must review and make recommendations relating to:

(1) the impact of telehealth expansion and payment parity on access to health care services, quality of care, health outcomes, patient satisfaction, and value-based payments and innovation in health care delivery;

(2) the impact of telehealth expansion and payment parity on reducing health care disparities and providing equitable access to health care services for underserved communities;

(3) whether audio-only communication as a permitted option for delivering services (i) supports equitable access to health care services, including behavioral health services, for the elderly, rural communities, and communities of color, and (ii) eliminates barriers to care for vulnerable and underserved populations without reducing the quality of care, worsening health outcomes, or decreasing satisfaction with care;

(4) the services and populations, if any, for which increased access to telehealth improves or negatively impacts health outcomes;

(5) the extent to which services provided through telehealth:

(i) substitute for an in-person visit;

(ii) are services that were previously not billed or reimbursed; or

(iii) are in addition to or are duplicative of services that the patient has received or will receive as part of an in-person visit;

(6) the effect of telehealth expansion and payment parity on public and private sector health care costs, including health insurance premiums; and

(7) the impact of telehealth expansion and payment parity, especially in rural areas, on patient access to, and the availability of, in-person care, including specialty care.

(d) In addition, the studies must report:

(1) the criteria payers used during the study period to determine which patients were medically appropriate to be served through telehealth, and which categories of service were medically appropriate to be delivered through telehealth, including but not limited to the use of audio-only communication; and

(2) the methods payers used to ensure that patients were allowed to choose to receive a service through telehealth or in person during the study period.



(e) When conducting the studies, the commissioners shall consult with public program enrollees and other patients, providers, communities impacted by telehealth expansion and payment parity, and other stakeholders. Notwithstanding Minnesota Statutes, section 62U.04, subdivision 11, the commissioners may use data available under that section to conduct the studies and may consult with experts in payment policy and health care delivery. Health plan companies shall submit information requested by the commissioners for purposes of the studies in the form and manner specified by the commissioners.

(f) The commissioners shall present a preliminary report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance and commerce by January 15, 2023. The preliminary report must include qualitative and any available quantitative findings, and recommendations on whether audio-only communication should be allowed as a telehealth option beyond June 30, 2023. The commissioners shall present a final report to the chairs and ranking minority members of these specified legislative committees by January 15, 2024.

Sec. 28. **REVISOR INSTRUCTION.**

In Minnesota Statutes and Minnesota Rules, the revisor of statutes shall substitute the term "telemedicine" with "telehealth" whenever the term appears and substitute Minnesota Statutes, section 62A.673, whenever references to Minnesota Statutes, sections 62A.67, 62A.671, and 62A.672 appear.

Sec. 29. **REPEALER.**

(a) Minnesota Statutes 2020, sections 62A.67; 62A.671; and 62A.672, are repealed effective July 1, 2021.

(b) Minnesota Statutes 2020, sections 256B.0596; and 256B.0924, subdivision 4a, are repealed effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

(c) Laws 2021, chapter 30, article 17, section 71, is repealed effective the day following final enactment.

## ARTICLE 7

### ECONOMIC SUPPORTS

Section 1. Minnesota Statutes 2020, section 119B.09, subdivision 4, is amended to read:

Subd. 4. **Eligibility; annual income; calculation.** (a) Annual income of the applicant family is the current monthly income of the family multiplied by 12 or the income for the 12-month period immediately preceding the date of application, or income calculated by the method which provides the most accurate assessment of income available to the family.

(b) Self-employment income must be calculated based on ~~gross receipts less operating expenses~~ section 256P.05, subdivision 2.

(c) Income changes are processed under section 119B.025, subdivision 4. Included lump sums counted as income under section 256P.06, subdivision 3, must be annualized over 12 months. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of the income.

**EFFECTIVE DATE.** This section is effective May 1, 2022.

Sec. 2. Minnesota Statutes 2020, section 256D.051, is amended by adding a subdivision to read:

Subd. 20. **SNAP employment and training.** The commissioner shall implement a Supplemental Nutrition Assistance Program (SNAP) employment and training program that meets the SNAP employment and training participation requirements of the United States Department of Agriculture governed by Code of Federal Regulations, title 7, section 273.7. The commissioner shall operate a SNAP employment and training program in which SNAP recipients elect to participate. In order to receive SNAP assistance beyond the time limit, unless residing in an area covered by a time-limit waiver governed by Code of Federal Regulations, title 7, section 273.24, nonexempt SNAP recipients who do not meet federal SNAP work requirements must participate in an employment and training program. In addition to county and Tribal agencies that administer SNAP, the commissioner may contract with third-party providers for SNAP employment and training services.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 3. Minnesota Statutes 2020, section 256D.051, is amended by adding a subdivision to read:

Subd. 21. **County and Tribal agency duties.** County or Tribal agencies that administer SNAP shall inform adult SNAP recipients about employment and training services and providers in the recipient's area. County or Tribal agencies that administer SNAP may elect to subcontract with a public or private entity approved by the commissioner to provide SNAP employment and training services.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 4. Minnesota Statutes 2020, section 256D.051, is amended by adding a subdivision to read:

Subd. 22. **Duties of commissioner.** In addition to any other duties imposed by law, the commissioner shall:

(1) supervise the administration of SNAP employment and training services to county, Tribal, and contracted agencies under this section and Code of Federal Regulations, title 7, section 273.7;

(2) disburse money allocated and reimbursed for SNAP employment and training services to county, Tribal, and contracted agencies;

(3) accept and supervise the disbursement of any funds that may be provided by the federal government or other sources for SNAP employment and training services;

(4) cooperate with other agencies, including any federal agency or agency of another state, in all matters concerning the powers and duties of the commissioner under this section;

(5) coordinate with the commissioner of employment and economic development to deliver employment and training services statewide;

(6) work in partnership with counties, tribes, and other agencies to enhance the reach and services of a statewide SNAP employment and training program; and

(7) identify eligible nonfederal funds to earn federal reimbursement for SNAP employment and training services.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 5. Minnesota Statutes 2020, section 256D.051, is amended by adding a subdivision to read:

Subd. 23. **Participant duties.** Unless residing in an area covered by a time-limit waiver, nonexempt SNAP recipients must meet federal SNAP work requirements to receive SNAP assistance beyond the time limit.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 6. Minnesota Statutes 2020, section 256D.051, is amended by adding a subdivision to read:

Subd. 24. **Program funding.** (a) The United States Department of Agriculture annually allocates SNAP employment and training funds to the commissioner of human services for the operation of the SNAP employment and training program.

(b) The United States Department of Agriculture authorizes the disbursement of SNAP employment and training reimbursement funds to the commissioner of human services for the operation of the SNAP employment and training program.

(c) Except for funds allocated for state program development and administrative purposes or designated by the United States Department of Agriculture for a specific project, the commissioner of human services shall disburse money allocated for federal SNAP employment and training to counties and tribes that administer SNAP based on a formula determined by the commissioner that includes but is not limited to the county's or tribe's proportion of adult SNAP recipients as compared to the statewide total.

(d) The commissioner of human services shall disburse federal funds that the commissioner receives as reimbursement for SNAP employment and training costs to the state agency, county, tribe, or contracted agency that incurred the costs being reimbursed.

(e) The commissioner of human services may reallocate unexpended money disbursed under this section to county, Tribal, or contracted agencies that demonstrate a need for additional funds.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 7. Minnesota Statutes 2020, section 256E.30, subdivision 2, is amended to read:

**Subd. 2. Allocation of money.** (a) State money appropriated and community service block grant money allotted to the state and all money transferred to the community service block grant from other block grants shall be allocated annually to community action agencies and Indian reservation governments under paragraphs (b) and (c), and to migrant and seasonal farmworker organizations under paragraph (d).

(b) The available annual money will provide base funding to all community action agencies and the Indian reservations. Base funding amounts per agency are as follows: for agencies with low income populations up to ~~1,999, \$25,000; 2,000 to~~ 23,999, \$50,000; and 24,000 or more, \$100,000.

(c) All remaining money of the annual money available after the base funding has been determined must be allocated to each agency and reservation in proportion to the size of the poverty level population in the agency's service area compared to the size of the poverty level population in the state.

(d) Allocation of money to migrant and seasonal farmworker organizations must not exceed three percent of the total annual money available. Base funding allocations must be made for all community action agencies and Indian reservations that received money under this subdivision, in fiscal year 1984, and for community action agencies designated under this section with a service area population of 35,000 or greater.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 8. Minnesota Statutes 2020, section 256J.08, subdivision 15, is amended to read:

Subd. 15. **Countable income.** "Countable income" means earned and unearned income that is ~~not excluded under section 256J.21, subdivision 2~~ described in section 256P.06, subdivision 3, or disregarded under section 256J.21, subdivision 3, or section 256P.03.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 9. Minnesota Statutes 2020, section 256J.08, subdivision 53, is amended to read:

Subd. 53. **Lump sum.** "Lump sum" means nonrecurring income ~~that is not excluded in section 256J.21~~ as described in section 256P.06, subdivision 3, clause (2), item (ix).

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 10. Minnesota Statutes 2020, section 256J.10, is amended to read:

#### **256J.10 MFIP ELIGIBILITY REQUIREMENTS.**

To be eligible for MFIP, applicants must meet the general eligibility requirements in sections 256J.11 to 256J.15, the property limitations in section 256P.02, and the income limitations in ~~section~~ sections 256J.21 and 256P.06.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 11. Minnesota Statutes 2020, section 256J.21, subdivision 3, is amended to read:

Subd. 3. **Initial income test.** The agency shall determine initial eligibility by considering all earned and unearned income ~~that is not excluded under subdivision 2~~ as defined in section 256P.06. To be eligible for MFIP, the assistance unit's countable income minus the earned income disregards in paragraph (a) and section 256P.03 must be below the family wage level according to section 256J.24, subdivision 7, for that size assistance unit.

(a) The initial eligibility determination must disregard the following items:

(1) the earned income disregard as determined in section 256P.03;

(2) dependent care costs must be deducted from gross earned income for the actual amount paid for dependent care up to a maximum of \$200 per month for each child less than two years of age, and \$175 per month for each child two years of age and older;

(3) all payments made according to a court order for spousal support or the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support; and

(4) an allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver according to section 256J.36.

(b) After initial eligibility is established, the assistance payment calculation is based on the monthly income test.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 12. Minnesota Statutes 2020, section 256J.21, subdivision 5, is amended to read:

Subd. 5. **Distribution of income.** (a) The income of all members of the assistance unit must be counted. Income may also be deemed from ineligible persons to the assistance unit. Income must be attributed to the person who earns it or to the assistance unit according to paragraphs ~~(a) to~~ (b) and (c).

~~(a) Funds distributed from a trust, whether from the principal holdings or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to an applicant or participant. Trusts are presumed legally available unless an applicant or participant can document that the trust is not legally available.~~

(b) Income from jointly owned property must be divided equally among property owners unless the terms of ownership provide for a different distribution.

(c) Deductions are not allowed from the gross income of a financially responsible household member or by the members of an assistance unit to meet a current or prior debt.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 13. Minnesota Statutes 2020, section 256J.24, subdivision 5, is amended to read:

Subd. 5. **MFIP transitional standard.** (a) The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance. The amount of the transitional standard is published annually by the Department of Human Services.

(b) The amount of the MFIP cash assistance portion of the transitional standard is increased \$100 per month per household. This increase shall be reflected in the MFIP cash assistance portion of the transitional standard published annually by the commissioner.

(c) On October 1 of each year, the commissioner of human services shall adjust the cash assistance portion under paragraph (a) for inflation based on the CPI-U for the prior calendar year.

**EFFECTIVE DATE.** This section is effective for the fiscal year beginning on July 1, 2021.

Sec. 14. Minnesota Statutes 2020, section 256J.33, subdivision 1, is amended to read:

Subdivision 1. **Determination of eligibility.** (a) A county agency must determine MFIP eligibility prospectively for a payment month based on retrospectively assessing income and the county agency's best estimate of the circumstances that will exist in the payment month.

(b) Except as described in section 256J.34, subdivision 1, when prospective eligibility exists, A county agency must calculate the amount of the assistance payment using retrospective budgeting. To determine MFIP eligibility and the assistance payment amount, a county agency must apply countable income, described in ~~section~~ sections 256P.06 and 256J.37, subdivisions 3 to 10, received by members of an assistance unit or by other persons whose income is counted for the assistance unit, described under sections ~~256J.21 and~~ 256J.37, subdivisions 1 to 2, and 256P.06, subdivision 1.

(c) This income must be applied to the MFIP standard of need or family wage level subject to this section and sections 256J.34 to 256J.36. Countable income as described in section 256P.06, subdivision 3, received

in a calendar month ~~and not otherwise excluded under section 256J.21, subdivision 2,~~ must be applied to the needs of an assistance unit.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 15. Minnesota Statutes 2020, section 256J.33, subdivision 4, is amended to read:

Subd. 4. **Monthly income test.** A county agency must apply the monthly income test retrospectively for each month of MFIP eligibility. An assistance unit is not eligible when the countable income equals or exceeds the MFIP standard of need or the family wage level for the assistance unit. The income applied against the monthly income test must include:

(1) gross earned income from employment as ~~described in chapter 256P,~~ prior to mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and after the disregards in section 256J.21, subdivision 4, and the allocations in section 256J.36, ~~unless the employment income is specifically excluded under section 256J.21, subdivision 2;~~

(2) gross earned income from self-employment less deductions for self-employment expenses in section 256J.37, subdivision 5, but prior to any reductions for personal or business state and federal income taxes, personal FICA, personal health and life insurance, and after the disregards in section 256J.21, subdivision 4, and the allocations in section 256J.36;

(3) unearned income as ~~described in section 256P.06, subdivision 3,~~ after deductions for allowable expenses in section 256J.37, subdivision 9, and allocations in section 256J.36, ~~unless the income has been specifically excluded in section 256J.21, subdivision 2;~~

(4) gross earned income from employment as determined under clause (1) which is received by a member of an assistance unit who is a minor child or minor caregiver and less than a half-time student;

(5) child support received by an assistance unit, ~~excluded under section 256J.21, subdivision 2, clause (49), or~~ section 256P.06, subdivision 3, clause (2), item (xvi);

(6) spousal support received by an assistance unit;

(7) the income of a parent when that parent is not included in the assistance unit;

(8) the income of an eligible relative and spouse who seek to be included in the assistance unit; and

(9) the unearned income of a minor child included in the assistance unit.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 16. Minnesota Statutes 2020, section 256J.37, subdivision 1, is amended to read:

Subdivision 1. **Deemed income from ineligible assistance unit members.** The income of ineligible assistance unit members, except individuals identified in section 256J.24, subdivision 3, paragraph (a), clause (1), must be deemed after allowing the following disregards:

(1) an earned income disregard as determined under section 256P.03;

(2) all payments made by the ineligible person according to a court order for spousal support or the support of children not living in the assistance unit's household; and

(3) an amount for the unmet needs of the ineligible persons who live in the household who, if eligible, would be assistance unit members under section 256J.24, subdivision 2 or 4, paragraph (b). This amount is equal to the difference between the MFIP transitional standard when the ineligible persons are included in the assistance unit and the MFIP transitional standard when the ineligible persons are not included in the assistance unit.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 17. Minnesota Statutes 2020, section 256J.37, subdivision 1b, is amended to read:

Subd. 1b. **Deemed income from parents of minor caregivers.** In households where minor caregivers live with a parent or parents or a stepparent who do not receive MFIP for themselves or their minor children, the income of the parents or a stepparent must be deemed after allowing the following disregards:

(1) income of the parents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in the household ~~according to section 256J.21, subdivision 2, clause (43); and~~

(2) all payments made by parents according to a court order for spousal support or the support of children not living in the parent's household.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 18. Minnesota Statutes 2020, section 256J.95, subdivision 9, is amended to read:

Subd. 9. **Property and income limitations.** The asset limits and exclusions in section 256P.02 apply to applicants and participants of DWP. All payments, ~~unless excluded in section 256J.21 as described in section 256P.06, subdivision 3,~~ must be counted as income to determine eligibility for the diversionary work program. The agency shall treat income as outlined in section 256J.37, except for subdivision 3a. The initial income test and the disregards in section 256J.21, subdivision 3, shall be followed for determining eligibility for the diversionary work program.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 19. Minnesota Statutes 2020, section 256P.01, subdivision 3, is amended to read:

Subd. 3. **Earned income.** "Earned income" means ~~cash or in-kind~~ income earned through the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from employment activities, net profit from self-employment activities, payments made by an employer for regularly accrued vacation or sick leave, severance pay based on accrued leave time, ~~payments from training programs at a rate at or greater than the state's minimum wage,~~ royalties, honoraria, or other profit from activity that results from the client's work, ~~service,~~ effort, or labor for purposes other than student financial assistance, rehabilitation programs, student training programs, or service programs such as AmeriCorps. The income must be in return for, or as a result of, legal activity.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 20. Minnesota Statutes 2020, section 256P.02, subdivision 1a, is amended to read:

Subd. 1a. **Exemption.** Participants who qualify for child care assistance programs under chapter 119B are exempt from this section, except that the personal property identified in subdivision 2 is counted toward the asset limit of the child care assistance program under chapter 119B.

**EFFECTIVE DATE.** This section is effective May 1, 2022.

Sec. 21. Minnesota Statutes 2020, section 256P.02, subdivision 2, is amended to read:

Subd. 2. **Personal property limitations.** The equity value of an assistance unit's personal property listed in clauses (1) to ~~(4)~~ (5) must not exceed \$10,000 for applicants and participants. For purposes of this subdivision, personal property is limited to:

- (1) cash;
- (2) bank accounts;
- (3) liquid stocks and bonds that can be readily accessed without a financial penalty; ~~and~~
- (4) vehicles not excluded under subdivision 3-; and
- (5) the full value of business accounts used to pay expenses not related to the business.

**EFFECTIVE DATE.** This section is effective May 1, 2022.

Sec. 22. Minnesota Statutes 2020, section 256P.04, subdivision 4, is amended to read:

Subd. 4. **Factors to be verified.** (a) The agency shall verify the following at application:

- (1) identity of adults;
- (2) age, if necessary to determine eligibility;
- (3) immigration status;
- (4) income;
- (5) spousal support and child support payments made to persons outside the household;
- (6) vehicles;
- (7) checking and savings accounts, including but not limited to any business accounts used to pay expenses not related to the business;
- (8) inconsistent information, if related to eligibility;
- (9) residence;
- (10) Social Security number; and
- (11) use of nonrecurring income under section 256P.06, subdivision 3, clause (2), item (ix), for the intended purpose for which it was given and received.

(b) Applicants who are qualified noncitizens and victims of domestic violence as defined under section 256J.08, subdivision 73, ~~clause (7)~~ clauses (8) and (9), are not required to verify the information in paragraph



(a), clause (10). When a Social Security number is not provided to the agency for verification, this requirement is satisfied when each member of the assistance unit cooperates with the procedures for verification of Social Security numbers, issuance of duplicate cards, and issuance of new numbers which have been established jointly between the Social Security Administration and the commissioner.

**EFFECTIVE DATE.** Paragraph (a) is effective May 1, 2022. Paragraph (b) is effective July 1, 2021.

Sec. 23. Minnesota Statutes 2020, section 256P.04, subdivision 8, is amended to read:

Subd. 8. **Recertification.** The agency shall recertify eligibility ~~in an annual interview with the participant. The interview may be conducted by telephone, by Internet telepresence, or face to face in the county office or in another location mutually agreed upon. A participant must be given the option of a telephone interview or Internet telepresence to recertify eligibility annually.~~ During the interview recertification, the agency shall verify the following:

- (1) income, unless excluded, including self-employment earnings;
- (2) assets when the value is within \$200 of the asset limit; and
- (3) inconsistent information, if related to eligibility.

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

Sec. 24. Minnesota Statutes 2020, section 256P.05, is amended to read:

**256P.05 SELF-EMPLOYMENT EARNINGS.**

Subdivision 1. **Exempted programs.** Participants who qualify for ~~child care assistance programs under chapter 119B, Minnesota supplemental aid under chapter 256D, and housing support under chapter 256I on the basis of eligibility for Supplemental Security Income are exempt from this section. Participants who qualify for child care assistance programs under chapter 119B are exempt from subdivision 3.~~

Subd. 2. **Self-employment income determinations.** Applicants and participants must choose one of the methods described in this subdivision for determining self-employment earned income. An agency must determine self-employment income, which is either:

- (1) one-half of gross earnings from self-employment; or
- (2) taxable income as determined from an Internal Revenue Service tax form that has been filed with the Internal Revenue Service ~~within the last~~ for the most recent year and according to guidance provided for the Supplemental Nutrition Assistance Program. A 12-month average using ~~net~~ taxable income shall be used to budget monthly income.

Subd. 3. **Self-employment budgeting.** (a) The self-employment budget period begins in the month of application or in the first month of self-employment. ~~Applicants and participants must choose one of the methods described in subdivision 2 for determining self-employment earned income.~~

(b) Applicants and participants who elect to use taxable income as described in subdivision 2, clause (2), to determine self-employment income must continue to use this method until recertification, unless there is an unforeseen significant change in gross income equaling a decline in gross income of the amount equal to or greater than the earned income disregard as defined in section 256P.03 from the income used to determine the benefit for the current month.

(c) For applicants and participants who elect to use one-half of gross earnings as described in subdivision 2, clause (1), to determine self-employment income, earnings must be counted as income in the month received.

**EFFECTIVE DATE.** This section is effective May 1, 2022.

Sec. 25. Minnesota Statutes 2020, section 256P.06, subdivision 2, is amended to read:

Subd. 2. **~~Exempted individuals~~ Exemptions.** (a) The following members of an assistance unit under chapters 119B and 256J are exempt from having their earned income count ~~towards~~ toward the income of an assistance unit:

- (1) children under six years old;
- (2) caregivers under 20 years of age enrolled at least half-time in school; and
- (3) minors enrolled in school full time.

(b) The following members of an assistance unit are exempt from having their earned and unearned income count ~~towards~~ toward the income of an assistance unit for 12 consecutive calendar months, beginning the month following the marriage date, for benefits under chapter 256J if the household income does not exceed 275 percent of the federal poverty guideline:

- (1) a new spouse to a caretaker in an existing assistance unit; and
- (2) the spouse designated by a newly married couple, both of whom were already members of an assistance unit under chapter 256J.

(c) If members identified in paragraph (b) also receive assistance under section 119B.05, they are exempt from having their earned and unearned income count ~~towards~~ toward the income of the assistance unit if the household income prior to the exemption does not exceed 67 percent of the state median income for recipients for 26 consecutive biweekly periods beginning the second biweekly period after the marriage date.

(d) For individuals who are members of an assistance unit under chapters 256I and 256J, the assistance standard effective in January 2020 for a household of one under chapter 256J shall be counted as income under chapter 256I, and any subsequent increases to unearned income under chapter 256J shall be exempt.

Sec. 26. Minnesota Statutes 2020, section 256P.06, subdivision 3, is amended to read:

Subd. 3. **Income inclusions.** The following must be included in determining the income of an assistance unit:

- (1) earned income; and
- (2) unearned income, which includes:
  - (i) interest and dividends from investments and savings;
  - (ii) capital gains as defined by the Internal Revenue Service from any sale of real property;
  - (iii) proceeds from rent and contract for deed payments in excess of the principal and interest portion owed on property;

- (iv) income from trusts, excluding special needs and supplemental needs trusts;
- (v) interest income from loans made by the participant or household;
- (vi) cash prizes and winnings;
- (vii) unemployment insurance income that is received by an adult member of the assistance unit unless the individual receiving unemployment insurance income is:
  - (A) 18 years of age and enrolled in a secondary school; or
  - (B) 18 or 19 years of age, a caregiver, and is enrolled in school at least half-time;
- (viii) retirement, survivors, and disability insurance payments;
- (ix) ~~nonrecurring income over \$60 per quarter unless earmarked and used for the purpose for which it is intended. Income and use of this income is subject to verification requirements under section 256P.04~~ the nonrecurring income is: (A) from tax refunds, tax rebates, or tax credits; (B) a reimbursement, rebate, award, grant, or refund of personal or real property or costs or losses incurred when these payments are made by: a public agency; a court; solicitations through public appeal; a federal, state, or local unit of government; or a disaster assistance organization; (C) provided as an in-kind benefit; or (D) earmarked and used for the purpose for which it was intended, subject to verification requirements under section 256P.04;
- (x) retirement benefits;
- (xi) cash assistance benefits, as defined by each program in chapters 119B, 256D, 256I, and 256J;
- (xii) tribal per capita payments unless excluded by federal and state law;
- (xiii) income and payments from service and rehabilitation programs that meet or exceed the state's minimum wage rate;
- (xiv) income from members of the United States armed forces unless excluded from income taxes according to federal or state law;
- (xv) all child support payments for programs under chapters 119B, 256D, and 256I;
- (xvi) the amount of child support received that exceeds \$100 for assistance units with one child and \$200 for assistance units with two or more children for programs under chapter 256J; ~~and~~
- (xvii) spousal support; and
- (xviii) workers' compensation.

**EFFECTIVE DATE.** This section is effective August 1, 2021, except the amendment to clause (2), item (vii), is effective the day following final enactment.

Sec. 27. Laws 2020, First Special Session chapter 7, section 1, as amended by Laws 2020, Third Special Session chapter 1, section 3, is amended by adding a subdivision to read:

**Subd. 6. Waivers and modifications; extension to December 31, 2021.** When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, the following waivers and modifications to human services programs issued by the commissioner of human services, including any amendments to the waivers or modifications issued before

the peacetime emergency expires, shall remain in effect through December 31, 2021, unless necessary federal approval is not received at any time for a waiver or modification:

(1) Executive Orders 20-42, 21-03, and 21-15: ensuring that emergency economic relief does not prevent eligibility for essential human services programs; and

(2) CV.04.A.4: cash assistance, modifying the interview requirement for recertifications of eligibility, issued by the commissioner of human services pursuant to Executive Order 20-12.

**EFFECTIVE DATE.** This section is effective the day following final enactment or retroactively from the date that the peacetime emergency declared by the governor in response to the COVID-19 outbreak ends, whichever is earlier.

**Sec. 28. DIRECTION TO COMMISSIONER; LONG-TERM HOMELESS SUPPORTIVE SERVICES REPORT.**

(a) No later than January 15, 2023, the commissioner of human services shall produce information which shows the projects funded under Minnesota Statutes, section 256K.26, and make this information available on the Department of Human Services website.

(b) This information must be updated annually for two additional years and the commissioner must make this information available on the Department of Human Services website by January 15, 2024, and January 15, 2025, respectively.

**Sec. 29. 2022 REPORT TO LEGISLATURE ON RUNAWAY AND HOMELESS YOUTH.**

**Subdivision 1. Report development.** The commissioner of human services is exempt from preparing the report required under Minnesota Statutes, section 256K.45, subdivision 2, in 2023 and shall instead update the information in the 2007 legislative report on runaway and homeless youth. In developing the updated report, the commissioner must use existing data, studies, and analysis provided by state, county, and other entities including:

(1) Minnesota Housing Finance Agency analysis on housing availability;

(2) the Minnesota state plan to end homelessness;

(3) the continuum of care counts of youth experiencing homelessness and assessments as provided by Department of Housing and Urban Development (HUD) required coordinated entry systems;

(4) the biannual Department of Human Services report on the Homeless Youth Act;

(5) the Wilder Research homeless study;

(6) the Voices of Youth Count sponsored by Hennepin County; and

(7) privately funded analysis, including:

(i) nine evidence-based principles to support youth in overcoming homelessness;

(ii) the return on investment analysis conducted for YouthLink by Foldes Consulting; and

(iii) the evaluation of Homeless Youth Act resources conducted by Rainbow Research.

Subd. 2. **Key elements; due date.** (a) The report must include three key elements where significant learning has occurred in the state since the 2007 report, including:

(1) the unique causes of youth homelessness;

(2) targeted responses to youth homelessness, including the significance of positive youth development as fundamental to each targeted response; and

(3) recommendations based on existing reports and analysis on how to end youth homelessness.

(b) To the extent that data is available, the report must include:

(1) a general accounting of the federal and philanthropic funds leveraged to support homeless youth activities;

(2) a general accounting of the increase in volunteer responses to support youth experiencing homelessness; and

(3) a data-driven accounting of geographic areas or distinct populations that have gaps in service or are not yet served by homeless youth responses.

(c) The commissioner of human services shall consult with and incorporate the expertise of community-based providers of homeless youth services and other expert stakeholders to complete the report. The commissioner shall submit the report to the chairs and ranking minority members of the legislative committees with jurisdiction over youth homelessness by December 15, 2022.

Sec. 30. **REPEALER.**

Minnesota Statutes 2020, sections 256D.051, subdivisions 1, 1a, 2, 2a, 3, 3a, 3b, 6b, 6c, 7, 8, 9, and 18; 256D.052, subdivision 3; 256J.21, subdivisions 1 and 2; and 259A.70, are repealed.

**EFFECTIVE DATE.** This section is effective August 1, 2021, except that the repeal of Minnesota Statutes, section 259A.70, is effective July 1, 2021.

## ARTICLE 8

### CHILD CARE ASSISTANCE

Section 1. Minnesota Statutes 2020, section 119B.03, is amended by adding a subdivision to read:

Subd. 4a. **Temporary reprioritization.** (a) Notwithstanding subdivision 4, priority for child care assistance under the basic sliding fee assistance program shall be determined according to this subdivision beginning July 1, 2021, through May 31, 2024.

(b) First priority must be given to eligible non-MFIP families who do not have a high school diploma or commissioner of education-selected high school equivalency certification or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. This includes student parents as defined under section 119B.011, subdivision 19b. Within this priority, the following subpriorities must be used:

(1) child care needs of minor parents;

(2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

(c) Second priority must be given to families in which at least one parent is a veteran, as defined under section 197.447.

(d) Third priority must be given to eligible families who do not meet the specifications of paragraph (b), (c), (e), or (f).

(e) Fourth priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(f) Fifth priority must be given to eligible families receiving services under section 119B.011, subdivision 20a, if the parents have completed their MFIP or DWP transition year, or if the parents are no longer receiving or eligible for DWP supports.

(g) Families under paragraph (f) must be added to the basic sliding fee waiting list on the date they complete their transition year under section 119B.011, subdivision 20.

Sec. 2. Minnesota Statutes 2020, section 119B.03, subdivision 6, is amended to read:

Subd. 6. **Allocation formula.** The allocation component of basic sliding fee state and federal funds shall be allocated on a calendar year basis. Funds shall be allocated first in amounts equal to each county's guaranteed floor according to subdivision 8, with any remaining available funds allocated according to the following formula:

(a) One-fourth of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

(b) Up to one-fourth of the funds shall be allocated in proportion to the number of families participating in the transition year child care program as reported during and averaged over the most recent six months completed at the time of the notice of allocation. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph ~~(f)~~ (e).

~~(e) Up to one-fourth of the funds shall be allocated in proportion to the average of each county's most recent six months of reported first, second, and third priority waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).~~

~~(d)~~ (c) Up to ~~one-fourth~~ one-half of the funds shall be allocated in proportion to the average of each county's most recent ~~six~~ 12 months of reported waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph ~~(f)~~ (e).

~~(e)~~ (d) The amount necessary to serve all families in paragraphs (b), ~~(e)~~, and ~~(d)~~ (c) shall be calculated based on the basic sliding fee average cost of care per family in the county with the highest cost in the most recently completed calendar year.

~~(f)~~ (e) Funds in excess of the amount necessary to serve all families in paragraphs (b), ~~(e)~~, and ~~(d)~~ (c) shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

**EFFECTIVE DATE.** This section is effective January 1, 2022. The 2022 calendar year shall be a phase-in year for the allocation formula in this section using phase-in provisions determined by the commissioner of human services.

Sec. 3. Minnesota Statutes 2020, section 119B.11, subdivision 2a, is amended to read:

Subd. 2a. **Recovery of overpayments.** (a) An amount of child care assistance paid to a recipient or provider in excess of the payment due is recoverable by the county agency or commissioner under paragraphs (b) and ~~(e)~~ (e), even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider. Overpayments designated solely as agency error, and not the result of acts or omissions on the part of a provider or recipient, must not be established or collected.

(b) An overpayment must be recouped or recovered from the family if the overpayment benefited the family by causing the family to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements. The recoupment or recovery shall proceed as follows:

(1) if the family remains eligible for child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part 3400.0187, except that the overpayments must be calculated and collected on a service period basis;

(2) if the family no longer remains eligible for child care assistance and the overpayments were the result of fraud under section 256.98 or 256.046, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent receipt of benefits for a program administered by the county or commissioner, the county or commissioner shall seek voluntary repayment from the family and shall initiate civil court proceedings to recover the overpayment if the county or commissioner is unable to recoup the overpayment through voluntary repayment;

(3) if the family no longer remains eligible for child care assistance, the overpayments were not the result of fraud, theft, or a federal crime as described in clause (2), and the overpayment is less than \$50, the county or commissioner may choose to initiate efforts to recover overpayments from the family for overpayment less than \$50. If the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment; or

(4) if the family no longer remains eligible for child care assistance, the overpayments were not the result of fraud, theft, or a federal crime as described in clause (2), and the overpayment is greater than or equal to \$50, the county or commissioner shall seek voluntary repayment of the overpayment from the family. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment.

(c) The commissioner's authority to recoup and recover overpayments from families in paragraph (b) is limited to investigations conducted under chapter 245E.

(d) A family with an outstanding debt under this subdivision is not eligible for child care assistance until:

(1) the debt is paid in full; ~~or~~

(2) satisfactory arrangements are made with the county or commissioner to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with the arrangements; or

(3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

~~(e)~~ (e) The county or commissioner must recover an overpayment from a provider if the overpayment did not benefit the family by causing it to receive more child care assistance or to pay less for child care expenses than the family otherwise would have been eligible to receive or required to pay under child care assistance program requirements, and benefited the provider by causing the provider to receive more child care assistance than otherwise would have been paid on the family's behalf under child care assistance program requirements. The recovery shall proceed as follows:

(1) if the provider continues to care for children receiving child care assistance, the overpayment must be recovered through reductions in child care assistance payments for services as described in an agreement with the county. recoupment as identified in Minnesota Rules, part 3400.0187, and the provider may not charge families using that provider more to cover the cost of recouping the overpayment;

(2) if the provider no longer cares for children receiving child care assistance and the overpayment was the result of fraud under section 256.98 or 256.046, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent billing for a program administered by the county or commissioner, the county or commissioner shall seek voluntary repayment from the provider and shall initiate civil court proceedings to recover the overpayment if the county or commissioner is unable to recoup the overpayment through voluntary repayment;

(3) if the provider no longer cares for children receiving child care assistance, the overpayment was not the result of fraud, theft, or a federal crime as described under clause (2), and the overpayment is less than \$50, the county or commissioner may choose to initiate efforts to recover overpayments of less than \$50 from the provider. If the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the provider. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. the overpayment; or

(4) if the provider no longer cares for children receiving child care assistance, the overpayment was not the result of fraud, theft, or a federal crime as described under clause (2), and the overpayment is greater than or equal to \$50, the county or commissioner shall seek voluntary repayment of the overpayment from the provider. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment.

(f) A provider with an outstanding debt under this subdivision is not eligible to care for children receiving child care assistance until:

(1) the debt is paid in full; ~~or~~



(2) satisfactory arrangements are made with the county or commissioner to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the provider is in compliance with the arrangements; or

(3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

~~(d)~~ (g) When both the family and the provider acted together to intentionally cause the overpayment, both the family and the provider are jointly liable for the overpayment regardless of who benefited from the overpayment. The county or commissioner must recover the overpayment as provided in paragraphs (b) and ~~(e)~~ (e). When the family or the provider is in compliance with a repayment agreement, the party in compliance is eligible to receive child care assistance or to care for children receiving child care assistance despite the other party's noncompliance with repayment arrangements.

(h) Neither a county agency nor the commissioner shall recover an overpayment from a family or a provider that occurred more than six years before the county or the commissioner determined the amount of the overpayment. This paragraph does not apply to overpayments that are the result of fraud under section 256.046 or 256.98, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent receipt of benefits.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 4. Minnesota Statutes 2020, 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.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 5. Minnesota Statutes 2020, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. **Subsidy restrictions.** (a) Beginning November 15, 2021, the maximum rate paid for child care assistance in any county or county price cluster under the child care fund shall be:

(1) for all infants and toddlers, the greater of the 25<sup>th</sup> 40<sup>th</sup> percentile of the 2018 2021 child care provider rate survey or the rates in effect at the time of the update; and

(2) for all preschool and school-age children, the greater of the 30<sup>th</sup> percentile of the 2021 child care provider rate survey or the rates in effect at the time of the update.

(b) Beginning the first full service period on or after January 1, 2025, the maximum rate paid for child care assistance in a county or county price cluster under the child care fund shall be:

(1) for all infants and toddlers, the greater of the 40th percentile of the 2024 child care provider rate survey or the rates in effect at the time of the update; and

(2) for all preschool and school-age children, the greater of the 30th percentile of the 2024 child care provider rate survey or the rates in effect at the time of the update.

The rates under paragraph (a) continue until the rates under this paragraph go into effect.

(c) For a child care provider located within the boundaries of a city located in two or more of the counties of Benton, Sherburne, and Stearns, the maximum rate paid for child care assistance shall be equal to the maximum rate paid in the county with the highest maximum reimbursement rates or the provider's charge, whichever is less. The commissioner may: (1) assign a county with no reported provider prices to a similar price cluster; and (2) consider county level access when determining final price clusters.

~~(b)~~ (d) A rate which includes a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision.

~~(e)~~ (e) The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and disability care.

~~(f)~~ (f) If a child uses one provider, the maximum payment for one day of care must not exceed the daily rate. The maximum payment for one week of care must not exceed the weekly rate.

~~(g)~~ (g) If a child uses two providers under section 119B.097, the maximum payment must not exceed:

(1) the daily rate for one day of care;

(2) the weekly rate for one week of care by the child's primary provider; and

(3) two daily rates during two weeks of care by a child's secondary provider.

~~(h)~~ (h) Child care providers receiving reimbursement under this chapter must not be paid activity fees or an additional amount above the maximum rates for care provided during nonstandard hours for families receiving assistance.

~~(i)~~ (i) If the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

~~(h) All maximum provider rates changes shall be implemented on the Monday following the effective date of the maximum provider rate.~~

~~(i) Beginning September 21, 2020;~~ (j) The maximum registration fee paid for child care assistance in any county or county price cluster under the child care fund shall be set as follows: (1) beginning November 15, 2021, the greater of the 25th 40th percentile of the 2018 2021 child care provider rate survey or the registration fee in effect at the time of the update; and (2) beginning the first full service period on or after January 1, 2025, the maximum registration fee shall be the greater of the 40th percentile of the 2024 child care provider rate survey or the registration fee in effect at the time of the update. The registration fees under clause (1) continue until the registration fees under clause (2) go into effect.

(k) Maximum registration fees must be set for licensed family child care and for child care centers. For a child care provider located in the boundaries of a city located in two or more of the counties of Benton,

Sherburne, and Stearns, the maximum registration fee paid for child care assistance shall be equal to the maximum registration fee paid in the county with the highest maximum registration fee or the provider's charge, whichever is less.

**EFFECTIVE DATE.** This section is effective November 15, 2021.

Sec. 6. Minnesota Statutes 2020, section 119B.13, subdivision 1a, is amended to read:

Subd. 1a. **Legal nonlicensed family child care provider rates.** (a) Legal nonlicensed family child care providers receiving reimbursement under this chapter must be paid on an hourly basis for care provided to families receiving assistance.

(b) The maximum rate paid to legal nonlicensed family child care providers must be ~~68~~ 90 percent of the county maximum hourly rate for licensed family child care providers. In counties or county price clusters where the maximum hourly rate for licensed family child care providers is higher than the maximum weekly rate for those providers divided by 50, the maximum hourly rate that may be paid to legal nonlicensed family child care providers is the rate equal to the maximum weekly rate for licensed family child care providers divided by 50 and then multiplied by ~~0.68~~ 0.90. The maximum payment to a provider for one day of care must not exceed the maximum hourly rate times ten. The maximum payment to a provider for one week of care must not exceed the maximum hourly rate times 50.

(c) A rate which includes a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision.

(d) Legal nonlicensed family child care providers receiving reimbursement under this chapter may not be paid registration fees for families receiving assistance.

**EFFECTIVE DATE.** This section is effective November 15, 2021.

Sec. 7. Minnesota Statutes 2020, section 119B.13, subdivision 6, is amended to read:

Subd. 6. **Provider payments.** (a) A provider shall bill only for services documented according to section 119B.125, subdivision 6. The provider shall bill for services provided within ten days of the end of the service period. Payments under the child care fund shall be made within 21 days of receiving a complete bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(b) If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A bill submitted more than 60 days after the last date of service must be paid if the county determines that the provider has shown good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. Any bill submitted more than a year after the last date of service on the bill must not be paid.

(c) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of ~~six~~ three months from the date the provider is issued an authorization of care and billing form. For a family at application, if a provider provided child care during a time period without receiving an authorization of care and a billing form, a county may only make child care assistance payments to the provider retroactively from the date that child care began, or from the date that the family's eligibility began under section 119B.09,

subdivision 7, or from the date that the family meets authorization requirements, not to exceed six months from the date that the provider is issued an authorization of care and billing form, whichever is later.

(d) A county or the commissioner may refuse to issue a child care authorization to a certified, licensed, or legal nonlicensed provider, revoke an existing child care authorization to a certified, licensed, or legal nonlicensed provider, stop payment issued to a certified, licensed, or legal nonlicensed provider, or refuse to pay a bill submitted by a certified, licensed, or legal nonlicensed provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms;

(2) a county or the commissioner finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms, or provided false attendance records to a county or the commissioner;

(3) the provider is in violation of child care assistance program rules, until the agency determines those violations have been corrected;

(4) the provider is operating after:

(i) an order of suspension of the provider's license issued by the commissioner;

(ii) an order of revocation of the provider's license issued by the commissioner; or

(iii) ~~a final order of conditional license issued by the commissioner for as long as the conditional license is in effect~~ an order of decertification issued to the provider;

(5) the provider submits false attendance reports or refuses to provide documentation of the child's attendance upon request;

(6) the provider gives false child care price information; or

(7) the provider fails to report decreases in a child's attendance as required under section 119B.125, subdivision 9.

(e) For purposes of paragraph (d), clauses (3), (5), (6), and (7), the county or the commissioner may withhold the provider's authorization or payment for a period of time not to exceed three months beyond the time the condition has been corrected.

(f) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

(g) If the commissioner or responsible county agency suspends or refuses payment to a provider under paragraph (d), clause (1) or (2), or chapter 245E and the provider has:

(1) a disqualification for wrongfully obtaining assistance under section 256.98, subdivision 8, paragraph (c);

(2) an administrative disqualification under section 256.046, subdivision 3; or

(3) a termination under section 245E.02, subdivision 4, paragraph (c), clause (4), or 245E.06;

then the provider forfeits the payment to the commissioner or the responsible county agency, regardless of the amount assessed in an overpayment, charged in a criminal complaint, or ordered as criminal restitution.

**EFFECTIVE DATE.** The amendments to paragraph (c) are effective July 1, 2021. The amendments to paragraphs (d) and (g) are effective August 1, 2021.

Sec. 8. Minnesota Statutes 2020, section 119B.13, subdivision 7, is amended to read:

Subd. 7. **Absent days.** (a) Licensed child care providers and license-exempt centers must not be reimbursed for more than 25 full-day absent days per child, excluding holidays, in a calendar year, or for more than ten consecutive full-day absent days. "Absent day" means any day that the child is authorized and scheduled to be in care with a licensed provider or license-exempt center, and the child is absent from the care for the entire day. Legal nonlicensed family child care providers must not be reimbursed for absent days. If a child attends for part of the time authorized to be in care in a day, but is absent for part of the time authorized to be in care in that same day, the absent time must be reimbursed but the time must not count toward the absent days limit. Child care providers must only be reimbursed for absent days if the provider has a written policy for child absences and charges all other families in care for similar absences.

(b) Notwithstanding paragraph (a), children with documented medical conditions that cause more frequent absences may exceed the 25 absent days limit, or ten consecutive full-day absent days limit. Absences due to a documented medical condition of a parent or sibling who lives in the same residence as the child receiving child care assistance do not count against the absent days limit in a calendar year. Documentation of medical conditions must be on the forms and submitted according to the timelines established by the commissioner. A public health nurse or school nurse may verify the illness in lieu of a medical practitioner. If a provider sends a child home early due to a medical reason, including, but not limited to, fever or contagious illness, the child care center director or lead teacher may verify the illness in lieu of a medical practitioner.

(c) Notwithstanding paragraph (a), children in families may exceed the absent days limit if at least one parent: (1) is under the age of 21; (2) does not have a high school diploma or commissioner of education-selected high school equivalency certification; and (3) is a student in a school district or another similar program that provides or arranges for child care, parenting support, social services, career and employment supports, and academic support to achieve high school graduation, upon request of the program and approval of the county. If a child attends part of an authorized day, payment to the provider must be for the full amount of care authorized for that day.

(d) Child care providers must be reimbursed for up to ten federal or state holidays or designated holidays per year when the provider charges all families for these days and the holiday or designated holiday falls on a day when the child is authorized to be in attendance. Parents may substitute other cultural or religious holidays for the ten recognized state and federal holidays. Holidays do not count toward the absent days limit.

(e) A family ~~or child care provider~~ must not be assessed an overpayment for an absent day payment unless (1) there was an error in the amount of care authorized for the family, or (2) all of the allowed full-day absent payments for the child have been paid, ~~or (3) the family or provider did not timely report a change as required under law.~~

(f) The provider and family shall receive notification of the number of absent days used upon initial provider authorization for a family and ongoing notification of the number of absent days used as of the date of the notification.

(g) For purposes of this subdivision, "absent days limit" means 25 full-day absent days per child, excluding holidays, in a calendar year; and ten consecutive full-day absent days.

(h) For purposes of this subdivision, "holidays limit" means ten full-day holidays per child, excluding absent days, in a calendar year.

(i) If a day meets the criteria of an absent day or a holiday under this subdivision, the provider must bill that day as an absent day or holiday. A provider's failure to properly bill an absent day or a holiday results in an overpayment, regardless of whether the child reached, or is exempt from, the absent days limit or holidays limit for the calendar year.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 9. Minnesota Statutes 2020, section 119B.25, is amended to read:

**119B.25 CHILD CARE IMPROVEMENT GRANTS.**

Subdivision 1. **Purpose.** The purpose of this section is to enhance and expand child care sites, to encourage private investment in child care and early childhood education sites, to promote availability of quality, affordable child care throughout Minnesota, and to provide for cooperation between private nonprofit child care organizations, family child care and center providers and the department.

Subd. 2. **Grants.** (a) The commissioner shall distribute money provided by this section through a grant grants to a one or more nonprofit corporation organized corporations to plan, develop, and finance early childhood education and child care sites. The A nonprofit corporation must have demonstrated the ability to analyze financing projects, have knowledge of other sources of public and private financing for child care and early childhood education sites, and have a relationship with regional resource and referral programs. The board of directors of the a nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing.

(b) The commissioners of the Departments of Human Services and, Employment and Economic Development, and the commissioner of the Housing Finance Agency shall advise the board on the boards of any nonprofit corporations that use the grant money provided under this section for loan program programs as described in subdivision 3, paragraph (a), clauses (1) to (4). The grant must be used to make loans to improve child care or early childhood education sites, or loans to plan, design, and construct or expand licensed and legal unlicensed sites to increase the availability of child care or early childhood education. All loans made by the a nonprofit corporation under this section must comply with section 363A.16.

Subd. 3. **Financing program.** (a) A nonprofit corporation that receives a grant under this section shall use the money to for one or more of the following activities:

(1) to establish a revolving loan fund to make loans to existing, expanding, and new licensed and legal unlicensed child care and early childhood education sites;

(2) to establish a fund to guarantee private loans to improve or construct a child care or early childhood education site;

(3) to establish a fund to provide forgivable loans or grants to match all or part of a loan made under this section;

(4) to establish a fund as a reserve against bad debt; and

(5) establish a fund to provide business planning assistance for child care providers;

(6) to provide training and consultation for child care providers to build and strengthen their businesses and acquire key business skills; and

(7) to provide grants to child care providers for facility improvements, minor renovations, and related equipment and services, including assistance to meet licensing requirements, needed to establish, maintain, or expand licensed and legal unlicensed child care and early childhood education sites.

~~The~~ (b) A nonprofit corporation establishing loans under this section shall establish the terms and conditions for loans and loan guarantees including, but not limited to, interest rates, repayment agreements, private match requirements, and conditions for loan forgiveness. ~~The~~ A nonprofit corporation shall establish a minimum interest rate for loans to ensure that necessary loan administration costs are covered. ~~The~~ A nonprofit corporation may use interest earnings for administrative expenses.

Subd. 4. **Reporting.** A nonprofit corporation that receives a grant under this section shall:

(1) annually report by September 30 to the commissioner the purposes for which the grant money was used in the past fiscal year, including a description of projects supported by the financing, an account of loans and grants made ~~during the calendar year~~, the financing program's assets and liabilities, and an explanation of administrative expenses; and

(2) annually submit to the commissioner a copy of the report of an independent audit performed in accordance with generally accepted accounting practices and auditing standards.

Sec. 10. Minnesota Statutes 2020, section 245E.07, subdivision 1, is amended to read:

Subdivision 1. **Grounds for and methods of monetary recovery.** (a) The department may obtain monetary recovery from a provider who has been improperly paid by the child care assistance program, regardless of whether the error was intentional ~~or county error~~. Overpayments designated solely as agency error, and not the result of acts or omissions on the part of a provider or recipient, must not be established or collected. The department does not need to establish a pattern as a precondition of monetary recovery of erroneous or false billing claims, duplicate billing claims, or billing claims based on false statements or financial misconduct.

(b) The department shall obtain monetary recovery from providers by the following means:

- (1) permitting voluntary repayment of money, either in lump-sum payment or installment payments;
- (2) using any legal collection process;
- (3) deducting or withholding program payments; or
- (4) utilizing the means set forth in chapter 16D.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

**Sec. 11. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FEDERAL FUND AND CHILD CARE AND DEVELOPMENT BLOCK GRANT ALLOCATIONS.**

(a) The commissioner of human services shall allocate \$1,500,000 in fiscal year 2022 from the federal fund to award grants to community-based organizations working with family, friend, and neighbor caregivers, with a particular emphasis on such caregivers serving children from low-income families, families of color, Tribal communities, or families with limited English language proficiency, to promote healthy development, social-emotional learning, early literacy, and school readiness.

(b) The commissioner of human services shall allocate \$13,500,000 in fiscal year 2022 from the federal fund and \$9,000,000 in fiscal year 2022 from the child care and development block grant for grants under Minnesota Statutes, section 119B.25, subdivision 3, paragraph (a), clause (7).

(c) The commissioner of human services shall allocate \$1,500,000 in fiscal year 2022 from the federal fund and \$1,500,000 in fiscal year 2022 from the child care and development block grant for workforce development grants to organizations operating child care resource and referral programs under Minnesota Statutes, section 119B.19, to provide economically challenged individuals the jobs skills training, career counseling, and job placement assistance necessary to begin a career path in child care. By January 1, 2024, the commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over early care and education the outcomes of the grant program, including the effects on the child care workforce.

(d) The commissioner of human services shall allocate \$3,000,000 in fiscal year 2022 from the federal fund for business training grants under Minnesota Statutes, section 119B.25, subdivision 3, paragraph (a), clause (6).

(e) The commissioner of human services shall allocate \$35,444,000 in fiscal year 2022, \$66,398,000 in fiscal year 2023, \$81,755,000 in fiscal year 2024, and \$57,737,000 in fiscal year 2025 from the child care and development block grant for rate and registration fee increases under Minnesota Statutes, section 119B.13, subdivision 1, paragraphs (a) and (h), including amounts for reprioritization of the basic sliding fee waiting list under Minnesota Statutes, section 119B.03, subdivision 4a, amounts for additional funding for the basic sliding fee child care assistance program under Minnesota Statutes, section 119B.03, and amounts to increase child care assistance rates for legal, nonlicensed family child care providers under Minnesota Statutes, section 119B.13, subdivision 1a. The commissioner may not increase the rate differential percentage established under Minnesota Statutes, section 119B.13, subdivision 3a or 3b. If increased federal discretionary child care development block grant funding is used to pay for the rate increase in this clause, the commissioner, in consultation with the commissioner of management and budget, may adjust the amount of working family credit expenditures as needed to meet the state's maintenance of effort requirements for the TANF block grant.

(f) The allocations in this section are available until June 30, 2025.

#### Sec. 12. **REPEALER.**

Minnesota Statutes 2020, section 119B.125, subdivision 5, is repealed effective August 1, 2021.

### ARTICLE 9

#### CHILD PROTECTION

Section 1. Minnesota Statutes 2020, section 256N.25, subdivision 2, is amended to read:

Subd. 2. **Negotiation of agreement.** (a) When a child is determined to be eligible for Northstar kinship assistance or adoption assistance, the financially responsible agency, or, if there is no financially responsible agency, the agency designated by the commissioner, must negotiate with the caregiver to develop an agreement under subdivision 1. If and when the caregiver and agency reach concurrence as to the terms of the agreement, both parties shall sign the agreement. The agency must submit the agreement, along with the eligibility determination outlined in sections 256N.22, subdivision 7, and 256N.23, subdivision 7, to the commissioner for final review, approval, and signature according to subdivision 1.



(b) A monthly payment is provided as part of the adoption assistance or Northstar kinship assistance agreement to support the care of children unless the child is eligible for adoption assistance and determined to be an at-risk child, in which case no payment will be made unless and until the caregiver obtains written documentation from a qualified expert that the potential disability upon which eligibility for the agreement was based has manifested itself.

(1) The amount of the payment made on behalf of a child eligible for Northstar kinship assistance or adoption assistance is determined through agreement between the prospective relative custodian or the adoptive parent and the financially responsible agency, or, if there is no financially responsible agency, the agency designated by the commissioner, using the assessment tool established by the commissioner in section 256N.24, subdivision 2, and the associated benefit and payments outlined in section 256N.26. Except as provided under section 256N.24, subdivision 1, paragraph (c), the assessment tool establishes the monthly benefit level for a child under foster care. The monthly payment under a Northstar kinship assistance agreement or adoption assistance agreement may be negotiated up to the monthly benefit level under foster care. In no case may the amount of the payment under a Northstar kinship assistance agreement or adoption assistance agreement exceed the foster care maintenance payment which would have been paid during the month if the child with respect to whom the Northstar kinship assistance or adoption assistance payment is made had been in a foster family home in the state.

(2) The rate schedule for the agreement is determined based on the age of the child on the date that the prospective adoptive parent or parents or relative custodian or custodians sign the agreement.

(3) The income of the relative custodian or custodians or adoptive parent or parents must not be taken into consideration when determining eligibility for Northstar kinship assistance or adoption assistance or the amount of the payments under section 256N.26.

(4) With the concurrence of the relative custodian or adoptive parent, the amount of the payment may be adjusted periodically using the assessment tool established by the commissioner in section 256N.24, subdivision 2, and the agreement renegotiated under subdivision 3 when there is a change in the child's needs or the family's circumstances.

(5) An adoptive parent of an at-risk child with an adoption assistance agreement may request a reassessment of the child under section 256N.24, subdivision 10, and renegotiation of the adoption assistance agreement under subdivision 3 to include a monthly payment, if the caregiver has written documentation from a qualified expert that the potential disability upon which eligibility for the agreement was based has manifested itself. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner.

(c) For Northstar kinship assistance agreements:

(1) the initial amount of the monthly Northstar kinship assistance payment must be equivalent to the foster care rate in effect at the time that the agreement is signed ~~less any offsets under section 256N.26, subdivision 11~~, or a lesser negotiated amount if agreed to by the prospective relative custodian and specified in that agreement, unless the Northstar kinship assistance agreement is entered into when a child is under the age of six; and

(2) the amount of the monthly payment for a Northstar kinship assistance agreement for a child who is under the age of six must be as specified in section 256N.26, subdivision 5.

(d) For adoption assistance agreements:

(1) for a child in foster care with the prospective adoptive parent immediately prior to adoptive placement, the initial amount of the monthly adoption assistance payment must be equivalent to the foster care rate in effect at the time that the agreement is signed ~~less any offsets in section 256N.26, subdivision 11,~~ or a lesser negotiated amount if agreed to by the prospective adoptive parents and specified in that agreement, unless the child is identified as at-risk or the adoption assistance agreement is entered into when a child is under the age of six;

(2) for an at-risk child who must be assigned level A as outlined in section 256N.26, no payment will be made unless and until the potential disability manifests itself, as documented by an appropriate professional, and the commissioner authorizes commencement of payment by modifying the agreement accordingly;

(3) the amount of the monthly payment for an adoption assistance agreement for a child under the age of six, other than an at-risk child, must be as specified in section 256N.26, subdivision 5;

(4) for a child who is in the Northstar kinship assistance program immediately prior to adoptive placement, the initial amount of the adoption assistance payment must be equivalent to the Northstar kinship assistance payment in effect at the time that the adoption assistance agreement is signed or a lesser amount if agreed to by the prospective adoptive parent and specified in that agreement, unless the child is identified as an at-risk child; and

(5) for a child who is not in foster care placement or the Northstar kinship assistance program immediately prior to adoptive placement or negotiation of the adoption assistance agreement, the initial amount of the adoption assistance agreement must be determined using the assessment tool and process in this section and the corresponding payment amount outlined in section 256N.26.

Sec. 2. Minnesota Statutes 2020, section 256N.25, subdivision 3, is amended to read:

Subd. 3. **Renegotiation of agreement.** (a) A relative custodian or adoptive parent of a child with a Northstar kinship assistance or adoption assistance agreement may request renegotiation of the agreement when there is a change in the needs of the child or in the family's circumstances. When a relative custodian or adoptive parent requests renegotiation of the agreement, a reassessment of the child must be completed consistent with section 256N.24, subdivisions 10 and 11. If the reassessment indicates that the child's level has changed, the financially responsible agency or, if there is no financially responsible agency, the agency designated by the commissioner or the commissioner's designee, and the caregiver must renegotiate the agreement to include a payment with the level determined through the reassessment process. The agreement must not be renegotiated unless the commissioner, the financially responsible agency, and the caregiver mutually agree to the changes. The effective date of any renegotiated agreement must be determined by the commissioner.

(b) An adoptive parent of an at-risk child with an adoption assistance agreement may request renegotiation of the agreement to include a monthly payment under section 256N.26 if the caregiver has written documentation from a qualified expert that the potential disability upon which eligibility for the agreement was based has manifested itself. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of the child must be conducted as outlined in section 256N.24, subdivision 10. The reassessment must be used to renegotiate the agreement to include an appropriate monthly payment. The agreement must not be renegotiated unless the commissioner, the financially responsible agency, and the caregiver mutually agree to the changes. The effective date of any renegotiated agreement must be determined by the commissioner.

~~(e) Renegotiation of a Northstar kinship assistance or adoption assistance agreement is required when one of the circumstances outlined in section 256N.26, subdivision 13, occurs.~~

Sec. 3. Minnesota Statutes 2020, section 256N.26, subdivision 11, is amended to read:

Subd. 11. **Child income or income attributable to the child.** (a) A monthly Northstar kinship assistance or adoption assistance payment must be considered as income and resources attributable to the child. Northstar kinship assistance and adoption assistance are exempt from garnishment, except as permissible under the laws of the state where the child resides.

(b) When a child is placed into foster care, any income and resources attributable to the child are treated as provided in sections 252.27 and 260C.331, or 260B.331, as applicable to the child being placed.

~~(c) Consideration of income and resources attributable to the child must be part of the negotiation process outlined in section 256N.25, subdivision 2. In some circumstances, the receipt of other income on behalf of the child may impact the amount of the monthly payment received by the relative custodian or adoptive parent on behalf of the child through Northstar Care for Children. Supplemental Security Income (SSI), retirement survivor's disability insurance (RSDI), veteran's benefits, railroad retirement benefits, and black lung benefits are considered income and resources attributable to the child.~~

Sec. 4. Minnesota Statutes 2020, section 256N.26, subdivision 13, is amended to read:

Subd. 13. **Treatment of retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, and black lung benefits.** ~~(a)~~ If a child placed in foster care receives retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits at the time of foster care placement or subsequent to placement in foster care, the financially responsible agency may apply to be the payee for the child for the duration of the child's placement in foster care. If it is anticipated that a child will be eligible to receive retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits after finalization of the adoption or assignment of permanent legal and physical custody, the permanent caregiver shall apply to be the payee of those benefits on the child's behalf. ~~The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.~~

~~(b) If a child becomes eligible for retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits, after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to redetermine the payment under Northstar Care for Children. The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.~~

~~(c) If a child ceases to be eligible for retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to redetermine the payment under Northstar Care for Children. The monthly amount of the payment under Northstar Care for Children must be the amount the child was determined to be eligible for prior to consideration of any offset.~~

~~(d) If the monthly payment received on behalf of the child under retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits changes after the adoption assistance or Northstar kinship assistance agreement is finalized, the permanent caregiver shall notify the commissioner as to the new monthly payment amount, regardless of the amount of the change in payment. If the monthly payment changes by \$75 or more, even if the change occurs incrementally over the duration of the term of~~

~~the adoption assistance or Northstar kinship assistance agreement, the monthly payment under Northstar Care for Children must be adjusted without further consent to reflect the amount of the increase or decrease in the offset amount. Any subsequent change to the payment must be reported and handled in the same manner. A change of monthly payments of less than \$75 is not a permissible reason to renegotiate the adoption assistance or Northstar kinship assistance agreement under section 256N.25, subdivision 3. The commissioner shall review and revise the limit at which the adoption assistance or Northstar kinship assistance agreement must be renegotiated in accordance with subdivision 9.~~

Sec. 5. Minnesota Statutes 2020, section 260C.163, subdivision 3, is amended to read:

Subd. 3. **Appointment of counsel.** (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court as provided in this subdivision.

(b) Except in proceedings where the sole basis for the petition is habitual truancy, if the child desires counsel but is unable to employ it, the court shall appoint counsel to represent the child who is ten years of age or older under section 611.14, clause (4), or other counsel at public expense.

~~(c) Except in proceedings where the sole basis for the petition is habitual truancy, if the parent, guardian, or custodian desires counsel but is unable to employ it, the court shall appoint counsel to represent the parent, guardian, or custodian in any case in which it feels that such an appointment is appropriate if the person would be financially unable to obtain counsel under the guidelines set forth in section 611.17. In all child protection proceedings where a child risks removal from the care of the child's parent, guardian, or custodian, including a child in need of protection or services petition, an action pursuing removal of a child from the child's home, a termination of parental rights petition, or a petition for permanent out-of-home placement, if the parent, guardian, or custodian desires counsel and is eligible for counsel under section 611.17, the court shall appoint counsel to represent each parent, guardian, or custodian prior to the first hearing on the petition and at all stages of the proceedings. Court appointed counsel shall be at county expense as outlined in paragraph (h).~~

(d) In any proceeding where the subject of a petition for a child in need of protection or services is ten years of age or older, the responsible social services agency shall, within 14 days after filing the petition or at the emergency removal hearing under section 260C.178, subdivision 1, if the child is present, fully and effectively inform the child of the child's right to be represented by appointed counsel upon request and shall notify the court as to whether the child desired counsel. Information provided to the child shall include, at a minimum, the fact that counsel will be provided without charge to the child, that the child's communications with counsel are confidential, and that the child has the right to participate in all proceedings on a petition, including the opportunity to personally attend all hearings. The responsible social services agency shall also, within 14 days of the child's tenth birthday, fully and effectively inform the child of the child's right to be represented by counsel if the child reaches the age of ten years while the child is the subject of a petition for a child in need of protection or services or is a child under the guardianship of the commissioner.

(e) In any proceeding where the sole basis for the petition is habitual truancy, the child, parent, guardian, and custodian do not have the right to appointment of a public defender or other counsel at public expense. However, before any out-of-home placement, including foster care or inpatient treatment, can be ordered, the court must appoint a public defender or other counsel at public expense in accordance with this subdivision.

(f) Counsel for the child shall not also act as the child's guardian ad litem.

(g) In any proceeding where the subject of a petition for a child in need of protection or services is not represented by an attorney, the court shall determine the child's preferences regarding the proceedings, including informing the child of the right to appointed counsel and asking whether the child desires counsel, if the child is of suitable age to express a preference.

(h) Court-appointed counsel for the parent, guardian, or custodian under this subdivision is at county expense. If the county has contracted with counsel ~~meeting qualifications under paragraph (i)~~, the court shall appoint the counsel retained by the county, unless a conflict of interest exists. If a conflict exists, after consulting with the chief judge of the judicial district or the judge's designee, the county shall contract with competent counsel to provide the necessary representation. The court may appoint only one counsel at public expense for the first court hearing to represent the interests of the parents, guardians, and custodians, unless, at any time during the proceedings upon petition of a party, the court determines and makes written findings on the record that extraordinary circumstances exist that require counsel to be appointed to represent a separate interest of other parents, guardians, or custodians subject to the jurisdiction of the juvenile court.

~~(i) Counsel retained by the county under paragraph (h) must meet the qualifications established by the Judicial Council in at least one of the following: (1) has a minimum of two years' experience handling child protection cases; (2) has training in handling child protection cases from a course or courses approved by the Judicial Council; or (3) is supervised by an attorney who meets the minimum qualifications under clause (1) or (2).~~

**EFFECTIVE DATE.** This section is effective January 1, 2023.

**Sec. 6. DIRECTION TO THE COMMISSIONER; INITIAL IMPLEMENTATION OF COURT-APPOINTED COUNSEL IN CHILD PROTECTION PROCEEDINGS.**

(a) The commissioner of human services shall consult with counties and court administration regarding the availability of and process for collecting data related to court-appointed counsel under Minnesota Statutes, section 260C.163, subdivision 3, including but not limited to:

(1) data documenting the presence of court-appointed counsel for qualifying parents, guardians, or custodians at each emergency protective hearing;

(2) total annual court-appointed parent representation expenditures for each county;

(3) an appropriate formula to be used for distributing funding to counties to defray the costs of court-appointed counsel in child protection proceedings;

(4) an appropriate allocation timeline for distributing funds to counties; and

(5) additional demographic information that would assist counties in obtaining title IV-E reimbursement.

(b) By July 1, 2022, the commissioner must report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services and judiciary policy and finance with the findings from the consultation with counties and court administration and a plan for regular reporting of this data.

**ARTICLE 10****CHILD PROTECTION POLICY****Section 1. [260E.055] DUTY TO REPORT; PRIVATE OR PUBLIC YOUTH RECREATION PROGRAM.**

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

(b) "Abuse" means egregious harm, physical abuse, sexual abuse, substantial child endangerment, or threatened injury as these terms are defined under section 260E.03.

(c) "Adverse action" includes but is not limited to:

(1) discharge, suspension, termination, or transfer from the private or public youth recreation program;

(2) discharge from or termination of employment;

(3) demotion or reduction in remuneration for services; or

(4) restriction or prohibition of access to the private or public youth recreation program or persons affiliated with it.

(d) "Employee" means a person who is 18 years of age or older who performs services for hire for an employer and has full-time, part-time, or short-term responsibilities for the care of the child including but not limited to day care, counseling, teaching, and coaching. An employee does not include an independent contractor or volunteer.

(e) "Municipality" has the meaning given in section 466.01, subdivision 1.

(f) "Private or public youth recreation program" includes but is not limited to day camps or programs involving athletics, theater, arts, religious education, outdoor education, youth empowerment, or socialization.

Subd. 2. **Duty to report.** (a) An employee or supervisor of a private or public youth recreation program shall immediately report information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, Tribal social services agency, or Tribal police department if:

(1) the employee or supervisor knows or has reason to believe that another employee or supervisor is abusing or has abused a child within the preceding three years; or

(2) a child discloses to the employee or supervisor that the child is being abused or has been abused within the preceding three years.

(b) An oral report shall be made immediately by telephone or otherwise. An oral report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse of the child, the nature and extent of the abuse, and the name and address of the reporter. The agency receiving the report shall accept a report notwithstanding refusal by a reporter to provide the reporter's name or address if the report is otherwise sufficient under this paragraph.

Subd. 3. **Retaliation prohibited.** (a) An employer of any person required to make a report under this section shall not retaliate against the person for reporting in good faith, or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under this section who retaliates against the person because of a report under this section is liable to that person for actual damages and, in addition, a penalty of up to \$10,000.

(c) There shall be a rebuttable presumption that any adverse action taken within 90 days of a report is retaliatory.

Subd. 4. **Immunity.** (a) The following persons are immune from civil or criminal liability if the person is acting in good faith:

(1) an employee or supervisor who reports pursuant to this section or, following the submission of a report, cooperates with an assessment or investigation under this chapter; and

(2) a municipality or private entity providing a private or public youth recreation program that provides training on making a report under this section, assists in making a report under this section, or following the submission of a report, cooperates with an investigation or assessment under this chapter.

(b) This subdivision does not provide immunity to any person for failure to make a required report or for committing abuse.

Subd. 5. **Penalties for failure to report; false reports.** (a) A person who is required to report under this section but fails to report is guilty of a petty misdemeanor.

(b) Section 260E.08, paragraph (d), applies to reports made under this section.

Subd. 6. **Construction with other law.** As used in this section, "reports" does not include mandated or voluntary reports under section 260E.06 and nothing in this section shall govern reports made pursuant to section 260E.06.

**EFFECTIVE DATE.** This section is effective June 1, 2022.

## Sec. 2. **[260E.065] TRAINING FOR REPORTERS.**

The local welfare agency must offer training to a person required to make a report under section 260E.055 or 260E.06. The training may be offered online or in person and must provide an explanation of the legal obligations of a reporter, consequences for failure to report, and instruction on how to detect and report suspected maltreatment or suspected abuse, as defined under section 260E.055, subdivision 1, paragraph (b). A local welfare agency may fulfill the requirement under this section by directing reporters to trainings offered by the commissioner.

## Sec. 3. **LEGISLATIVE TASK FORCE; CHILD PROTECTION.**

(a) A legislative task force is created to:

(1) review the efforts being made to implement the recommendations of the Governor's Task Force on the Protection of Children;

(2) expand the efforts into related areas of the child welfare system;

(3) work with the commissioner of human services and community partners to establish and evaluate child protection grants to address disparities in child welfare pursuant to Minnesota Statutes, section 256E.28;

(4) review and recommend alternatives to law enforcement responding to a maltreatment report by removing the child and evaluate situations in which it may be appropriate for a social worker or other child protection worker to remove the child from the home;

(5) evaluate current statutes governing mandatory reporters, consider the modification of mandatory reporting requirements for private or public youth recreation programs, and, if necessary, introduce legislation by February 15, 2022, to implement appropriate modifications;

(6) evaluate and consider the intersection of educational neglect and the child protection system; and

(7) identify additional areas within the child welfare system that need to be addressed by the legislature.

(b) Members of the legislative task force shall include:

(1) six members from the house of representatives appointed by the speaker of the house, including three from the majority party and three from the minority party; and

(2) six members from the senate, including three members appointed by the senate majority leader and three members appointed by the senate minority leader.

(c) Members of the task force shall serve a term that expires on December 31 of the even-numbered year following the year they are appointed. The speaker of the house and the majority leader of the senate shall each appoint a chair and vice-chair from the membership of the task force. The chair shall rotate after each meeting. The task force must meet at least quarterly.

(d) Initial appointments to the task force shall be made by July 15, 2021. The chair shall convene the first meeting of the task force by August 15, 2021.

(e) The task force may provide oversight and monitoring of:

(1) the efforts by the Department of Human Services, counties, and Tribes to implement laws related to child protection;

(2) efforts by the Department of Human Services, counties, and Tribes to implement the recommendations of the Governor's Task Force on the Protection of Children;

(3) efforts by agencies including but not limited to the Department of Education, the Housing Finance Agency, the Department of Corrections, and the Department of Public Safety, to work with the Department of Human Services to assure safety and well-being for children at risk of harm or children in the child welfare system; and

(4) efforts by the Department of Human Services, other agencies, counties, and Tribes to implement best practices to ensure every child is protected from maltreatment and neglect and to ensure every child has the opportunity for healthy development.

(f) The task force, in cooperation with the commissioner of human services, shall issue a report to the legislature and governor by February 1, 2024. The report must contain information on the progress toward implementation of changes to the child protection system, recommendations for additional legislative changes and procedures affecting child protection and child welfare, and funding needs to implement recommended changes.



(g) This section expires December 31, 2024.

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

## ARTICLE 11

### BEHAVIORAL HEALTH

Section 1. Minnesota Statutes 2020, section 245.462, subdivision 17, is amended to read:

Subd. 17. **Mental health practitioner.** (a) "Mental health practitioner" means a person providing services to adults with mental illness or children with emotional disturbance who is qualified in at least one of the ways described in paragraphs (b) to (g). A mental health practitioner for a child client must have training working with children. A mental health practitioner for an adult client must have training working with adults.

(b) For purposes of this subdivision, a practitioner is qualified through relevant coursework if the practitioner completes at least 30 semester hours or 45 quarter hours in behavioral sciences or related fields and:

(1) has at least 2,000 hours of supervised experience in the delivery of services to adults or children with:

(i) mental illness, substance use disorder, or emotional disturbance; or

(ii) traumatic brain injury or developmental disabilities and completes training on mental illness, recovery from mental illness, mental health de-escalation techniques, co-occurring mental illness and substance abuse, and psychotropic medications and side effects;

(2) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to adults with mental illness or children with emotional disturbance, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

(3) is working in a day treatment program under section 245.4712, subdivision 2; ~~or~~

(4) has completed a practicum or internship that (i) requires direct interaction with adults or children served, and (ii) is focused on behavioral sciences or related fields; or

(5) is in the process of completing a practicum or internship as part of a formal undergraduate or graduate training program in social work, psychology, or counseling.

(c) For purposes of this subdivision, a practitioner is qualified through work experience if the person:

(1) has at least 4,000 hours of supervised experience in the delivery of services to adults or children with:

(i) mental illness, substance use disorder, or emotional disturbance; or

(ii) traumatic brain injury or developmental disabilities and completes training on mental illness, recovery from mental illness, mental health de-escalation techniques, co-occurring mental illness and substance abuse, and psychotropic medications and side effects; or

(2) has at least 2,000 hours of supervised experience in the delivery of services to adults or children with:

(i) mental illness, emotional disturbance, or substance use disorder, and receives clinical supervision as required by applicable statutes and rules from a mental health professional at least once a week until the requirement of 4,000 hours of supervised experience is met; or

(ii) traumatic brain injury or developmental disabilities; completes training on mental illness, recovery from mental illness, mental health de-escalation techniques, co-occurring mental illness and substance abuse, and psychotropic medications and side effects; and receives clinical supervision as required by applicable statutes and rules at least once a week from a mental health professional until the requirement of 4,000 hours of supervised experience is met.

(d) For purposes of this subdivision, a practitioner is qualified through a graduate student internship if the practitioner is a graduate student in behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training.

(e) For purposes of this subdivision, a practitioner is qualified by a bachelor's or master's degree if the practitioner:

(1) holds a master's or other graduate degree in behavioral sciences or related fields; or

(2) holds a bachelor's degree in behavioral sciences or related fields and completes a practicum or internship that (i) requires direct interaction with adults or children served, and (ii) is focused on behavioral sciences or related fields.

(f) For purposes of this subdivision, a practitioner is qualified as a vendor of medical care if the practitioner meets the definition of vendor of medical care in section 256B.02, subdivision 7, paragraphs (b) and (c), and is serving a federally recognized tribe.

(g) For purposes of medical assistance coverage of diagnostic assessments, explanations of findings, and psychotherapy under section 256B.0625, subdivision 65, a mental health practitioner working as a clinical trainee means that the practitioner's clinical supervision experience is helping the practitioner gain knowledge and skills necessary to practice effectively and independently. This may include supervision of direct practice, treatment team collaboration, continued professional learning, and job management. The practitioner must also:

(1) comply with requirements for licensure or board certification as a mental health professional, according to the qualifications under Minnesota Rules, part 9505.0371, subpart 5, item A, including supervised practice in the delivery of mental health services for the treatment of mental illness; or

(2) be a student in a bona fide field placement or internship under a program leading to completion of the requirements for licensure as a mental health professional according to the qualifications under Minnesota Rules, part 9505.0371, subpart 5, item A.

(h) For purposes of this subdivision, "behavioral sciences or related fields" has the meaning given in section 256B.0623, subdivision 5, paragraph (d).

(i) Notwithstanding the licensing requirements established by a health-related licensing board, as defined in section 214.01, subdivision 2, this subdivision supersedes any other statute or rule.

Sec. 2. Minnesota Statutes 2020, section 245.4876, is amended by adding a subdivision to read:

**Subd. 3a. Individual treatment plans.** All providers of outpatient services, day treatment services, professional home-based family treatment, residential treatment, and acute care hospital inpatient treatment, and all regional treatment centers that provide mental health services for children must develop an individual treatment plan for each child client. The individual treatment plan must be based on a diagnostic assessment. To the extent appropriate, the child and the child's family shall be involved in all phases of developing and implementing the individual treatment plan. Providers of residential treatment, professional home-based family treatment, and acute care hospital inpatient treatment, and regional treatment centers must develop the individual treatment plan within ten working days of client intake or admission and must review the individual treatment plan every 90 days after intake. Providers of day treatment services must develop the individual treatment plan before the completion of five working days in which service is provided or within 30 days after the diagnostic assessment is completed or obtained, whichever occurs first. Providers of outpatient services must develop the individual treatment plan within 30 days after the diagnostic assessment is completed or obtained or by the end of the second session of an outpatient service, not including the session in which the diagnostic assessment was provided, whichever occurs first. Providers of outpatient and day treatment services must review the individual treatment plan every 90 days after intake.

**EFFECTIVE DATE.** This section is effective September 30, 2021, and expires July 1, 2022.

Sec. 3. Minnesota Statutes 2020, section 245.4882, subdivision 1, is amended to read:

Subdivision 1. **Availability of residential treatment services.** County boards must provide or contract for enough residential treatment services to meet the needs of each child with severe emotional disturbance residing in the county and needing this level of care. Length of stay is based on the child's residential treatment need and shall be ~~subject to the six-month review process established in section 260C.203, and for children in voluntary placement for treatment, the court review process in section 260D.06~~ reviewed every 90 days. Services must be appropriate to the child's age and treatment needs and must be made available as close to the county as possible. Residential treatment must be designed to:

- (1) help the child improve family living and social interaction skills;
- (2) help the child gain the necessary skills to return to the community;
- (3) stabilize crisis admissions; and
- (4) work with families throughout the placement to improve the ability of the families to care for children with severe emotional disturbance in the home.

**EFFECTIVE DATE.** This section is effective September 30, 2021.

Sec. 4. Minnesota Statutes 2020, section 245.4882, subdivision 3, is amended to read:

Subd. 3. **Transition to community.** Residential treatment facilities and regional treatment centers serving children must plan for and assist those children and their families in making a transition to less restrictive community-based services. Discharge planning for the child to return to the community must include identification of and referrals to appropriate home and community supports that meet the needs of the child and family. Discharge planning must begin within 30 days after the child enters residential treatment and be updated every 60 days. Residential treatment facilities must also arrange for appropriate follow-up care in the community. Before a child is discharged, the residential treatment facility or regional treatment center shall provide notification to the child's case manager, if any, so that the case manager can monitor

and coordinate the transition and make timely arrangements for the child's appropriate follow-up care in the community.

**EFFECTIVE DATE.** This section is effective September 30, 2021.

Sec. 5. Minnesota Statutes 2020, section 245.4885, subdivision 1, as amended by Laws 2021, chapter 30, article 10, section 1, is amended to read:

Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the case of an emergency, all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if public county funds are used to pay for the child's services.

(b) ~~The responsible social services agency county board shall determine the appropriate level of care for a child when county-controlled funds are used to pay for the child's services or placement in a qualified residential treatment facility under chapter 260C and licensed by the commissioner under chapter 245A. In accordance with section 260C.157, a juvenile treatment screening team shall conduct a screening of a child before the team may recommend whether to place a child residential treatment under this chapter, including residential treatment provided in a qualified residential treatment program as defined in section 260C.007, subdivision 26d. When a social services agency county board does not have responsibility for a child's placement and the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care for the child. When Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance Act, Public Law 93-638, are to be used for a the child, the Indian Health Services or 638 tribal health facility must determine the appropriate level of care for the child. When more than one entity bears responsibility for a child's coverage, the entities shall coordinate level of care determination activities for the child to the extent possible.~~

(c) ~~The responsible social services agency must make the child's level of care determination available to the child's juvenile treatment screening team, as permitted under chapter 13. The level of care determination shall inform the juvenile treatment screening team process and the assessment in section 260C.704 when considering whether to place the child in a qualified residential treatment program. When the responsible social services agency is not involved in determining a child's placement, the child's level of care determination shall determine whether the proposed treatment:~~

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and
- (4) provides a length of stay as short as possible consistent with the individual child's needs.

(d) When a level of care determination is conducted, the responsible social services agency county board or other entity may not determine that a screening of a child ~~under section 260C.157 or~~ referral, or admission to a ~~treatment foster care setting or~~ residential treatment facility is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment of a child that ~~includes a functional assessment which~~ evaluates the child's family, school, and community living situations; and an assessment of the child's need for care out of the home

using a validated tool which assesses a child's functional status and assigns an appropriate level of care to the child. The validated tool must be approved by the commissioner of human services and may be the validated tool approved for the child's assessment under section 260C.704 if the juvenile treatment screening team recommended placement of the child in a qualified residential treatment program. If a diagnostic assessment ~~including a functional assessment~~ has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether these services are available and accessible to the child and the child's family. The child and the child's family must be invited to any meeting where the level of care determination is discussed and decisions regarding residential treatment are made. The child and the child's family may invite other relatives, friends, or advocates to attend these meetings.

(e) During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

~~(f) When the responsible social services agency has authority, the agency must engage the child's parents in case planning under sections 260C.212 and 260C.708 and chapter 260D unless a court terminates the parent's rights or court orders restrict the parent from participating in case planning, visitation, or parental responsibilities.~~

~~(g)~~ (f) The level of care determination, placement decision, and recommendations for mental health services must be documented in the child's record, as required in chapters 260C and 260D and made available to the child's family, as appropriate.

**EFFECTIVE DATE.** This section is effective September 30, 2021.

Sec. 6. Minnesota Statutes 2020, section 245.4889, subdivision 1, is amended to read:

Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to make grants from available appropriations to assist:

- (1) counties;
- (2) Indian tribes;
- (3) children's collaboratives under section 124D.23 or 245.493; or
- (4) mental health service providers.

(b) The following services are eligible for grants under this section:

(1) services to children with emotional disturbances as defined in section 245.4871, subdivision 15, and their families;

(2) transition services under section 245.4875, subdivision 8, for young adults under age 21 and their families;

(3) respite care services for children with emotional disturbances or severe emotional disturbances who are at risk of out-of-home placement. A child is not required to have case management services to receive respite care services;

(4) children's mental health crisis services;

(5) mental health services for people from cultural and ethnic minorities, including supervision of clinical trainees who are Black, indigenous, or people of color;

(6) children's mental health screening and follow-up diagnostic assessment and treatment;

(7) services to promote and develop the capacity of providers to use evidence-based practices in providing children's mental health services;

(8) school-linked mental health services under section 245.4901;

(9) building evidence-based mental health intervention capacity for children birth to age five;

(10) suicide prevention and counseling services that use text messaging statewide;

(11) mental health first aid training;

(12) training for parents, collaborative partners, and mental health providers on the impact of adverse childhood experiences and trauma and development of an interactive website to share information and strategies to promote resilience and prevent trauma;

(13) transition age services to develop or expand mental health treatment and supports for adolescents and young adults 26 years of age or younger;

(14) early childhood mental health consultation;

(15) evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis, and a public awareness campaign on the signs and symptoms of psychosis;

(16) psychiatric consultation for primary care practitioners; and

(17) providers to begin operations and meet program requirements when establishing a new children's mental health program. These may be start-up grants.

(c) Services under paragraph (b) must be designed to help each child to function and remain with the child's family in the community and delivered consistent with the child's treatment plan. Transition services to eligible young adults under this paragraph must be designed to foster independent living in the community.

(d) As a condition of receiving grant funds, a grantee shall obtain all available third-party reimbursement sources, if applicable.

Sec. 7. Minnesota Statutes 2020, section 245.4901, as amended by Laws 2021, chapter 30, article 17, section 44, is amended to read:

#### **245.4901 SCHOOL-LINKED ~~MENTAL~~ BEHAVIORAL HEALTH GRANTS.**

Subdivision 1. **Establishment.** The commissioner of human services shall establish a school-linked ~~mental~~ behavioral health grant program to provide early identification and intervention for students with mental health and substance use disorder needs and to build the capacity of schools to support students with mental health and substance use disorder needs in the classroom.

Subd. 2. **Eligible applicants.** An eligible applicant for a school-linked ~~mental~~ behavioral health ~~grants~~ grant is an entity or provider that is:

- (1) a mental health clinic certified under section 245I.20;
- (2) a community mental health center under section 256B.0625, subdivision 5;
- (3) an Indian health service facility or a facility owned and operated by a tribe or tribal organization operating under United States Code, title 25, section 5321;
- (4) a provider of children's therapeutic services and supports as defined in section 256B.0943; ~~or~~
- (5) enrolled in medical assistance as a mental health or substance use disorder provider agency and employs at least two full-time equivalent mental health professionals qualified according to section 245I.04, subdivision 2, or two alcohol and drug counselors licensed or exempt from licensure under chapter 148F who are qualified to provide clinical services to children and families;
- (6) licensed under chapter 245G and in compliance with the applicable requirements in chapters 245A, 245C, and 260E, section 626.557, and Minnesota Rules, chapter 9544; or
- (7) a licensed professional in private practice as defined in section 245G.01, subdivision 17, who meets the requirements of section 254B.05, subdivision 1, paragraph (b).

Subd. 3. **Allowable grant activities and related expenses.** (a) Allowable grant activities and related expenses may include but are not limited to:

- (1) identifying and diagnosing mental health conditions and substance use disorders of students;
- (2) delivering mental health and substance use disorder treatment and services to students and their families, including via telemedicine consistent with section 256B.0625, subdivision 3b;
- (3) supporting families in meeting their child's needs, including navigating health care, social service, and juvenile justice systems;
- (4) providing transportation for students receiving school-linked ~~mental~~ behavioral health services when school is not in session;
- (5) building the capacity of schools to meet the needs of students with mental health and substance use disorder concerns, including school staff development activities for licensed and nonlicensed staff; and
- (6) purchasing equipment, connection charges, on-site coordination, set-up fees, and site fees in order to deliver school-linked ~~mental~~ behavioral health services via telemedicine.

(b) Grantees shall obtain all available third-party reimbursement sources as a condition of receiving a grant. For purposes of this grant program, a third-party reimbursement source excludes a public school as defined in section 120A.20, subdivision 1. Grantees shall serve students regardless of health coverage status or ability to pay.

Subd. 4. **Data collection and outcome measurement.** Grantees shall provide data to the commissioner for the purpose of evaluating the effectiveness of the school-linked ~~mental~~ behavioral health grant program.

**Sec. 8. [245.4902] CULTURALLY INFORMED AND CULTURALLY RESPONSIVE MENTAL HEALTH TASK FORCE.**

Subdivision 1. **Establishment; duties.** The Culturally Informed and Culturally Responsive Mental Health Task Force is established to evaluate and make recommendations on improving the provision of culturally informed and culturally responsive mental health services throughout Minnesota. The task force must make recommendations on:

(1) recruiting mental health providers from diverse racial and ethnic communities;

(2) training all mental health providers on cultural competency and cultural humility;

(3) assessing the extent to which mental health provider organizations embrace diversity and demonstrate proficiency in culturally competent mental health treatment and services; and

(4) increasing the number of mental health organizations owned, managed, or led by individuals who are Black, indigenous, or people of color.

Subd. 2. **Membership.** (a) The task force must consist of the following 16 members:

(1) the commissioner of human services or the commissioner's designee;

(2) one representative from the Board of Psychology;

(3) one representative from the Board of Marriage and Family Therapy;

(4) one representative from the Board of Behavioral Health and Therapy;

(5) one representative from the Board of Social Work;

(6) three members representing undergraduate and graduate-level mental health professional education programs, one appointed by the governor, one appointed by the speaker of the house of representatives, and one appointed by the senate majority leader;

(7) three mental health providers who are members of communities of color or underrepresented communities, as defined in section 148E.010, subdivision 20, one appointed by the governor, one appointed by the speaker of the house of representatives, and one appointed by the senate majority leader;

(8) two members representing mental health advocacy organizations, appointed by the governor;

(9) two mental health providers, appointed by the governor; and

(10) one expert in providing training and education in cultural competency and cultural responsiveness, appointed by the governor.

(b) Appointments to the task force must be made no later than June 1, 2022.

(c) Member compensation and reimbursement for expenses are governed by section 15.059, subdivision 3.

Subd. 3. **Chairs; meetings.** The members of the task force must elect two cochairs of the task force no earlier than July 1, 2022, and the cochairs must convene the first meeting of the task force no later than August 15, 2022. The task force must meet upon the call of the cochairs, sufficiently often to accomplish the duties identified in this section. The task force is subject to the open meeting law under chapter 13D.



Subd. 4. **Administrative support.** The Department of Human Services must provide administrative support and meeting space for the task force.

Subd. 5. **Reports.** No later than January 1, 2023, and by January 1 of each year thereafter, the task force must submit a written report to the members of the legislative committees with jurisdiction over health and human services on the recommendations developed under subdivision 1.

Subd. 6. **Expiration.** The task force expires on January 1, 2025.

Sec. 9. Minnesota Statutes 2020, section 254B.01, subdivision 4a, is amended to read:

Subd. 4a. **Culturally specific or culturally responsive program.** (a) "Culturally specific or culturally responsive program" means a substance use disorder treatment service program or subprogram that is ~~recovery-focused and~~ culturally responsive or culturally specific when the program attests that it:

(1) improves service quality to and outcomes of a specific ~~population~~ community that shares a common language, racial, ethnic, or social background by advancing health equity to help eliminate health disparities; ~~and~~

(2) ensures effective, equitable, comprehensive, and respectful quality care services that are responsive to an individual within a specific ~~population's~~ community's values, beliefs and practices, health literacy, preferred language, and other communication needs; ~~and~~

(3) is compliant with the national standards for culturally and linguistically appropriate services or other equivalent standards, as determined by the commissioner.

(b) A tribally licensed substance use disorder program that is designated as serving a culturally specific population by the applicable tribal government is deemed to satisfy this subdivision.

(c) A program satisfies the requirements of this subdivision if it attests that the program:

(1) is designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background;

(2) is governed with significant input from individuals of that specific background; and

(3) employs individuals to provide treatment services, at least 50 percent of whom are members of the specific community being served.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 4b. **Disability responsive program.** "Disability responsive program" means a program that:

(1) is designed to serve individuals with disabilities, including individuals with traumatic brain injuries, developmental disabilities, cognitive disabilities, and physical disabilities; and

(2) employs individuals to provide treatment services who have the necessary professional training, as approved by the commissioner, to serve individuals with the specific disabilities that the program is designed to serve.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. Minnesota Statutes 2020, section 254B.05, subdivision 5, is amended to read:

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

(b) Eligible substance use disorder treatment services include:

(1) outpatient treatment services that are licensed according to sections 245G.01 to 245G.17, or applicable tribal license;

(2) comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05;

(3) care coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(4) peer recovery support services provided according to section 245G.07, subdivision 2, clause (8);

(5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management services provided according to chapter 245F;

(6) medication-assisted therapy services that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable tribal license;

(7) medication-assisted therapy plus enhanced treatment services that meet the requirements of clause (6) and provide nine hours of clinical services each week;

(8) high, medium, and low intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which provide, respectively, 30, 15, and five hours of clinical services each week;

(9) hospital-based treatment services that are licensed according to sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

(10) adolescent treatment programs that are licensed as outpatient treatment programs according to sections 245G.01 to 245G.18 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;

(11) high-intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

(12) room and board facilities that meet the requirements of subdivision 1a.

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

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

(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 section 245G.19, subdivision 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 or culturally responsive programs as defined in section 254B.01, subdivision 4a; ~~or;~~

(3) disability responsive programs as defined in section 254B.01, subdivision 4b;

~~programs or subprograms serving special populations, if the program or subprogram meets the following requirements:~~

~~(i) is designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background;~~

~~(ii) is governed with significant input from individuals of that specific background; and~~

~~(iii) employs individuals to provide individual or group therapy, at least 50 percent of whom are of that specific background, except when the common social background of the individuals served is a traumatic brain injury or cognitive disability and the program employs treatment staff who have the necessary professional training, as approved by the commissioner, to serve clients with the specific disabilities that the program is designed to serve;~~

~~(3) (4) 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~~ or

~~(4) (5) 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 section 245G.20;~~

~~(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 shall 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 section 245G.19.

(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~~ substance use disorder 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.

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

(h) Payment for outpatient substance use disorder services that are licensed according to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless prior authorization of a greater number of hours is obtained from the commissioner.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later.

Sec. 12. Minnesota Statutes 2020, section 254B.12, is amended by adding a subdivision to read:

Subd. 4. **Culturally specific or culturally responsive program and disability responsive program provider rate increase.** For the chemical dependency services listed in section 254B.05, subdivision 5, provided by programs that meet the requirements of section 254B.05, subdivision 5, paragraph (c), clauses (1), (2), and (3), on or after January 1, 2022, payment rates shall increase by five percent over the rates in effect on January 1, 2021. The commissioner shall increase prepaid medical assistance capitation rates as appropriate to reflect this increase.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 13. **[254B.151] SUBSTANCE USE DISORDER COMMUNITY OF PRACTICE.**

Subdivision 1. **Establishment; purpose.** The commissioner of human services, in consultation with substance use disorder subject matter experts, shall establish a substance use disorder community of practice.

The purposes of the community of practice are to improve treatment outcomes for individuals with substance use disorders and reduce disparities by using evidence-based and best practices through peer-to-peer and person-to-provider sharing.

Subd. 2. **Participants; meetings.** (a) The community of practice must include the following participants:

(1) researchers or members of the academic community who are substance use disorder subject matter experts, who do not have financial relationships with treatment providers;

(2) substance use disorder treatment providers;

(3) representatives from recovery community organizations;

(4) a representative from the Department of Human Services;

(5) a representative from the Department of Health;

(6) a representative from the Department of Corrections;

(7) representatives from county social services agencies;

(8) representatives from tribal nations or tribal social services providers; and

(9) representatives from managed care organizations.

(b) The community of practice must include individuals who have used substance use disorder treatment services and must highlight the voices and experiences of individuals who are Black, indigenous, people of color, and people from other communities that are disproportionately impacted by substance use disorders.

(c) The community of practice must meet regularly and must hold its first meeting before January 1, 2022.

(d) Compensation and reimbursement for expenses for participants in paragraph (b) are governed by section 15.059, subdivision 3.

Subd. 3. **Duties.** (a) The community of practice must:

(1) identify gaps in substance use disorder treatment services;

(2) enhance collective knowledge of issues related to substance use disorder;

(3) understand evidence-based practices, best practices, and promising approaches to address substance use disorder;

(4) use knowledge gathered through the community of practice to develop strategic plans to improve outcomes for individuals who participate in substance use disorder treatment and related services in Minnesota;

(5) increase knowledge about the challenges and opportunities learned by implementing strategies; and

(6) develop capacity for community advocacy.

(b) The commissioner, in collaboration with subject matter experts and other participants, may issue reports and recommendations to the legislative chairs and ranking minority members of committees with jurisdiction over health and human services policy and finance and local and regional governments.

Sec. 14. Minnesota Statutes 2020, section 256.042, subdivision 4, is amended to read:

Subd. 4. **Grants.** (a) The commissioner of human services shall submit a report of the grants proposed by the advisory council to be awarded for the upcoming ~~fiscal~~ calendar year to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance, by ~~March~~ December 1 of each year, beginning March 1, 2020.

~~(b) The commissioner of human services shall award grants from the opiate epidemic response fund under section 256.043. The grants shall be awarded to proposals selected by the advisory council that address the priorities in subdivision 1, paragraph (a), clauses (1) to (4), unless otherwise appropriated by the legislature. The advisory council shall determine grant awards and funding amounts based on the funds appropriated to the commissioner under section 256.043, subdivision 3, paragraph (e). The commissioner shall award the grants from the opiate epidemic response fund and administer the grants in compliance with section 16B.97. No more than ~~three~~ ten percent of the grant amount may be used by a grantee for administration.~~

Sec. 15. Minnesota Statutes 2020, section 256.043, subdivision 3, is amended to read:

Subd. 3. **Appropriations from fund.** (a) After the appropriations in Laws 2019, chapter 63, article 3, section 1, ~~paragraphs paragraph (e), (f), (g), and (h)~~ are made, \$249,000 is appropriated to the commissioner of human services for the provision of administrative services to the Opiate Epidemic Response Advisory Council and for the administration of the grants awarded under paragraph (e).

(b) \$126,000 is appropriated to the Board of Pharmacy for the collection of the registration fees under section 151.066.

(c) \$672,000 is appropriated to the commissioner of public safety for the Bureau of Criminal Apprehension. Of this amount, \$384,000 is for drug scientists and lab supplies and \$288,000 is for special agent positions focused on drug interdiction and drug trafficking.

(d) After the appropriations in paragraphs (a) to (c) are made, 50 percent of the remaining amount is appropriated to the commissioner of human services for distribution to county social service and tribal social service agencies to provide child protection services to children and families who are affected by addiction. The commissioner shall distribute this money proportionally to counties and tribal social service agencies based on out-of-home placement episodes where parental drug abuse is the primary reason for the out-of-home placement using data from the previous calendar year. County and tribal social service agencies receiving funds from the opiate epidemic response fund must annually report to the commissioner on how the funds were used to provide child protection services, including measurable outcomes, as determined by the commissioner. County social service agencies and tribal social service agencies must not use funds received under this paragraph to supplant current state or local funding received for child protection services for children and families who are affected by addiction.

(e) After making the appropriations in paragraphs (a) to (d), the remaining amount in the fund is appropriated to the commissioner to award grants as specified by the Opiate Epidemic Response Advisory Council in accordance with section 256.042, unless otherwise appropriated by the legislature.

(f) Beginning in fiscal year 2022 and each year thereafter, funds for county social service and tribal social service agencies under paragraph (d) and grant funds specified by the Opiate Epidemic Response Advisory Council under paragraph (e) shall be distributed on a calendar year basis.

**EFFECTIVE DATE.** The amendment to paragraph (a) is effective July 1, 2024.

Sec. 16. Minnesota Statutes 2020, section 256B.0624, subdivision 7, as amended by Laws 2021, chapter 30, article 16, section 4, is amended to read:

Subd. 7. **Crisis stabilization services.** (a) Crisis stabilization services must be provided by qualified staff of a crisis stabilization services provider entity and must meet the following standards:

(1) a crisis treatment plan must be developed that meets the criteria in subdivision 11;

(2) staff must be qualified as defined in subdivision 8;

(3) crisis stabilization services must be delivered according to the crisis treatment plan and include face-to-face contact with the recipient by qualified staff for further assessment, help with referrals, updating of the crisis treatment plan, skills training, and collaboration with other service providers in the community; and

(4) if a provider delivers crisis stabilization services while the recipient is absent, the provider must document the reason for delivering services while the recipient is absent.

(b) If crisis stabilization services are provided in a supervised, licensed residential setting that serves no more than four adult residents, and one or more individuals are present at the setting to receive residential crisis stabilization, the residential staff must include, for at least eight hours per day, at least one mental health professional, clinical trainee, certified rehabilitation specialist, or mental health practitioner. The commissioner shall establish a statewide per diem rate for crisis stabilization services provided under this paragraph to medical assistance enrollees. The rate for a provider shall not exceed the rate charged by that provider for the same service to other payers. Payment shall not be made to more than one entity for each individual for services provided under this paragraph on a given day. The commissioner shall set rates prospectively for the annual rate period. The commissioner shall require providers to submit annual cost reports on a uniform cost reporting form and shall use submitted cost reports to inform the rate-setting process. The commissioner shall recalculate the statewide per diem every year.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 17. Minnesota Statutes 2020, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. **Mental health case management.** (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4887, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) at least a face-to-face contact with the adult or the adult's legal representative or a contact by interactive video that meets the requirements of subdivision 20b; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact or a contact by interactive video that meets the requirements of subdivision 20b with the adult or the adult's legal representative within the preceding two months.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by Indian health services or by agencies operated by Indian tribes may be made according to this section or other relevant federally approved rate setting methodology.

(f) Payment for mental health case management provided by vendors who contract with a county or Indian tribe shall be based on a monthly rate negotiated by the host county or tribe must be calculated in accordance with section 256B.076, subdivision 2. Payment for mental health case management provided by vendors who contract with a Tribe must be based on a monthly rate negotiated by the Tribe. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribe may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribe, except to reimburse the county or tribe for advance funding provided by the county or tribe to the vendor.

(g) If the service is provided by a team which includes contracted vendors, tribal staff, and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor, the tribal agency, and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(h) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds. If the service is provided by a tribal agency, the nonfederal share, if any, shall be provided by the recipient's tribe. When this service is paid by the state without a federal share through fee-for-service, 50 percent of the cost shall be provided by the recipient's county of responsibility.

(i) Notwithstanding any administrative rule to the contrary, prepaid medical assistance and MinnesotaCare include mental health case management. When the service is provided through prepaid capitation, the nonfederal share is paid by the state and the county pays no share.

(j) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, or, if applicable, the tribal agency, is responsible for any federal disallowances. The county or tribe may share this responsibility with its contracted vendors.

(k) The commissioner shall set aside a portion of the federal funds earned for county expenditures under this section to repay the special revenue maximization account under section 256.01, subdivision 2, paragraph (o). The repayment is limited to:



- (1) the costs of developing and implementing this section; and
- (2) programming the information systems.

(l) Payments to counties and tribal agencies for case management expenditures under this section shall only be made from federal earnings from services provided under this section. When this service is paid by the state without a federal share through fee-for-service, 50 percent of the cost shall be provided by the state. Payments to county-contracted vendors shall include the federal earnings, the state share, and the county share.

(m) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(n) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the lesser of:

- (1) the last 180 days of the recipient's residency in that facility and may not exceed more than six months in a calendar year; or
- (2) the limits and conditions which apply to federal Medicaid funding for this service.

(o) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(p) If the recipient is receiving care in a hospital, nursing facility, or residential setting licensed under chapter 245A or 245D that is staffed 24 hours a day, seven days a week, mental health targeted case management services must actively support identification of community alternatives for the recipient and discharge planning.

Sec. 18. Minnesota Statutes 2020, section 256B.0759, subdivision 2, is amended to read:

Subd. 2. **Provider participation.** (a) Outpatient substance use disorder treatment providers may elect to participate in the demonstration project and meet the requirements of subdivision 3. To participate, a provider must notify the commissioner of the provider's intent to participate in a format required by the commissioner and enroll as a demonstration project provider.

(b) Programs licensed by the Department of Human Services as residential treatment programs according to section 245G.21 that receive payment under this chapter must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2024. Programs that do not meet the requirements of this paragraph are ineligible for payment for services provided under section 256B.0625.

(c) Programs licensed by the Department of Human Services as withdrawal management programs according to chapter 245F that receive payment under this chapter must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2024. Programs that do not meet the requirements of this paragraph are ineligible for payment for services provided under section 256B.0625.

(d) Out-of-state residential substance use disorder treatment programs that receive payment under this chapter must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2024. Programs that do not meet the requirements of this paragraph are ineligible for payment for services provided under section 256B.0625.

(e) Tribally licensed programs may elect to participate in the demonstration project and meet the requirements of subdivision 3. The Department of Human Services must consult with Tribal nations to discuss participation in the substance use disorder demonstration project.

(f) The commissioner shall allow providers enrolled in the demonstration project before July 1, 2021, to receive applicable rate enhancements authorized under subdivision 4 for all services provided on or after the date of enrollment, except that the commissioner shall allow a provider to receive applicable rate enhancements authorized under subdivision 4 for services provided on or after July 22, 2020, to fee-for-service enrollees, and on or after January 1, 2021, to managed care enrollees, if the provider meets all of the following requirements:

(1) the provider attests that during the time period for which the provider is seeking the rate enhancement, the provider took meaningful steps in their plan approved by the commissioner to meet the demonstration project requirements in subdivision 3; and

(2) the provider submits attestation and evidence, including all information requested by the commissioner, of meeting the requirements of subdivision 3 to the commissioner in a format required by the commissioner.

The commissioner may recoup any rate enhancements paid under this paragraph to a provider that does not meet the requirements of subdivision 3 by July 1, 2021.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later, except paragraph (f) is effective the day following final enactment. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 19. Minnesota Statutes 2020, section 256B.0759, subdivision 4, is amended to read:

**Subd. 4. Provider payment rates.** (a) Payment rates for participating providers must be increased for services provided to medical assistance enrollees. To receive a rate increase, participating providers must meet demonstration project requirements and provide evidence of formal referral arrangements with providers delivering step-up or step-down levels of care. Providers that have enrolled in the demonstration project but have not met the provider standards under subdivision 3 as of July 1, 2022, are not eligible for a rate increase under this subdivision until the date that the provider meets the provider standards in subdivision 3. Services provided from July 1, 2022, to the date that the provider meets the provider standards under subdivision 3 shall be reimbursed at rates according to section 254B.05, subdivision 5, paragraph (b). Rate increases paid under this subdivision to a provider for services provided between July 1, 2021, and July 1, 2022, are not subject to recoupment when the provider is taking meaningful steps to meet demonstration project requirements that are not otherwise required by law, and the provider provides documentation to the commissioner, upon request, of the steps being taken.

(b) The commissioner may temporarily suspend payments to the provider according to section 256B.04, subdivision 21, paragraph (d), if the provider does not meet the requirements in paragraph (a). Payments withheld from the provider must be made once the commissioner determines that the requirements in paragraph (a) are met.

~~(b)~~ (c) For substance use disorder services under section 254B.05, subdivision 5, paragraph (b), clause (8), provided on or after July 1, 2020, payment rates must be increased by ~~15~~ 25 percent over the rates in effect on December 31, 2019.

~~(c)~~ (d) For substance use disorder services under section 254B.05, subdivision 5, paragraph (b), clauses (1), (6), and (7), and adolescent treatment programs that are licensed as outpatient treatment programs

according to sections 245G.01 to 245G.18, provided on or after January 1, 2021, payment rates must be increased by ~~ten~~ 20 percent over the rates in effect on December 31, 2020.

~~(d)~~ (e) Effective January 1, 2021, and contingent on annual federal approval, managed care plans and county-based purchasing plans must reimburse providers of the substance use disorder services meeting the criteria described in paragraph (a) who are employed by or under contract with the plan an amount that is at least equal to the fee-for-service base rate payment for the substance use disorder services described in paragraphs ~~(b)~~ (c) and ~~(e)~~ (d). The commissioner must monitor the effect of this requirement on the rate of access to substance use disorder services and residential substance use disorder rates. Capitation rates paid to managed care organizations and county-based purchasing plans must reflect the impact of this requirement. This paragraph expires if federal approval is not received at any time as required under this paragraph.

~~(e)~~ (f) Effective July 1, 2021, contracts between managed care plans and county-based purchasing plans and providers to whom paragraph ~~(d)~~ (e) applies must allow recovery of payments from those providers if, for any contract year, federal approval for the provisions of paragraph ~~(d)~~ (e) is not received, and capitation rates are adjusted as a result. Payment recoveries must not exceed the amount equal to any decrease in rates that results from this provision.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever occurs later, except paragraphs (c) and (d) are effective January 1, 2022, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 20. Minnesota Statutes 2020, section 256B.0759, is amended by adding a subdivision to read:

Subd. 6. **Medium intensity residential program participation.** Medium intensity residential programs that qualify to participate in the demonstration project shall use the specified base payment rate of \$132.90 per day, and shall be eligible for the rate increases specified in subdivision 4.

**EFFECTIVE DATE.** This section is effective retroactively from July 1, 2020.

Sec. 21. Minnesota Statutes 2020, section 256B.0759, is amended by adding a subdivision to read:

Subd. 7. **Public access.** The state shall post the final documents, for example, monitoring reports, close out report, approved evaluation design, interim evaluation report, and summative evaluation report, on the state's Medicaid website within 30 calendar days of approval by CMS.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 22. Minnesota Statutes 2020, section 256B.0759, is amended by adding a subdivision to read:

Subd. 8. **Federal approval; demonstration project extension.** The commissioner shall seek a five-year extension of the demonstration project under this section and to receive enhanced federal financial participation.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 23. Minnesota Statutes 2020, section 256B.0759, is amended by adding a subdivision to read:

Subd. 9. **Demonstration project evaluation work group.** Beginning October 1, 2021, the commissioner shall assemble a work group of relevant stakeholders, including but not limited to demonstration project participants and the Minnesota Association of Resources for Recovery and Chemical Health, that shall meet

at least quarterly for the duration of the demonstration to evaluate the long-term sustainability of any improvements to quality or access to substance use disorder treatment services caused by participation in the demonstration project. The work group shall also determine how to implement successful outcomes of the demonstration project once the project expires.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 24. **[256B.076] CASE MANAGEMENT SERVICES.**

Subdivision 1. **Generally.** (a) It is the policy of this state to ensure that individuals on medical assistance receive cost-effective and coordinated care, including efforts to address the profound effects of housing instability, food insecurity, and other social determinants of health. Therefore, subject to federal approval, medical assistance covers targeted case management services as described in this section.

(b) The commissioner, in collaboration with tribes, counties, providers, and individuals served, must propose further modifications to targeted case management services to ensure a program that complies with all federal requirements, delivers services in a cost-effective and efficient manner, creates uniform expectations for targeted case management services, addresses health disparities, and promotes person- and family-centered services.

Subd. 2. **Rate setting.** (a) The commissioner must develop and implement a statewide rate methodology for any county that subcontracts targeted case management services to a vendor. The commissioner must publish the final draft of the proposed rate methodology at least 30 days prior to posting the state plan amendment for public comment and must take stakeholder feedback into consideration by providing an opportunity for the public to provide feedback on the proposed rate methodology. The commissioner must respond to comments received before the submission of the state plan amendment, explaining the commissioner's decisions regarding the responses and identifying any changes made in an effort to respond to public feedback. On January 1, 2022, or upon federal approval, whichever is later, a county must use this methodology for any targeted case management services paid by medical assistance and delivered through a subcontractor.

(b) In setting this rate, the commissioner must include the following:

- (1) prevailing wages;
- (2) employee-related expense factor;
- (3) paid time off and training factors;
- (4) supervision and span of control;
- (5) distribution of time factor;
- (6) administrative factor;
- (7) absence factor;
- (8) program support factor;
- (9) caseload sizes as published by the commissioner; and
- (10) culturally specific program factor as described in subdivision 3.

(c) A county may request that the commissioner authorize a rate based on a different caseload size when a subcontractor is assigned to serve individuals with needs, such as homelessness or specific linguistic or cultural needs, that significantly differ from other eligible populations. A county must include the following in the request:

(1) the number of clients to be served by a full-time equivalent staffer;

(2) the specific factors that require a case manager to provide a significantly different number of hours of reimbursable services to a client; and

(3) how the county intends to monitor caseload size and outcomes.

(d) The commissioner must adjust only the factor for caseload size in paragraph (b), clause (9), in response to a request under paragraph (c). The commissioner must not duplicate costs assumed by the culturally specific program factor in paragraph (b), clause (10), in response to a request under paragraph (c). With agreement of counties and in consultation with other stakeholders, the commissioner may introduce factors and adjustments other than those listed in paragraphs (b) and (c), subject to federal approval.

Subd. 3. **Culturally specific program.** (a) "Culturally specific program" means a targeted case management program that:

(1) ensures effective, equitable, comprehensive, and respectful quality care services that are responsive to individuals within a specific population's values, beliefs, practices, health literacy, preferred language, and other communication needs;

(2) is designed to address the unique needs of individuals who share a common language or racial, ethnic, or social background;

(3) is governed with significant input from individuals of the specific background that the program is designed to serve; and

(4) employs individuals to provide targeted case management, at least 50 percent of whom are of the specific background that the program is designed to serve.

(b) The culturally specific program factor in subdivision 2, paragraph (b), clause (10), adjusts the targeted case management rate for culturally specific programs to reflect the staffing and programmatic costs necessary to provide culturally specific targeted case management.

Sec. 25. Minnesota Statutes 2020, section 256B.0924, subdivision 6, is amended to read:

Subd. 6. **Payment for targeted case management.** (a) Medical assistance and MinnesotaCare payment for targeted case management shall be made on a monthly basis. In order to receive payment for an eligible adult, the provider must document at least one contact per month and not more than two consecutive months without a face-to-face contact with the adult or the adult's legal representative, family, primary caregiver, or other relevant persons identified as necessary to the development or implementation of the goals of the personal service plan.

(b) Payment for targeted case management provided by county staff under this subdivision shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), calculated as one combined average rate together with adult mental health case management under section 256B.0625, subdivision 20, except for calendar year 2002. In calendar year 2002, the rate for case management under this section shall be the same as the rate for adult mental health case management in effect as of December

31, 2001. Billing and payment must identify the recipient's primary population group to allow tracking of revenues.

(c) Payment for targeted case management provided by county-contracted vendors shall be based on a monthly rate ~~negotiated by the host county~~ calculated in accordance with section 256B.076, subdivision 2. The ~~negotiated~~ rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the ~~county may negotiate a team rate with a vendor who is a member of the team.~~ The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county, except to reimburse the county for advance funding provided by the county to the vendor.

(d) If the service is provided by a team that includes contracted vendors and county staff, the costs for county staff participation on the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, the county must document, in the recipient's file, the need for team targeted case management and a description of the different roles of the team members.

(e) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for targeted case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds.

(f) The commissioner may suspend, reduce, or terminate reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, is responsible for any federal disallowances. The county may share this responsibility with its contracted vendors.

(g) The commissioner shall set aside five percent of the federal funds received under this section for use in reimbursing the state for costs of developing and implementing this section.

(h) Payments to counties for targeted case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(i) Notwithstanding section 256B.041, county payments for the cost of case management services provided by county staff shall not be made to the commissioner of management and budget. For the purposes of targeted case management services provided by county staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(j) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for targeted case management services under this subdivision is limited to the lesser of:

- (1) the last 180 days of the recipient's residency in that facility; or
- (2) the limits and conditions which apply to federal Medicaid funding for this service.

(k) Payment for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(l) Any growth in targeted case management services and cost increases under this section shall be the responsibility of the counties.

Sec. 26. Minnesota Statutes 2020, section 256B.094, subdivision 6, is amended to read:

Subd. 6. **Medical assistance reimbursement of case management services.** (a) Medical assistance reimbursement for services under this section shall be made on a monthly basis. Payment is based on face-to-face or telephone contacts between the case manager and the client, client's family, primary caregiver, legal representative, or other relevant person identified as necessary to the development or implementation of the goals of the individual service plan regarding the status of the client, the individual service plan, or the goals for the client. These contacts must meet the minimum standards in clauses (1) and (2):

(1) there must be a face-to-face contact at least once a month except as provided in clause (2); and

(2) for a client placed outside of the county of financial responsibility, or a client served by tribal social services placed outside the reservation, in an excluded time facility under section 256G.02, subdivision 6, or through the Interstate Compact for the Placement of Children, section 260.93, and the placement in either case is more than 60 miles beyond the county or reservation boundaries, there must be at least one contact per month and not more than two consecutive months without a face-to-face contact.

(b) Except as provided under paragraph (c), the payment rate is established using time study data on activities of provider service staff and reports required under sections 245.482 and 256.01, subdivision 2, paragraph (p).

(c) Payments for tribes may be made according to section 256B.0625 or other relevant federally approved rate setting methodology for child welfare targeted case management provided by Indian health services and facilities operated by a tribe or tribal organization.

(d) ~~Payment for case management provided by county or tribal social services contracted vendors shall be based on a monthly rate negotiated by the host county or tribal social services~~ must be calculated in accordance with section 256B.076, subdivision 2. Payment for case management provided by vendors who contract with a Tribe must be based on a monthly rate negotiated by the Tribe. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribal social services may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribal social services, except to reimburse the county or tribal social services for advance funding provided by the county or tribal social services to the vendor.

(e) If the service is provided by a team that includes contracted vendors and county or tribal social services staff, the costs for county or tribal social services staff participation in the team shall be included in the rate for county or tribal social services provided services. In this case, the contracted vendor and the county or tribal social services may each receive separate payment for services provided by each entity in the same month. To prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles and services of the team members.

Separate payment rates may be established for different groups of providers to maximize reimbursement as determined by the commissioner. The payment rate will be reviewed annually and revised periodically to be consistent with the most recent time study and other data. Payment for services will be made upon submission of a valid claim and verification of proper documentation described in subdivision 7. Federal administrative revenue earned through the time study, or under paragraph (c), shall be distributed according

to earnings, to counties, reservations, or groups of counties or reservations which have the same payment rate under this subdivision, and to the group of counties or reservations which are not certified providers under section 256F.10. The commissioner shall modify the requirements set out in Minnesota Rules, parts 9550.0300 to 9550.0370, as necessary to accomplish this.

Sec. 27. Minnesota Statutes 2020, section 256B.0946, subdivision 1, as amended by Laws 2021, chapter 30, article 17, section 91, is amended to read:

Subdivision 1. **Required covered service components.** (a) Subject to federal approval, medical assistance covers medically necessary intensive treatment services when the services are provided by a provider entity certified under and meeting the standards in this section. The provider entity must make reasonable and good faith efforts to report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner.

(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)~~ (6) are reimbursed by medical assistance when they meet the following standards:

(1) psychotherapy provided by a mental health professional or a clinical trainee;

(2) crisis planning;

(3) individual, family, and group psychoeducation services provided by a mental health professional or a clinical trainee;

(4) clinical care consultation provided by a mental health professional or a clinical trainee; ~~and~~

(5) individual treatment plan development as defined in Minnesota Rules, part 9505.0371, subpart 7;  
and

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

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 28. Minnesota Statutes 2020, section 256B.0946, subdivision 4, as amended by Laws 2021, chapter 30, article 17, section 95, is amended to read:

Subd. 4. **Service delivery payment requirements.** (a) To be eligible for payment under this section, a provider must develop and practice written policies and procedures for intensive treatment in foster care, consistent with subdivision 1, paragraph (b), and comply with the following requirements in paragraphs (b) to ~~(n)~~ (n).

(b) Each previous and current mental health, school, and physical health treatment provider must be contacted to request documentation of treatment and assessments that the eligible client has received. This information must be reviewed and incorporated into the standard diagnostic assessment and team consultation and treatment planning review process.

(c) Each client receiving treatment must be assessed for a trauma history, and the client's treatment plan must document how the results of the assessment will be incorporated into treatment.



(d) The level of care assessment as defined in section 245I.02, subdivision 19, and functional assessment as defined in section 245I.02, subdivision 17, must be updated at least every 90 days or prior to discharge from the service, whichever comes first.

(e) Each client receiving treatment services must have an individual treatment plan that is reviewed, evaluated, and approved every 90 days using the team consultation and treatment planning process.

(f) Clinical care consultation must be provided in accordance with the client's individual treatment plan.

(g) Each client must have a crisis plan within ten days of initiating services and must have access to clinical phone support 24 hours per day, seven days per week, during the course of treatment. The crisis plan must demonstrate coordination with the local or regional mobile crisis intervention team.

(h) Services must be delivered and documented at least three days per week, equaling at least six hours of treatment per week, ~~unless reduced units of service are specified on the treatment plan.~~ If the mental health professional, client, and family agree, service units may be temporarily reduced for a period of no more than 60 days in order to meet the needs of the client and family, or as part of transition or on a discharge plan to another service or level of care. The reasons for service reduction must be identified, documented, and included in the treatment plan. Billing and payment are prohibited for days on which no services are delivered and documented.

(i) Location of service delivery must be in the client's home, day care setting, school, or other community-based setting that is specified on the client's individualized treatment plan.

(j) Treatment must be developmentally and culturally appropriate for the client.

(k) Services must be delivered in continual collaboration and consultation with the client's medical providers and, in particular, with prescribers of psychotropic medications, including those prescribed on an off-label basis. Members of the service team must be aware of the medication regimen and potential side effects.

(l) Parents, siblings, foster parents, and members of the child's permanency plan must be involved in treatment and service delivery unless otherwise noted in the treatment plan.

(m) Transition planning for the child must be conducted starting with the first treatment plan and must be addressed throughout treatment to support the child's permanency plan and postdischarge mental health service needs.

(n) In order for a provider to receive the daily per-client encounter rate, at least one of the services listed in subdivision 1, paragraph (b), clauses (1) to (3), must be provided. The services listed in subdivision 1, paragraph (b), clauses (4) and (5), may be included as part of the daily per-client encounter rate.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 29. Minnesota Statutes 2020, section 256B.0947, subdivision 2, as amended by Laws 2021, chapter 30, article 17, section 98, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Intensive nonresidential rehabilitative mental health services" means child rehabilitative mental health services as defined in section 256B.0943, except that these services are provided by a multidisciplinary

staff using a total team approach consistent with assertive community treatment, as adapted for youth, and are directed to recipients who are eight years of age or older and under 26 years of age who require intensive services to prevent admission to an inpatient psychiatric hospital or placement in a residential treatment facility or who require intensive services to step down from inpatient or residential care to community-based care.

(b) "Co-occurring mental illness and substance use disorder" means a dual diagnosis of at least one form of mental illness and at least one substance use disorder. Substance use disorders include alcohol or drug abuse or dependence, excluding nicotine use.

(c) "Standard diagnostic assessment" means the assessment described in section 245I.10, subdivision 6.

(d) "Medication education services" means services provided individually or in groups, which focus on:

(1) educating the client and client's family or significant nonfamilial supporters about mental illness and symptoms;

(2) the role and effects of medications in treating symptoms of mental illness; and

(3) the side effects of medications.

Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, or registered nurses with certification in psychiatric and mental health care.

(e) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(f) "Provider agency" means a for-profit or nonprofit organization established to administer an assertive community treatment for youth team.

(g) "Substance use disorders" means one or more of the disorders defined in the diagnostic and statistical manual of mental disorders, current edition.

(h) "Transition services" means:

(1) activities, materials, consultation, and coordination that ensures continuity of the client's care in advance of and in preparation for the client's move from one stage of care or life to another by maintaining contact with the client and assisting the client to establish provider relationships;

(2) providing the client with knowledge and skills needed posttransition;

(3) establishing communication between sending and receiving entities;

(4) supporting a client's request for service authorization and enrollment; and

(5) establishing and enforcing procedures and schedules.

A youth's transition from the children's mental health system and services to the adult mental health system and services and return to the client's home and entry or re-entry into community-based mental health services following discharge from an out-of-home placement or inpatient hospital stay.

(i) "Treatment team" means all staff who provide services to recipients under this section.

(j) "Family peer specialist" means a staff person who is qualified under section 256B.0616.

Sec. 30. Minnesota Statutes 2020, section 256B.0947, subdivision 3, as amended by Laws 2021, chapter 30, article 17, section 99, is amended to read:

Subd. 3. **Client eligibility.** An eligible recipient is an individual who:

(1) is ~~age 16, 17, 18, 19, or 20~~ eight years of age or older and under 26 years of age; ~~and~~

(2) is diagnosed with a serious mental illness or co-occurring mental illness and substance use disorder, for which intensive nonresidential rehabilitative mental health services are needed;

(3) has received a level of care assessment as defined in section 245I.02, subdivision 19, that indicates a need for intensive integrated intervention without 24-hour medical monitoring and a need for extensive collaboration among multiple providers;

(4) has received a functional assessment as defined in section 245I.02, subdivision 17, that indicates functional impairment and a history of difficulty in functioning safely and successfully in the community, school, home, or job; or who is likely to need services from the adult mental health system ~~within the next two years~~ during adulthood; and

(5) has had a recent standard diagnostic assessment that documents that intensive nonresidential rehabilitative mental health services are medically necessary to ameliorate identified symptoms and functional impairments and to achieve individual transition goals.

Sec. 31. Minnesota Statutes 2020, section 256B.0947, subdivision 5, as amended by Laws 2021, chapter 30, article 17, section 101, is amended to read:

Subd. 5. **Standards for intensive nonresidential rehabilitative providers.** (a) Services must meet the standards in this section and chapter 245I as required in section 245I.011, subdivision 5.

(b) The treatment team must have specialized training in providing services to the specific age group of youth that the team serves. An individual treatment team must serve youth who are: (1) at least eight years of age or older and under 16 years of age, or (2) at least 14 years of age or older and under 26 years of age.

~~(b)~~ (c) The treatment team for intensive nonresidential rehabilitative mental health services comprises both permanently employed core team members and client-specific team members as follows:

(1) Based on professional qualifications and client needs, clinically qualified core team members are assigned on a rotating basis as the client's lead worker to coordinate a client's care. The core team must comprise at least four full-time equivalent direct care staff and must minimally include:

(i) a mental health professional who serves as team leader to provide administrative direction and treatment supervision to the team;

(ii) an advanced-practice registered nurse with certification in psychiatric or mental health care or a board-certified child and adolescent psychiatrist, either of which must be credentialed to prescribe medications;

(iii) a licensed alcohol and drug counselor who is also trained in mental health interventions; and

(iv) a mental health certified peer specialist who is qualified according to section 245I.04, subdivision 10, and is also a former children's mental health consumer.

(2) The core team may also include any of the following:

(i) additional mental health professionals;

(ii) a vocational specialist;

(iii) an educational specialist with knowledge and experience working with youth regarding special education requirements and goals, special education plans, and coordination of educational activities with health care activities;

(iv) a child and adolescent psychiatrist who may be retained on a consultant basis;

(v) a clinical trainee qualified according to section 245I.04, subdivision 6;

(vi) a mental health practitioner qualified according to section 245I.04, subdivision 4;

(vii) a case management service provider, as defined in section 245.4871, subdivision 4;

(viii) a housing access specialist; and

(ix) a family peer specialist as defined in subdivision 2, paragraph (m).

(3) A treatment team may include, in addition to those in clause (1) or (2), ad hoc members not employed by the team who consult on a specific client and who must accept overall clinical direction from the treatment team for the duration of the client's placement with the treatment team and must be paid by the provider agency at the rate for a typical session by that provider with that client or at a rate negotiated with the client-specific member. Client-specific treatment team members may include:

(i) the mental health professional treating the client prior to placement with the treatment team;

(ii) the client's current substance use counselor, if applicable;

(iii) a lead member of the client's individualized education program team or school-based mental health provider, if applicable;

(iv) a representative from the client's health care home or primary care clinic, as needed to ensure integration of medical and behavioral health care;

(v) the client's probation officer or other juvenile justice representative, if applicable; and

(vi) the client's current vocational or employment counselor, if applicable.

~~(e)~~ (d) The treatment supervisor shall be an active member of the treatment team and shall function as a practicing clinician at least on a part-time basis. The treatment team shall meet with the treatment supervisor at least weekly to discuss recipients' progress and make rapid adjustments to meet recipients' needs. The team meeting must include client-specific case reviews and general treatment discussions among team members. Client-specific case reviews and planning must be documented in the individual client's treatment record.

~~(d)~~ (e) The staffing ratio must not exceed ten clients to one full-time equivalent treatment team position.

~~(e)~~ (f) The treatment team shall serve no more than 80 clients at any one time. Should local demand exceed the team's capacity, an additional team must be established rather than exceed this limit.

~~(f)~~(g) Nonclinical staff shall have prompt access in person or by telephone to a mental health practitioner, clinical trainee, or mental health professional. The provider shall have the capacity to promptly and appropriately respond to emergent needs and make any necessary staffing adjustments to ensure the health and safety of clients.

~~(g)~~(h) The intensive nonresidential rehabilitative mental health services provider shall participate in evaluation of the assertive community treatment for youth (Youth ACT) model as conducted by the commissioner, including the collection and reporting of data and the reporting of performance measures as specified by contract with the commissioner.

~~(h)~~(i) A regional treatment team may serve multiple counties.

**Sec. 32. DIRECTION TO THE COMMISSIONER; RATE RECOMMENDATIONS FOR OPIOID TREATMENT PROGRAMS.**

The commissioner of human services shall evaluate the rate structure for opioid treatment programs licensed under Minnesota Statutes, section 245G.22, and report recommendations, including a revised rate structure and proposed draft legislation, to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance by December 1, 2021.

**Sec. 33. DIRECTION TO THE COMMISSIONER; ADULT MENTAL HEALTH INITIATIVES REFORM.**

By February 1, 2022, and prior to the implementation of a new funding formula, the commissioner of human services must provide a report on the funding formula to reform adult mental health initiatives to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance and policy. In developing the funding formula, the commissioner must consult with stakeholders, including adult mental health initiatives, counties, Tribal nations, adult mental health providers, and individuals with lived experiences. The report must include background information, the underlying rationale and methodology for the new formula, and stakeholder feedback.

**Sec. 34. DIRECTION TO THE COMMISSIONER; CHILDREN'S MENTAL HEALTH RESIDENTIAL TREATMENT WORK GROUP.**

The commissioner of human services, in consultation with counties, children's mental health residential providers, and children's mental health advocates, must organize a work group and develop recommendations on how to efficiently and effectively fund room and board costs for children's mental health residential treatment under the children's mental health act. The work group may also provide recommendations on how to address systemic barriers in transitioning children into the community and community-based treatment options. The commissioner shall submit the recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 15, 2022.

**Sec. 35. FIRST EPISODE OF PSYCHOSIS GRANT PROGRAM; AUTHORIZED USES OF GRANT FUNDS.**

(a) Grant funds awarded by the commissioner of human services pursuant to Minnesota Statutes, section 245.4889, subdivision 1, paragraph (b), clause (15), must be used to:

(1) provide intensive treatment and support for adolescents and adults experiencing or at risk of experiencing a first psychotic episode. Intensive treatment and support includes medication management, psychoeducation for an individual and an individual's family, case management, employment support, education support, cognitive behavioral approaches, social skills training, peer support, crisis planning, and stress management. Projects must use all available funding streams;

(2) conduct outreach and provide training and guidance to mental health and health care professionals, including postsecondary health clinics, on early psychosis symptoms, screening tools, and best practices; and

(3) ensure access for individuals to first psychotic episode services under this section, including ensuring access to first psychotic episode services for individuals who live in rural areas.

(b) Grant funds may also be used to pay for housing or travel expenses or to address other barriers preventing individuals and their families from participating in first psychotic episode services.

**Sec. 36. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; MENTAL HEALTH GRANT PROGRAMS STATUTE REVISION.**

The commissioner of human services, in coordination with the Office of Senate Counsel, Research, and Fiscal Analysis, the Office of the House Research Department, and the revisor of statutes, shall prepare legislation for the 2022 legislative session to enact as statutes the grant programs authorized and funded under Minnesota Statutes, section 245.4661, subdivision 9. The draft statutes shall at least include the eligibility criteria, target populations, authorized uses of grant funds, and outcome measures for each grant. The commissioner shall provide a courtesy copy of the proposed legislation to the chairs and ranking minority members of the legislative committees with jurisdiction over mental health grants.

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

**Sec. 37. DIRECTION TO THE COMMISSIONER; SOBER HOUSING PROGRAM RECOMMENDATIONS.**

(a) The commissioner of human services, in consultation with stakeholders, must develop recommendations on:

(1) increasing access to sober housing programs;

(2) promoting person-centered practices and cultural responsiveness in sober housing programs;

(3) potential oversight of sober housing programs; and

(4) providing consumer protections for individuals in sober housing programs with substance use disorders and individuals with co-occurring mental illnesses.

(b) Stakeholders include but are not limited to the Minnesota Association of Sober Homes; the Minnesota Association of Resources for Recovery and Chemical Health; Minnesota Recovery Connection; NAMI Minnesota; the National Alliance of Recovery Residencies (NARR); Oxford Houses, Inc.; sober housing programs based in Minnesota that are not members of the Minnesota Association of Sober Homes; a member of Alcoholics Anonymous; and residents and former residents of sober housing programs based in Minnesota. Stakeholders must equitably represent geographic areas of the state and must include individuals in recovery and providers representing Black, Indigenous, people of color, or immigrant communities.

(c) The commissioner must complete and submit a report on the recommendations in this section to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance on or before September 1, 2022.

**Sec. 38. DIRECTION TO THE COMMISSIONER; SUBSTANCE USE DISORDER TREATMENT PAPERWORK REDUCTION.**

(a) The commissioner of human services, in consultation with counties, tribes, managed care organizations, substance use disorder treatment professional associations, and other relevant stakeholders, shall develop, assess, and recommend systems improvements to minimize regulatory paperwork and improve systems for substance use disorder programs licensed under Minnesota Statutes, chapter 245A, and regulated under Minnesota Statutes, chapters 245F and 245G, and Minnesota Rules, chapters 2960 and 9530. The commissioner of human services shall make available any resources needed from other divisions within the department to implement systems improvements.

(b) The commissioner of health shall make available needed information and resources from the Division of Health Policy.

(c) The Office of MN.IT Services shall provide advance consultation and implementation of the changes needed in data systems.

(d) The commissioner of human services shall contract with a vendor that has experience with developing statewide system changes for multiple states at the payer and provider levels. If the commissioner, after exercising reasonable diligence, is unable to secure a vendor with the requisite qualifications, the commissioner may select the best qualified vendor available. When developing recommendations, the commissioner shall consider input from all stakeholders. The commissioner's recommendations shall maximize benefits for clients and utility for providers, regulatory agencies, and payers.

(e) The commissioner of human services and the contracted vendor shall follow the recommendations from the report issued in response to Laws 2019, First Special Session chapter 9, article 6, section 76.

(f) By December 15, 2022, the commissioner of human services shall take steps to implement paperwork reductions and systems improvements within the commissioner's authority and submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a report that includes recommendations for changes in statutes that would further enhance systems improvements to reduce paperwork. The report shall include a summary of the approaches developed and assessed by the commissioner of human services and stakeholders and the results of any assessments conducted.

**Sec. 39. DIRECTION TO THE COMMISSIONER; TRIBAL OVERPAYMENT PROTOCOLS.**

The commissioner of human services, in consultation with Tribal nations, shall develop protocols that must be used to address and resolve any future overpayment involving any Tribal nation in Minnesota.

**Sec. 40. DIRECTION TO THE COMMISSIONER; CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES.**

The commissioner of human services, in consultation with substance use disorder treatment providers, lead agencies, and individuals who receive substance use disorder treatment services, shall develop a statewide implementation and transition plan for culturally and linguistically appropriate services (CLAS) national standards, including technical assistance for providers to transition to CLAS standards and to improve

disparate treatment outcomes. The commissioner must consult with individuals who are Black, indigenous, people of color, and linguistically diverse in the development of the implementation and transition plans under this section.

**Sec. 41. SUBSTANCE USE DISORDER TREATMENT PATHFINDER COMPANION PILOT PROJECT.**

(a) Anoka County and an academic institution acting as a research partner, in consultation with the North Metro Mental Health Roundtable, shall conduct a one-year pilot project beginning September 1, 2021, to evaluate the effects on treatment outcomes of the use by individuals in substance use disorder recovery of the telephone-based Pathfinder Companion application, which allows individuals in recovery to connect with peers, resources, providers, and others helping with recovery after an individual is discharged from treatment, and the use by providers of the computer-based Pathfinder Bridge application, which allows providers to prioritize care, connect directly with patients, and monitor long-term outcomes and recovery effectiveness.

(b) Prior to launching the program, Anoka County must secure the participation of an academic research institution as a research partner and the project must receive approval from the institution's institutional review board.

(c) The pilot project must monitor and evaluate the effects on treatment outcomes of using the Pathfinder Companion and Pathfinder Bridge applications in order to determine whether the addition of digital recovery support services alongside traditional methods of recovery treatment improves treatment outcomes. The participating research partner shall design and conduct the program evaluation.

(d) Anoka County and the participating research partner, in consultation with the North Metro Mental Health Roundtable, shall report to the commissioner of human services and the chairs and ranking minority members of the legislative committees with jurisdiction over substance use disorder treatment by January 15, 2023, on the results of the pilot project.

**Sec. 42. FEDERAL COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT ALLOCATION; SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION SPENDING PLAN.**

The commissioner of human services shall allocate \$7,511,000 in fiscal year 2022, \$0 in fiscal year 2023, \$1,000,000 in fiscal year 2024, and \$1,000,000 in fiscal year 2025 from the community mental health services block grant amount in the federal fund for items proposed by the commissioner to the federal Substance Abuse and Mental Health Services Administration in the spending plan submitted on April 3, 2021, and approved on June 11, 2021. The commissioner may modify the proposed spending plan if necessary to comply with federal requirements.

**Sec. 43. FEDERAL COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT ALLOCATION; SCHOOL-LINKED BEHAVIORAL HEALTH GRANTS.**

The commissioner of human services shall allocate \$2,500,000 in fiscal year 2022, \$2,500,000 in fiscal year 2023, \$2,500,000 in fiscal year 2024, and \$2,500,000 in fiscal year 2025 from the community mental health services block grant amount in the federal fund for mental health services provided through the school-linked behavioral health grant program under Minnesota Statutes, section 245.4901.



**Sec. 44. FEDERAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT ALLOCATION; SCHOOL-LINKED BEHAVIORAL HEALTH GRANTS.**

The commissioner of human services shall allocate \$1,750,000 in fiscal year 2022, \$1,750,000 in fiscal year 2023, \$1,750,000 in fiscal year 2024, and \$1,750,000 in fiscal year 2025 from the substance abuse prevention and treatment block grant amount in the federal fund for substance use disorder treatment services provided through the school-linked behavioral health grant program under Minnesota Statutes, section 245.4901.

**Sec. 45. FEDERAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT ALLOCATION; SUBSTANCE USE DISORDER TREATMENT PATHFINDER COMPANION PILOT PROJECT.**

(a) The commissioner of human services shall allocate \$550,000 in fiscal year 2022 from the substance abuse prevention and treatment block grant amount in the federal fund for a grant to Anoka County to conduct a substance use disorder treatment pathfinder companion pilot project. This is a onetime allocation and is available until January 15, 2023.

(b) Of the allocation in paragraph (a), \$200,000 is for licensed use of the pathfinder companion application for individuals participating in the pilot project, and up to \$50,000 is for licensed use of the pathfinder bridge application for providers participating in the pilot project.

**Sec. 46. FEDERAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT ALLOCATION; OPIATE EPIDEMIC RESPONSE GRANTS.**

(a) The commissioner of human services shall allocate \$2,700,000 in fiscal year 2022 and \$2,700,000 in fiscal year 2023 from the substance abuse prevention and treatment block grant amount in the federal fund for grants to be awarded according to the recommendations of the Opiate Epidemic Response Advisory Council under Minnesota Statutes, section 256.042.

(b) The commissioner shall include information on the grants awarded under this section in the annual report under Minnesota Statutes, section 256.042, subdivision 5, paragraph (a).

**Sec. 47. FEDERAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT ALLOCATION; SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION SPENDING PLAN.**

The commissioner of human services shall allocate \$10,767,000 in fiscal year 2022 from the substance abuse prevention and treatment block grant amount in the federal fund for items proposed by the commissioner to the federal Substance Abuse and Mental Health Services Administration in the spending plan submitted on April 3, 2021, and approved on June 11, 2021. The commissioner may modify the proposed spending plan if necessary to comply with federal requirements.

**Sec. 48. OPIATE EPIDEMIC RESPONSE ADVISORY COUNCIL; INITIAL MEMBERSHIP TERMS.**

Notwithstanding Minnesota Statutes, section 256.042, subdivision 2, paragraph (c), the initial term for members of the Opiate Epidemic Response Advisory Council established under Minnesota Statutes, section 256.042, identified in Minnesota Statutes, section 256.042, subdivision 2, paragraph (a), clauses (1), (3), (5), (7), (9), (11), (13), (15), and (17), ends September 30, 2022. The initial term for members identified

under Minnesota Statutes, section 256.042, subdivision 2, paragraph (a), clauses (2), (4), (6), (8), (10), (12), (14), and (16), ends September 30, 2023.

Sec. 49. **REPEALER.**

(a) Minnesota Statutes 2020, section 256B.0596, is repealed.

(b) Minnesota Statutes 2020, section 245.4871, subdivision 32a, is repealed.

**EFFECTIVE DATE.** Paragraph (b) is effective September 30, 2021.

## ARTICLE 12

### DIRECT CARE AND TREATMENT

Section 1. Minnesota Statutes 2020, section 246.54, subdivision 1b, is amended to read:

Subd. 1b. **Community behavioral health hospitals.** A county's payment of the cost of care provided at state-operated community-based behavioral health hospitals for adults and children shall be according to the following schedule:

(1) 100 percent for each day during the stay, including the day of admission, when the facility determines that it is clinically appropriate for the client to be discharged; and

(2) the county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53.

Sec. 2. **DIRECTION TO COMMISSIONER; SAFETY NET SERVICES.**

(a) The commissioner must assess state-operated direct care and treatment services to identify the extent to which the services function as safety net services and to make recommendations that:

(1) enhance the continuum of services;

(2) improve access to services that support people with disabilities, older adults, and people with behavioral health conditions who are living in their own homes, family homes, and community-based settings;

(3) identify the state's role and community's role in maintaining the capacity to serve people based on the availability of existing services; and

(4) provide an assessment and recommendations that identify new care delivery models addressing community needs and the needs of people served by state facilities such as:

(i) urgent emergency settings;

(ii) facilities that provide a higher level of care to meet complex needs, but do not require commitment or state safety net services;

(iii) programs that provide complex services, but require wrap-around services or specific resources for people to reside at home or in community settings; and

(iv) programs providing care to meet people's needs in traditional community settings.

(b) The assessment and recommendations under paragraph (a), clause (4), must identify the resources necessary to implement identified care delivery models, including but not limited to funding, housing, resources, wrap-around staffing, compensation, and workforce development, and how the care delivery model will respond to patient needs based on specific criteria and minimize the gaps in service that may occur between acute care and routine care. The commissioner must seek input from stakeholders in a manner that balances input from advocacy and consumer-focused organizations and people who use services.

(c) The commissioner must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by October 15, 2023, on recommendations for crisis respite, caregiver respite for older adults, crisis stabilization, and community residential short- and long-term stay options. The report must identify sustainable rate reimbursement methodologies for recommended modifications to safety net services. The report must include fiscal estimates and proposed legislation necessary to enact the report's recommendations.

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

## ARTICLE 13

### DISABILITY SERVICES AND CONTINUING CARE FOR OLDER ADULTS

Section 1. Minnesota Statutes 2020, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the ~~commissioner of health~~ federal database MDS assessments that conform with the assessment schedule defined by ~~Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in the Long Term Care Facility Resident Assessment Instrument User's Manual, version 3.0, and subsequent updates when or its successor~~ issued by the Centers for Medicare and Medicaid Services. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments required under the Omnibus Budget Reconciliation Act of 1987 (OBRA) used to determine a case mix classification for reimbursement include the following:

(1) a new admission comprehensive assessment, which must have an assessment reference date (ARD) within 14 calendar days after admission, excluding readmissions;

(2) an annual comprehensive assessment, which must have an ~~assessment reference date (ARD)~~ ARD within 92 days of ~~the~~ a previous quarterly review assessment ~~and the~~ or a previous comprehensive assessment, which must occur at least once every 366 days;

(3) a significant change in status comprehensive assessment, which must ~~be completed~~ have an ARD within 14 days ~~of the identification of~~ after the facility determines, or should have determined, that there has been a significant change in the resident's physical or mental condition, whether an improvement or a decline, and regardless of the amount of time since the last ~~significant change in status~~ comprehensive assessment or quarterly review assessment;

(4) all a quarterly ~~assessments~~ review assessment must have an ~~assessment reference date (ARD)~~ ARD within 92 days of the ARD of the previous quarterly review assessment or a previous comprehensive assessment;

(5) any significant correction to a prior comprehensive assessment, if the assessment being corrected is the current one being used for RUG classification; ~~and~~

(6) any significant correction to a prior quarterly review assessment, if the assessment being corrected is the current one being used for RUG classification;

(7) a required significant change in status assessment when:

(i) all speech, occupational, and physical therapies have ended. The ARD of this assessment must be set on day eight after all therapy services have ended; and

(ii) isolation for an infectious disease has ended. The ARD of this assessment must be set on day 15 after isolation has ended; and

(8) any modifications to the most recent assessments under clauses (1) to (7).

(c) In addition to the assessments listed in paragraph (b), the assessments used to determine nursing facility level of care include the following:

(1) preadmission screening completed under section 256.975, subdivisions 7a to 7c, by the Senior LinkAge Line or other organization under contract with the Minnesota Board on Aging; and

(2) a nursing facility level of care determination as provided for under section 256B.0911, subdivision 4e, as part of a face-to-face long-term care consultation assessment completed under section 256B.0911, by a county, tribe, or managed care organization under contract with the Department of Human Services.

**EFFECTIVE DATE.** This section is effective July 1, 2021, and applies to all assessments with an assessment reference date of July 1, 2021, or later.

Sec. 2. Minnesota Statutes 2020, section 144A.073, subdivision 2, is amended to read:

Subd. 2. **Request for proposals.** At the authorization by the legislature of additional medical assistance expenditures for exceptions to the moratorium on nursing homes, the commissioner shall publish in the State Register a request for proposals for nursing home and certified boarding care home projects for conversion, relocation, renovation, replacement, upgrading, or addition. The public notice of this funding and the request for proposals must specify how the approval criteria will be prioritized by the commissioner. The notice must describe the information that must accompany a request and state that proposals must be submitted to the commissioner within 150 days of the date of publication. The notice must include the amount of the legislative appropriation available for the additional costs to the medical assistance program of projects approved under this section. If money is appropriated, the commissioner shall initiate the application and review process described in this section at least once each biennium. A second application and review process must occur if remaining funds are either greater than \$300,000 or more than 50 percent of the baseline appropriation for the biennium. Authorized funds may be awarded in full in the first review process of the biennium. Appropriated funds not encumbered within a biennium shall carry forward ~~to the following biennium~~. To be considered for approval, a proposal must include the following information:

- (1) whether the request is for renovation, replacement, upgrading, conversion, addition, or relocation;
- (2) a description of the problems the project is designed to address;
- (3) a description of the proposed project;
- (4) an analysis of projected costs of the nursing facility proposed project, including:

(i) initial construction and remodeling costs;

(ii) site preparation costs;

(iii) equipment and technology costs;

(iv) financing costs, the current estimated long-term financing costs of the proposal, which is to include details of any proposed funding mechanism already arranged or being considered, including estimates of the amount and sources of money, reserves if required, annual payments schedule, interest rates, length of term, closing costs and fees, insurance costs, any completed marketing study or underwriting review; and

(v) estimated operating costs during the first two years after completion of the project;

(5) for proposals involving replacement of all or part of a facility, the proposed location of the replacement facility and an estimate of the cost of addressing the problem through renovation;

(6) for proposals involving renovation, an estimate of the cost of addressing the problem through replacement;

(7) the proposed timetable for commencing construction and completing the project;

(8) a statement of any licensure or certification issues, such as certification survey deficiencies;

(9) the proposed relocation plan for current residents if beds are to be closed according to section 144A.161; and

(10) other information required by permanent rule of the commissioner of health in accordance with subdivisions 4 and 8.

Sec. 3. Minnesota Statutes 2020, section 144A.073, is amended by adding a subdivision to read:

Subd. 17. **Moratorium exception funding.** (a) During the biennium beginning July 1, 2021, and during each biennium thereafter, the commissioner of health may approve moratorium exception projects under this section for which the full biennial state share of medical assistance costs does not exceed \$4,000,000, plus any carryover of previous appropriations for this purpose.

(b) For the purposes of this subdivision, "biennium" has the meaning given in section 16A.011, subdivision 6.

Sec. 4. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision to read:

Subd. 6f. **Family adult foster care home.** "Family adult foster care home" means an adult foster care home:

(1) that is licensed by the Department of Human Services;

(2) that is the primary residence of the license holder; and

(3) in which the license holder is the primary caregiver.

Sec. 5. Minnesota Statutes 2020, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under

Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family child foster care home or family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings that are required to be registered under chapter 144D where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; ~~or~~

(5) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:

(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(ii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the unlicensed setting as determined by the lead agency; or

(6) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 and residing in the customized living setting before July 1, 2022, for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's

determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2023. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people under the brain injury or community access for disability inclusion waiver plans under section 256B.49 in a single-family home operational on or before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available reports required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

**EFFECTIVE DATE.** This section is effective August 1, 2021, except for paragraph (a), clause (6), which is effective July 1, 2022.

Sec. 6. Minnesota Statutes 2020, section 256.476, subdivision 11, is amended to read:

Subd. 11. **Consumer support grant program after July 1, 2001.** Effective July 1, 2001, the commissioner shall allocate consumer support grant resources to serve additional individuals based on a review of Medicaid authorization and payment information of persons eligible for a consumer support grant from the most recent fiscal year. The commissioner shall use the following methodology to calculate maximum allowable monthly consumer support grant levels:

(1) For individuals whose program of origination is medical assistance home care under sections 256B.0651, 256B.0653, and 256B.0654, the maximum allowable monthly grant levels are calculated by:

(i) determining the service authorization for each individual based on the individual's home care assessment;

(ii) calculating the overall ratio of actual payments to service authorizations by program;



(iii) applying the overall ratio to 50 percent of the service authorization level of each home care rating;  
and

(iv) adjusting the result for any authorized rate changes provided by the legislature.

(2) The monthly consumer support grant level for individuals who are eligible for ten or more hours of personal care assistance services or community first services and supports per day shall be increased by 7.5 percent of the monthly grant amount calculated under clause (1) when the individual uses direct support services provided by a worker who has completed training as identified in section 256B.0659, subdivision 11, paragraph (d), or section 256B.85, subdivision 16, paragraph (e).

~~(2)~~ (3) The commissioner shall ensure the methodology is consistent with the home care programs.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever occurs later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 7. Minnesota Statutes 2020, section 256.477, is amended to read:

**256.477 SELF-ADVOCACY GRANTS.**

Subdivision 1. **The Rick Cardenas Statewide Self-Advocacy Network.** (a) The commissioner shall make available a grant for the purposes of establishing and maintaining ~~a~~ the Rick Cardenas Statewide Self-Advocacy Network for persons with intellectual and developmental disabilities. The Rick Cardenas Statewide Self-Advocacy Network shall:

(1) ensure that persons with intellectual and developmental disabilities are informed of their rights in employment, housing, transportation, voting, government policy, and other issues pertinent to the intellectual and developmental disability community;

(2) provide public education and awareness of the civil and human rights issues persons with intellectual and developmental disabilities face;

(3) provide funds, technical assistance, and other resources for self-advocacy groups across the state;  
and

(4) organize systems of communications to facilitate an exchange of information between self-advocacy groups;

(5) train and support the activities of a statewide network of peer-to-peer mentors for persons with developmental disabilities focused on building awareness among people with developmental disabilities of service options; assisting people with developmental disabilities choose service options; and developing the advocacy skills of people with developmental disabilities necessary for them to move toward full inclusion in community life, including by developing and delivering a curriculum to support the peer-to-peer network;

(6) provide outreach activities, including statewide conferences and disability networking opportunities, focused on self-advocacy, informed choice, and community engagement skills; and

(7) provide an annual leadership program for persons with intellectual and developmental disabilities.

(b) An organization receiving a grant under paragraph (a) must be an organization governed by people with intellectual and developmental disabilities that administers a statewide network of disability groups in

order to maintain and promote self-advocacy services and supports for persons with intellectual and developmental disabilities throughout the state.

(c) An organization receiving a grant under this subdivision may use a portion of grant revenue determined by the commissioner for administration and general operating costs.

Subd. 2. **Subgrants for outreach to persons in institutional settings.** The commissioner shall make available to an organization described under subdivision 1 a grant for subgrants to organizations in Minnesota to conduct outreach to persons working and living in institutional settings to provide education and information about community options. Subgrant funds must be used to deliver peer-led skill training sessions in six regions of the state to help persons with intellectual and developmental disabilities understand community service options related to:

(1) housing;

(2) employment;

(3) education;

(4) transportation;

(5) emerging service reform initiatives contained in the state's Olmstead plan; the Workforce Innovation and Opportunity Act, Public Law 113-128; and federal home and community-based services regulations; and

(6) connecting with individuals who can help persons with intellectual and developmental disabilities make an informed choice and plan for a transition in services.

#### Sec. 8. [256.4772] MINNESOTA INCLUSION INITIATIVE GRANT.

Subdivision 1. **Grant program established.** The commissioner of human services shall establish the Minnesota inclusion initiative grant program to encourage self-advocacy groups of persons with intellectual and developmental disabilities to develop and organize projects that increase the inclusion of persons with intellectual and developmental disabilities in the community, improve community integration outcomes, educate decision-makers and the public about persons with intellectual and developmental disabilities, including the systemic barriers that prevent them from being included in the community, and to advocate for changes that increase access to formal and informal supports and services necessary for greater inclusion of persons with intellectual and developmental disabilities in the community.

Subd. 2. **Administration.** The commissioner of human services, as authorized by section 256.01, subdivision 2, paragraph (a), clause (6), shall issue a request for proposals to contract with a public or private entity to (1) serve as a fiscal host for the money appropriated for the purposes described in this section, and (2) develop guidelines, criteria, and procedures for awarding grants. The fiscal host shall establish an advisory committee consisting of self-advocates, nonprofit advocacy organizations, and Department of Human Services staff to review applications and award grants under this section.

Subd. 3. **Applications.** (a) Entities seeking grants under this section shall apply to the advisory committee of the fiscal host under contract with the commissioner. The grant applicant must include a description of the project that the applicant is proposing, the amount of money that the applicant is seeking, and a proposed budget describing how the applicant will spend the grant money.

(b) The advisory committee may award grants to applicants only for projects that meet the requirements of subdivision 4.

Subd. 4. **Use of grant money.** Projects funded by grant money must have person-centered goals, call attention to issues that limit inclusion of persons with intellectual and developmental disabilities, address barriers to inclusion that persons with intellectual and developmental disabilities face in their communities, or increase the inclusion of persons with intellectual and developmental disabilities in their communities. Applicants may propose strategies to increase inclusion of persons with intellectual and developmental disabilities in their communities by:

(1) decreasing barriers to workforce participation experienced by persons with intellectual and developmental disabilities;

(2) overcoming barriers to accessible and reliable transportation options for persons with intellectual and developmental disabilities;

(3) identifying and addressing barriers to voting experienced by persons with intellectual and developmental disabilities;

(4) advocating for increased accessible housing for persons with intellectual and developmental disabilities;

(5) working with governmental agencies or businesses on accessibility issues under the Americans with Disabilities Act;

(6) increasing collaboration between self-advocacy groups and other organizations to effectively address systemic issues that impact persons with intellectual and developmental disabilities;

(7) increasing capacity for inclusion in a community; or

(8) providing public education and awareness of the civil and human rights of persons with intellectual and developmental disabilities.

Subd. 5. **Reports.** (a) Grant recipients shall provide the advisory committee with a report about the activities funded by the grant program in a format and at a time specified by the advisory committee. The advisory committee shall require grant recipients to include in the grant recipient's report at least the information necessary for the advisory committee to meet the advisory committee's obligation under paragraph (b).

(b) The advisory committee shall provide the commissioner with a report that describes all of the activities and outcomes of projects funded by the grant program in a format and at a time determined by the commissioner.

**EFFECTIVE DATE.** This section is effective upon federal approval of Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the federal American Rescue Plan Act of 2021.

Sec. 9. **[256.4776] PARENT-TO-PARENT PEER SUPPORT.**

(a) The commissioner shall make a grant to an alliance member of Parent to Parent USA to support the alliance member's parent-to-parent peer support program for families of children with any type of disability or special health care needs. An eligible alliance member must have an established parent-to-parent peer support program that is statewide and represents diverse cultures and geographic locations, that conducts

outreach and provides individualized support to any parent or guardian of a child with a disability or special health care need, including newly identified parents of such a child or parents experiencing transitions or changes in their child's care, and that implements best practices for peer-to-peer support, including providing support from trained parent staff and volunteer support parents who have received Parent to Parent USA's specialized parent-to-parent peer support training.

(b) Grant recipients must use grant money for the purposes specified in paragraph (a).

(c) For purposes of this section, "special health care needs" means disabilities, chronic illnesses or conditions, health-related educational or behavioral problems, or the risk of developing disabilities, conditions, illnesses, or problems.

(d) Grant recipients must report to the commissioner of human services annually by January 15 about the services and programs funded by this grant. The report must include measurable outcomes from the previous year, including the number of families served by the organization's parent-to-parent programs and the number of volunteer support parents trained by the organization's parent-to-parent programs.

**EFFECTIVE DATE.** This section is effective upon federal approval of Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the federal American Rescue Plan Act of 2021.

Sec. 10. Minnesota Statutes 2020, section 256.479, is amended to read:

**256.479 CUSTOMIZED LIVING QUALITY IMPROVEMENT GRANTS.**

(a) The commissioner of human services shall develop incentive-based grants to providers of customized living services under the brain injury, community access for disability inclusion, and elderly waivers for achieving outcomes specified in a contract. The commissioner may solicit proposals from providers and implement those that, on a competitive basis, best meet the state's policy objectives. ~~Until June 30, 2021, the commissioner shall give preference to providers that serve at least 75 percent elderly waiver participants.~~

~~(b) Effective July 1, 2021, To be eligible for a grant under this section, a provider must serve at least 75 waiver participants, and at least 75 percent of the clients served by the provider must be waiver participants. For providers of customized living services under the brain injury or community access for disability inclusion, the required 75 waiver participants must reside at multiple locations each with six or more residents. The commissioner shall give greater preference to those providers serving a higher percentage of waiver participants.~~

(c) The commissioner shall limit expenditures under this subdivision to the amount appropriated for this purpose.

(d) In establishing the specified outcomes and related criteria, the commissioner shall consider the following state policy objectives:

- (1) provide more efficient, higher quality services;
- (2) encourage home and community-based services providers to innovate;
- (3) equip home and community-based services providers with organizational tools and expertise to improve their quality;
- (4) incentivize home and community-based services providers to invest in better services; and

(5) disseminate successful performance improvement strategies statewide.

Sec. 11. Minnesota Statutes 2020, section 256B.0653, is amended by adding a subdivision to read:

Subd. 8. **Payment rates for home health agency services.** The commissioner shall annually adjust payments for home health agency services to reflect the change in the federal Centers for Medicare and Medicaid Services Home Health Agency Market Basket. The commissioner shall use the indices as forecasted for the midpoint of the prior rate year to the midpoint of the current rate year.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever occurs later, for services delivered on or after January 1, 2022. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 12. Minnesota Statutes 2020, section 256B.0654, is amended by adding a subdivision to read:

Subd. 5. **Payment rates for home care nursing services.** The commissioner shall annually adjust payments for home care nursing services to reflect the change in the federal Centers for Medicare and Medicaid Services Home Health Agency Market Basket. The commissioner shall use the indices as forecasted for the midpoint of the prior rate year to the midpoint of the current rate year.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever occurs later, for services delivered on or after January 1, 2022. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 13. Minnesota Statutes 2020, section 256B.0659, subdivision 11, is amended to read:

Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:

(i) supervision by a qualified professional every 60 days; and

(ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;

(2) be employed by a personal care assistance provider agency;

(3) enroll with the department as a personal care assistant after clearing a background study. Except as provided in subdivision 11a, before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;

(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional, physician, or advanced practice registered nurse;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized 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. Personal care assistant 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 personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient; and

(10) be limited to providing and being paid for up to 310 hours per month of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with. The number of hours worked per day shall not be disallowed by the department unless in violation of the law.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Persons who do not qualify as a personal care assistant include parents, stepparents, and legal guardians of minors; spouses; paid legal guardians of adults; family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a; and staff of a residential setting.

(d) Personal care assistance services qualify for the enhanced rate described in subdivision 17a if the personal care assistant providing the services:

(1) provides covered services to a recipient who qualifies for ~~12~~ ten or more hours per day of personal care assistance services; and

(2) satisfies the current requirements of Medicare for training and competency or competency evaluation of home health aides or nursing assistants, as provided in the Code of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state-approved training or competency requirements.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever occurs later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 14. Minnesota Statutes 2020, section 256B.0659, subdivision 17a, is amended to read:

Subd. 17a. **Enhanced rate.** An enhanced rate of 107.5 percent of the rate paid for personal care assistance services shall be paid for services provided to persons who qualify for ~~12~~ ten or more hours of personal care assistance services per day when provided by a personal care assistant who meets the requirements of subdivision 11, paragraph (d). ~~The enhanced rate for personal care assistance services includes, and is not in addition to, any rate adjustments implemented by the commissioner on July 1, 2019, to comply with the terms of a collective bargaining agreement between the state of Minnesota and an exclusive~~

~~representative of individual providers under section 179A.54, that provides for wage increases for individual providers who serve participants assessed to need 12 or more hours of personal care assistance services per day. Any change in the eligibility criteria for the enhanced rate for personal care assistance services as described in this subdivision and referenced in subdivision 11, paragraph (d), does not constitute a change in a term or condition for individual providers as defined in section 256B.0711, and is not subject to the state's obligation to meet and negotiate under chapter 179A.~~

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever occurs later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 15. Minnesota Statutes 2020, 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 chapter 256S and sections 256B.0913, 256B.092, and 256B.49, including level of care determination for individuals who need an institutional level of care as determined under subdivision 4e, based on a long-term care consultation 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;

(9) providing information about competitive employment, with or without supports, for school-age youth and working-age adults and referrals to the Disability Hub 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;

(10) providing information about independent living to ensure that an informed choice about independent living can be made; and

(11) providing information about self-directed services and supports, including self-directed funding options, to ensure that an informed choice about self-directed options can be made.

(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 the following state plan services:

(i) personal care assistance services under section 256B.0625, subdivisions 19a and 19c;

(ii) consumer support grants under section 256.476; or

(iii) community first services and supports under section 256B.85;

(2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024, gaining access to:

(i) relocation targeted case management services available under section 256B.0621, subdivision 2, clause (4);

(ii) case management services targeted to vulnerable adults or developmental disabilities under section 256B.0924; and

(iii) case management services targeted to people with developmental disabilities under Minnesota Rules, part 9525.0016;

(3) determination of eligibility for semi-independent living services under section 252.275; 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 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 this chapter 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 services.

(f) "Person-centered planning" is a process that includes the active participation of a person in the planning of the person's services, including in making meaningful and informed choices about the person's own goals, talents, and objectives, as well as making meaningful and informed choices about the services the person receives, the settings in which the person receives the services, and the setting in which the person lives.

(g) "Informed choice" ~~means a voluntary choice of services, settings, living arrangement, and work by a person from all available service and setting options based on accurate and complete information concerning all available service and setting options and concerning the person's own preferences, abilities, goals, and objectives. In order for a person to make an informed choice, all available options must be developed and presented to the person in a way the person can understand to empower the person to make fully informed choices~~ has the meaning given in section 256B.4905, subdivision 1a.



(h) "Available service and setting options" or "available options," with respect to the home and community-based waivers under chapter 256S and sections 256B.092 and 256B.49, means all services and settings defined under the waiver plan for which a waiver applicant or waiver participant is eligible.

(i) "Independent living" means living in a setting that is not controlled by a provider.

Sec. 16. Minnesota Statutes 2020, section 256B.092, subdivision 4, is amended to read:

Subd. 4. **Home and community-based services for developmental disabilities.** (a) The commissioner shall make payments to approved vendors participating in the medical assistance program to pay costs of providing home and community-based services, including case management service activities provided as an approved home and community-based service, to medical assistance eligible persons with developmental disabilities who have been screened under subdivision 7 and according to federal requirements. Federal requirements include those services and limitations included in the federally approved application for home and community-based services for persons with developmental disabilities and subsequent amendments.

~~(b) Effective July 1, 1995, contingent upon federal approval and state appropriations made available for this purpose, and in conjunction with Laws 1995, chapter 207, article 8, section 40, the commissioner of human services shall allocate resources to county agencies for home and community-based waived services for persons with developmental disabilities authorized but not receiving those services as of June 30, 1995, based upon the average resource need of persons with similar functional characteristics. To ensure service continuity for service recipients receiving home and community-based waived services for persons with developmental disabilities prior to July 1, 1995, the commissioner shall make available to the county of financial responsibility home and community-based waived services resources based upon fiscal year 1995 authorized levels.~~

~~(c) Home and community-based resources for all recipients shall be managed by the county of financial responsibility within an allowable reimbursement average established for each county. Payments for home and community-based services provided to individual recipients shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former residents of nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home and community-based service program. Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with developmental disabilities.~~

~~(d)~~ (b) The commissioner shall comply with the requirements in the federally approved transition plan for the home and community-based services waivers for the elderly authorized under this section.

**EFFECTIVE DATE.** This section is effective July 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 17. Minnesota Statutes 2020, section 256B.092, subdivision 5, is amended to read:

Subd. 5. **Federal waivers.** (a) The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation under United States Code, title 42, sections 1396 et seq., as amended, for the provision of services to persons who, in the absence of the services, would need the level of care provided in a regional treatment center or a community intermediate care facility for persons with developmental disabilities. The commissioner may seek amendments to the waivers or apply for additional waivers under United States Code, title 42, sections 1396 et seq., as amended, to contain

costs. The commissioner shall ensure that payment for the cost of providing home and community-based alternative services under the federal waiver plan shall not exceed the cost of intermediate care services including day training and habilitation services that would have been provided without the waived services.

The commissioner shall seek an amendment to the 1915c home and community-based waiver to allow properly licensed adult foster care homes to provide residential services to up to five individuals with developmental disabilities. If the amendment to the waiver is approved, adult foster care providers that can accommodate five individuals shall increase their capacity to five beds, provided the providers continue to meet all applicable licensing requirements.

(b) The commissioner, in administering home and community-based waivers for persons with developmental disabilities, shall ensure that day services for eligible persons are not provided by the person's residential service provider, unless the person or the person's legal representative is offered a choice of providers and agrees in writing to provision of day services by the residential service provider. The coordinated service and support plan for individuals who choose to have their residential service provider provide their day services must describe how health, safety, protection, and habilitation needs will be met, including how frequent and regular contact with persons other than the residential service provider will occur. The coordinated service and support plan must address the provision of services during the day outside the residence on weekdays.

(c) When a lead agency is evaluating denials, reductions, or terminations of home and community-based services under section 256B.0916 for an individual, the lead agency shall offer to meet with the individual or the individual's guardian in order to discuss the prioritization of service needs within the coordinated service and support plan. The reduction in the authorized services for an individual due to changes in funding for waived services may not exceed the amount needed to ensure medically necessary services to meet the individual's health, safety, and welfare.

(d) The commissioner shall seek federal approval to allow for the reconfiguration of the 1915(c) home and community-based waivers in this section, as authorized under section 1915(c) of the federal Social Security Act, to implement a two-waiver program structure.

(e) The transition to two disability home and community-based services waiver programs must align with the independent living first policy under section 256B.4905. Unless superseded by any other state or federal law, waiver eligibility criteria shall be the same for each waiver. The waiver program that a person uses shall be determined by the support planning process and whether the person chooses to live in a provider-controlled setting or in the person's own home.

(f) Prior to July 1, 2024, the commissioner shall seek federal approval for the 1915(c) home and community-based waivers in this section, as authorized under section 1915(c) of the federal Social Security Act, to implement an individual resource allocation methodology.

**EFFECTIVE DATE.** This section is effective July 1, 2024, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 18. Minnesota Statutes 2020, section 256B.092, is amended by adding a subdivision to read:

Subd. 11a. **Residential support services criteria.** (a) For the purposes of this subdivision, "residential support services" means the following residential support services reimbursed under section 256B.4914: community residential services, customized living services, and 24-hour customized living services.

(b) In order to increase independent living options for people with disabilities and in accordance with section 256B.4905, subdivisions 3 and 4, and consistent with section 245A.03, subdivision 7, the commissioner must establish and implement criteria to access residential support services. The criteria for accessing residential support services must prohibit the commissioner from authorizing residential support services unless at least all of the following conditions are met:

(1) the individual has complex behavioral health or complex medical needs; and

(2) the individual's service planning team has considered all other available residential service options and determined that those options are inappropriate to meet the individual's support needs.

Nothing in this subdivision shall be construed as permitting the commissioner to establish criteria prohibiting the authorization of residential support services for individuals described in the statewide priorities established in subdivision 12, the transition populations in subdivision 13, and the licensing moratorium exception criteria under section 245A.03, subdivision 7, paragraph (a).

(c) Individuals with active service agreements for residential support services on the date that the criteria for accessing residential support services become effective are exempt from the requirements of this subdivision, and the exemption from the criteria for accessing residential support services continues to apply for renewals of those service agreements.

**EFFECTIVE DATE.** This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 19. Minnesota Statutes 2020, section 256B.092, subdivision 12, is amended to read:

Subd. 12. ~~Waivered Waiver services statewide priorities.~~ (a) The commissioner shall establish statewide priorities for individuals on the waiting list for developmental disabilities (DD) waiver services, as of January 1, 2010. The statewide priorities must include, but are not limited to, individuals who continue to have a need for waiver services after they have maximized the use of state plan services and other funding resources, including natural supports, prior to accessing waiver services, and who meet at least one of the following criteria:

- (1) no longer require the intensity of services provided where they are currently living; or
- (2) make a request to move from an institutional setting.

(b) After the priorities in paragraph (a) are met, priority must also be given to individuals who meet at least one of the following criteria:

- (1) have unstable living situations due to the age, incapacity, or sudden loss of the primary caregivers;
- (2) are moving from an institution due to bed closures;
- (3) experience a sudden closure of their current living arrangement;
- (4) require protection from confirmed abuse, neglect, or exploitation;
- (5) experience a sudden change in need that can no longer be met through state plan services or other funding resources alone; or
- (6) meet other priorities established by the department.

(c) When allocating new enrollment resources to lead agencies, the commissioner must take into consideration the number of individuals waiting who meet statewide priorities ~~and the lead agencies' current use of waiver funds and existing service options. The commissioner has the authority to transfer funds between counties, groups of counties, and tribes to accommodate statewide priorities and resource needs while accounting for a necessary base level reserve amount for each county, group of counties, and tribe.~~

**EFFECTIVE DATE.** This section is effective July 1, 2024, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 20. Minnesota Statutes 2020, section 256B.097, is amended by adding a subdivision to read:

Subd. 7. **Regional quality councils and systems improvement.** The commissioner of human services shall maintain the regional quality councils initially established under Minnesota Statutes 2020, section 256B.097, subdivision 4. The regional quality councils shall:

- (1) support efforts and initiatives that drive overall systems and social change to promote inclusion of people who have disabilities in the state of Minnesota;
- (2) improve person-centered outcomes in disability services; and
- (3) identify or enhance quality of life indicators for people who have disabilities.

Sec. 21. Minnesota Statutes 2020, section 256B.097, is amended by adding a subdivision to read:

Subd. 8. **Membership and staff.** (a) Regional quality councils shall be comprised of key stakeholders including, but not limited to:

- (1) individuals who have disabilities;
- (2) family members of people who have disabilities;
- (3) disability service providers;
- (4) disability advocacy groups;
- (5) lead agency staff; and
- (6) staff of state agencies with jurisdiction over special education and disability services.

(b) Membership in a regional quality council must be representative of the communities in which the council operates, with an emphasis on individuals with lived experience from diverse racial and cultural backgrounds.

(c) Each regional quality council may hire staff to perform the duties assigned in subdivision 9.

Sec. 22. Minnesota Statutes 2020, section 256B.097, is amended by adding a subdivision to read:

Subd. 9. **Duties.** (a) Each regional quality council shall:

- (1) identify issues and barriers that impede Minnesotans who have disabilities from optimizing choice of home and community-based services;
- (2) promote informed-decision making, autonomy, and self-direction;

(3) analyze and review quality outcomes and critical incident data, and immediately report incidents of life safety concerns to the Department of Human Services Licensing Division;

(4) inform a comprehensive system for effective incident reporting, investigation, analysis, and follow-up;

(5) collaborate on projects and initiatives to advance priorities shared with state agencies, lead agencies, educational institutions, advocacy organizations, community partners, and other entities engaged in disability service improvements;

(6) establish partnerships and working relationships with individuals and groups in the regions;

(7) identify and implement regional and statewide quality improvement projects;

(8) transform systems and drive social change in alignment with the disability rights and disability justice movements identified by leaders who have disabilities;

(9) provide information and training programs for persons who have disabilities and their families and legal representatives on formal and informal support options and quality expectations;

(10) make recommendations to state agencies and other key decision-makers regarding disability services and supports;

(11) submit every two years a report to legislative committees with jurisdiction over disability services on the status, outcomes, improvement priorities, and activities in the region;

(12) support people by advocating to resolve complaints between the counties, providers, persons receiving services, and their families and legal representatives; and

(13) recruit, train, and assign duties to regional quality council teams, including council members, interns, and volunteers, taking into account the skills necessary for the team members to be successful in this work.

(b) Each regional quality council may engage in quality improvement initiatives related to, but not limited to:

(1) the home and community-based services waiver programs for persons with developmental disabilities under section 256B.092, subdivision 4, or section 256B.49, including brain injuries and services for those persons who qualify for nursing facility level of care or hospital facility level of care and any other services licensed under chapter 245D;

(2) home care services under section 256B.0651;

(3) family support grants under section 252.32;

(4) consumer support grants under section 256.476;

(5) semi-independent living services under section 252.275; and

(6) services provided through an intermediate care facility for persons with developmental disabilities.

(c) Each regional quality council's work must be informed and directed by the needs and desires of persons who have disabilities in the region in which the council operates.

Sec. 23. Minnesota Statutes 2020, section 256B.097, is amended by adding a subdivision to read:

Subd. 10. **Compensation.** (a) A member of a regional quality council who does not receive a salary or wages from an employer may be paid a per diem and reimbursed for expenses related to the member's participation in efforts and initiatives described in subdivision 9 in the same manner and in an amount not to exceed the amount authorized by the commissioner's plan adopted under section 43A.18, subdivision 2.

(b) Regional quality councils may charge fees for their services.

Sec. 24. Minnesota Statutes 2020, section 256B.439, is amended by adding a subdivision to read:

Subd. 3c. **Contact information for consumer surveys for home and community-based services.** For purposes of conducting the consumer surveys under subdivision 3a, the commissioner may request contact information of clients and associated key representatives. Providers must furnish the contact information available to the provider and must provide notice to clients and associated key representatives that their contact information has been provided to the commissioner.

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

Sec. 25. Minnesota Statutes 2020, section 256B.439, is amended by adding a subdivision to read:

Subd. 3d. **Resident experience survey and family survey for assisted living facilities.** The commissioner shall develop and administer a resident experience survey for assisted living facility residents and a family survey for families of assisted living facility residents. Money appropriated to the commissioner to administer the resident experience survey and family survey is available in either fiscal year of the biennium in which it is appropriated.

Sec. 26. Minnesota Statutes 2020, section 256B.49, subdivision 11, is amended to read:

Subd. 11. **Authority.** (a) The commissioner is authorized to apply for home and community-based service waivers, as authorized under section 1915(c) of the federal Social Security Act to serve persons under the age of 65 who are determined to require the level of care provided in a nursing home and persons who require the level of care provided in a hospital. The commissioner shall apply for the home and community-based waivers in order to:

- (1) promote the support of persons with disabilities in the most integrated settings;
- (2) expand the availability of services for persons who are eligible for medical assistance;
- (3) promote cost-effective options to institutional care; and
- (4) obtain federal financial participation.

(b) The provision of ~~waivered~~ waiver services to medical assistance recipients with disabilities shall comply with the requirements outlined in the federally approved applications for home and community-based services and subsequent amendments, including provision of services according to a service plan designed to meet the needs of the individual. For purposes of this section, the approved home and community-based application is considered the necessary federal requirement.

(c) The commissioner shall provide interested persons serving on agency advisory committees, task forces, the Centers for Independent Living, and others who request to be on a list to receive, notice of, and an opportunity to comment on, at least 30 days before any effective dates, (1) any substantive changes to

the state's disability services program manual, or (2) changes or amendments to the federally approved applications for home and community-based waivers, prior to their submission to the federal Centers for Medicare and Medicaid Services.

(d) The commissioner shall seek approval, as authorized under section 1915(c) of the federal Social Security Act, to allow medical assistance eligibility under this section for children under age 21 without deeming of parental income or assets.

(e) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Act, to allow medical assistance eligibility under this section for individuals under age 65 without deeming the spouse's income or assets.

(f) The commissioner shall comply with the requirements in the federally approved transition plan for the home and community-based services waivers authorized under this section.

(g) The commissioner shall seek federal approval to allow for the reconfiguration of the 1915(c) home and community-based waivers in this section, as authorized under section 1915(c) of the federal Social Security Act, to implement a two-waiver program structure.

(h) The commissioner shall seek federal approval for the 1915(c) home and community-based waivers in this section, as authorized under section 1915(c) of the federal Social Security Act, to implement an individual resource allocation methodology.

**EFFECTIVE DATE.** This section is effective July 1, 2024, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 27. Minnesota Statutes 2020, section 256B.49, subdivision 11a, is amended to read:

Subd. 11a. ~~Waivered Waiver~~ **Waiver services statewide priorities.** (a) The commissioner shall establish statewide priorities for individuals on the waiting list for community alternative care, community access for disability inclusion, and brain injury waiver services, as of January 1, 2010. The statewide priorities must include, but are not limited to, individuals who continue to have a need for waiver services after they have maximized the use of state plan services and other funding resources, including natural supports, prior to accessing waiver services, and who meet at least one of the following criteria:

- (1) no longer require the intensity of services provided where they are currently living; or
- (2) make a request to move from an institutional setting.

(b) After the priorities in paragraph (a) are met, priority must also be given to individuals who meet at least one of the following criteria:

- (1) have unstable living situations due to the age, incapacity, or sudden loss of the primary caregivers;
- (2) are moving from an institution due to bed closures;
- (3) experience a sudden closure of their current living arrangement;
- (4) require protection from confirmed abuse, neglect, or exploitation;
- (5) experience a sudden change in need that can no longer be met through state plan services or other funding resources alone; or

(6) meet other priorities established by the department.

(c) When allocating new enrollment resources to lead agencies, the commissioner must take into consideration the number of individuals waiting who meet statewide priorities ~~and the lead agencies' current use of waiver funds and existing service options. The commissioner has the authority to transfer funds between counties, groups of counties, and tribes to accommodate statewide priorities and resource needs while accounting for a necessary base level reserve amount for each county, group of counties, and tribe.~~

**EFFECTIVE DATE.** This section is effective July 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 28. Minnesota Statutes 2020, section 256B.49, subdivision 17, is amended to read:

Subd. 17. **Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

~~(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need-based methods for allocating to local agencies the home and community based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:~~

- ~~(1) an incentive-based payment process for achieving outcomes;~~
- ~~(2) the need for a state level risk pool;~~
- ~~(3) the need for retention of management responsibility at the state agency level; and~~
- ~~(4) a phase in strategy as appropriate.~~

~~(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:~~

~~(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community-based services; or~~

~~(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.~~

~~(d)~~ (b) Beginning July 1, 2001, medically necessary home care nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 to 256B.0654 and 256B.0659.



The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

(e) (c) Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

**EFFECTIVE DATE.** This section is effective July 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 29. Minnesota Statutes 2020, section 256B.49, is amended by adding a subdivision to read:

Subd. 28. **Customized living moratorium for brain injury and community access for disability inclusion waivers.** (a) Notwithstanding section 245A.03, subdivision 2, paragraph (a), clause (23), to prevent new development of customized living settings that otherwise meet the residential program definition under section 245A.02, subdivision 14, the commissioner shall not enroll new customized living settings serving four or fewer people in a single-family home to deliver customized living services as defined under the brain injury or community access for disability inclusion waiver plans under this section.

(b) The commissioner may approve an exception to paragraph (a) when an existing customized living setting changes ownership at the same address.

(c) Customized living settings operational on or before June 30, 2021, are considered existing customized living settings.

(d) For any new customized living settings serving four or fewer people in a single-family home to deliver customized living services as defined in paragraph (a) and that was not operational on or before June 30, 2021, the authorizing lead agency is financially responsible for all home and community-based service payments in the setting.

(e) For purposes of this subdivision, "operational" means customized living services are authorized and delivered to a person in the customized living setting.

**EFFECTIVE DATE.** This section is effective July 1, 2021. This section applies only to customized living services as defined under the brain injury or community access for disability inclusion waiver plans under Minnesota Statutes, section 256B.49.

Sec. 30. Minnesota Statutes 2020, section 256B.49, is amended by adding a subdivision to read:

Subd. 29. **Residential support services criteria.** (a) For the purposes of this subdivision, "residential support services" means the following residential support services reimbursed under section 256B.4914: community residential services, customized living services, and 24-hour customized living services.

(b) In order to increase independent living options for people with disabilities and in accordance with section 256B.4905, subdivisions 3 and 4, and consistent with section 245A.03, subdivision 7, the commissioner must establish and implement criteria to access residential support services. The criteria for accessing residential support services must prohibit the commissioner from authorizing residential support services unless at least all of the following conditions are met:

(1) the individual has complex behavioral health or complex medical needs; and

(2) the individual's service planning team has considered all other available residential service options and determined that those options are inappropriate to meet the individual's support needs.

Nothing in this subdivision shall be construed as permitting the commissioner to establish criteria prohibiting the authorization of residential support services for individuals described in the statewide priorities established in subdivision 12, the transition populations in subdivision 13, and the licensing moratorium exception criteria under section 245A.03, subdivision 7, paragraph (a).

(c) Individuals with active service agreements for residential support services on the date that the criteria for accessing residential support services become effective are exempt from the requirements of this subdivision, and the exemption from the criteria for accessing residential support services continues to apply for renewals of those service agreements.

**EFFECTIVE DATE.** This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 31. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 1a. **Informed choice.** For purposes of this section, "informed choice" means a choice that adults who have disabilities and, with support from their families or legal representatives, that children who have disabilities make regarding services and supports that best meets the adult's or children's needs and preferences. Before making an informed choice, an individual who has disabilities must be provided, in an accessible format and manner that meets the individual's needs, the tools, information, and opportunities that the individual requires to understand all of the individual's options.

Sec. 32. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 2a. **Informed choice policy.** (a) It is the policy of this state that all adults who have disabilities and, with support from their families or legal representatives, all children who have disabilities:

(1) may make informed choices to select and utilize disability services and supports; and

(2) are offered an informed decision-making process sufficient to make informed choices.

(b) It is the policy of this state that disability waiver services support the presumption that adults who have disabilities and, with support from their families or legal representatives, children who have disabilities may make informed choices; and that all adults who have disabilities and all families of children who have disabilities and are accessing waiver services under sections 256B.092 and 256B.49 are provided an informed decision-making process that satisfies the requirements of subdivision 3a.

Sec. 33. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 3a. **Informed decision making.** "Informed decision making" means a process that provides accessible, correct, and complete information to help an individual who is accessing waiver services under

sections 256B.092 and 256B.49 make an informed choice. This information must be accessible and understandable to the individual so that the individual is able to demonstrate understanding of the options. Any written information provided in the process must be accessible and the process must be experiential whenever possible. The process must also consider and offer to the individual, in a person-centered manner, the following:

(1) reasonable accommodations as needed or requested by the individual to fully participate in the informed decision-making process and acquire the information necessary to make an informed choice;

(2) discussion of the individual's own preferences, abilities, goals, and objectives;

(3) identification of the person's cultural needs and access to culturally responsive services and providers;

(4) information about the benefits of inclusive and individualized services and supports;

(5) presentation and discussion of all options with the person;

(6) documentation, in a manner prescribed by the commissioner, of each option discussed;

(7) exploration and development of new or other options;

(8) facilitation of opportunities to visit alternative locations or to engage in experiences to understand how any service option might work for the person;

(9) opportunities to meet with other individuals with disabilities who live, work, and receive services different from the person's own services;

(10) development of a transition plan, when needed or requested by the person, to facilitate the choice to move from one service type or setting to another, and authorization of the services and supports necessary to effectuate the plan;

(11) identification of any barriers to assisting or implementing the person's informed choice and authorization of the services and supports necessary to overcome those barriers; and

(12) ample time and timely opportunity to consider available options before the individual makes a final choice or changes a choice.

Sec. 34. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 4a. **Informed choice in employment policy.** It is the policy of this state that working-age individuals who have disabilities:

(1) can work and achieve competitive integrated employment with appropriate services and supports, as needed;

(2) make informed choices about their postsecondary education, work, and career goals; and

(3) will be offered the opportunity to make an informed choice, at least annually, to pursue postsecondary education or to work and earn a competitive wage.

Sec. 35. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 5a. **Employment first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all working-age Minnesotans with disabilities can work and achieve competitive integrated employment with appropriate services and supports, as needed; and

(2) each waiver recipient of working age be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to work and earn a competitive wage before being offered exclusively day services as defined in section 245D.03, subdivision 1, paragraph (c), clause (4), or successor provisions.

Sec. 36. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 7. **Informed choice in community living policy.** It is the policy of this state that all adults who have disabilities:

(1) can live in the communities of the individual's choosing with appropriate services and supports as needed; and

(2) have the right, at least annually, to make an informed decision-making process that can help them make an informed choice to live outside of a provider-controlled setting.

Sec. 37. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 8. **Independent living first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all adults who have disabilities can and want to live in the communities of the individual's choosing with services and supports, as needed; and

(2) each adult waiver recipient is offered, after an informed decision-making process and during a person-centered planning process, the opportunity to live as independently as possible, in a nonprovider-controlled setting, before the recipient is offered a provider-controlled setting. A provider-controlled setting includes customized living services provided in a single-family home or residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), or successor provisions, unless the residential supports and services are provided in a family adult foster care residence under a shared-living option as described in Laws 2013, chapter 108, article 7, section 62.

Sec. 38. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 9. **Informed choice in self-direction policy.** It is the policy of this state that adults who have disabilities and families of children who have disabilities:

(1) can direct the adult's or child's needed services and supports; and

(2) have the right to make an informed choice to self-direct the adult's or child's services and supports before being offered options that do not allow the adult or family to self-direct the adult's or child's services and supports.

Sec. 39. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 10. **Informed choice in self-direction implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) disability waivers under sections 256B.092 and 256B.49 support the presumption that adults who have disabilities and families of children who have disabilities can direct all of their services and supports, including self-directed funding options; and

(2) each waiver recipient is offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose self-directed services and supports, including self-directed funding options, before the recipient is offered services and supports that are not self-directed.

Sec. 40. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 11. **Informed choice in technology policy.** It is the policy of this state that all adults who have disabilities and children who have disabilities:

(1) can use assistive technology, remote supports, or a combination of both to enhance the adult's or child's independence and quality of life; and

(2) have the right, at least annually, to make an informed choice about the adult's or child's use of assistive technology and remote supports.

Sec. 41. Minnesota Statutes 2020, section 256B.4905, is amended by adding a subdivision to read:

Subd. 12. **Informed choice in technology implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) disability waivers under sections 256B.092 and 256B.49 support the presumption that all adults who have disabilities and children who have disabilities may use assistive technology, remote supports, or both to enhance the adult's or child's independence and quality of life; and

(2) each individual accessing waiver services is offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose assistive technology, remote support, or both to ensure equitable access.

Sec. 42. Minnesota Statutes 2020, section 256B.4914, subdivision 5, is amended to read:

Subd. 5. **Base wage index and standard component values.** (a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services. For purposes of developing and calculating the proposed base wage, Minnesota-specific wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in the most recent edition of the Occupational Handbook must be used. The base wage index must be calculated as follows:

(1) for residential direct care staff, the sum of:

(i) 15 percent of the subtotal of 50 percent of the median wage for personal and home health aide (SOC code 39-9021); 30 percent of the median wage for nursing assistant (SOC code 31-1014); and 20 percent of the median wage for social and human services aide (SOC code 21-1093); and

(ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(2) for adult day services, 70 percent of the median wage for nursing assistant (SOC code 31-1014); and 30 percent of the median wage for personal care aide (SOC code 39-9021);

(3) for day services, day support services, and prevocational services, 20 percent of the median wage for nursing assistant (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(4) for residential asleep-overnight staff, the wage is the minimum wage in Minnesota for large employers, except in a family foster care setting, the wage is 36 percent of the minimum wage in Minnesota for large employers;

(5) for positive supports analyst staff, 100 percent of the median wage for mental health counselors (SOC code 21-1014);

(6) for positive supports professional staff, 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

(7) for positive supports specialist staff, 100 percent of the median wage for psychiatric technicians (SOC code 29-2053);

(8) for supportive living services staff, 20 percent of the median wage for nursing assistant (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(9) for housing access coordination staff, 100 percent of the median wage for community and social services specialist (SOC code 21-1099);

(10) for in-home family support and individualized home supports with family training staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 30 percent of the median wage for community social service specialist (SOC code 21-1099); 40 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(11) for individualized home supports with training services staff, 40 percent of the median wage for community social service specialist (SOC code 21-1099); 50 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(12) for independent living skills staff, 40 percent of the median wage for community social service specialist (SOC code 21-1099); 50 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(13) for employment support services staff, 50 percent of the median wage for rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(14) for employment exploration services staff, 50 percent of the median wage for rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(15) for employment development services staff, 50 percent of the median wage for education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(16) for individualized home support staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code 31-1014);

(17) for adult companion staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code 31-1014);

(18) for night supervision staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(19) for respite staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code 31-1014);

(20) for personal support staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code 31-1014);

(21) for supervisory staff, 100 percent of the median wage for community and social services specialist (SOC code 21-1099), with the exception of the supervisor of positive supports professional, positive supports analyst, and positive supports specialists, which is 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

(22) for registered nurse staff, 100 percent of the median wage for registered nurses (SOC code 29-1141); and

(23) for licensed practical nurse staff, 100 percent of the median wage for licensed practical nurses (SOC code 29-2061).

(b) Component values for corporate foster care services, corporate supportive living services daily, community residential services, and integrated community support services are:

- (1) competitive workforce factor: 4.7 percent;
- (2) supervisory span of control ratio: 11 percent;
- (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- (4) employee-related cost ratio: 23.6 percent;
- (5) general administrative support ratio: 13.25 percent;
- (6) program-related expense ratio: 1.3 percent; and
- (7) absence and utilization factor ratio: 3.9 percent.

(c) Component values for family foster care are:

- (1) competitive workforce factor: 4.7 percent;
- (2) supervisory span of control ratio: 11 percent;
- (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- (4) employee-related cost ratio: 23.6 percent;

(5) general administrative support ratio: 3.3 percent;

(6) program-related expense ratio: 1.3 percent; and

(7) absence factor: 1.7 percent.

(d) Component values for day training and habilitation, day support services, and prevocational services are:

(1) competitive workforce factor: 4.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan support ratio: 5.6 percent;

(6) client programming and support ratio: ten percent;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 1.8 percent; and

(9) absence and utilization factor ratio: 9.4 percent.

(e) Component values for adult day services are:

(1) competitive workforce factor: 4.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan support ratio: 5.6 percent;

(6) client programming and support ratio: 7.4 percent;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 1.8 percent; and

(9) absence and utilization factor ratio: 9.4 percent.

(f) Component values for unit-based services with programming are:

(1) competitive workforce factor: 4.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan supports ratio: 15.5 percent;



- (6) client programming and supports ratio: 4.7 percent;
  - (7) general administrative support ratio: 13.25 percent;
  - (8) program-related expense ratio: 6.1 percent; and
  - (9) absence and utilization factor ratio: 3.9 percent.
- (g) Component values for unit-based services without programming except respite are:

- (1) competitive workforce factor: 4.7 percent;
- (2) supervisory span of control ratio: 11 percent;
- (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- (4) employee-related cost ratio: 23.6 percent;
- (5) program plan support ratio: 7.0 percent;
- (6) client programming and support ratio: 2.3 percent;
- (7) general administrative support ratio: 13.25 percent;
- (8) program-related expense ratio: 2.9 percent; and
- (9) absence and utilization factor ratio: 3.9 percent.

(h) Component values for unit-based services without programming for respite are:

- (1) competitive workforce factor: 4.7 percent;
- (2) supervisory span of control ratio: 11 percent;
- (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- (4) employee-related cost ratio: 23.6 percent;
- (5) general administrative support ratio: 13.25 percent;
- (6) program-related expense ratio: 2.9 percent; and
- (7) absence and utilization factor ratio: 3.9 percent.

(i) ~~On July 1, 2022, and every two years thereafter,~~ The commissioner shall update the base wage index in paragraph (a) ~~based on wage data by SOC from the Bureau of Labor Statistics available 30 months and one day prior to the scheduled update. The commissioner shall~~ publish these updated values, and load them into the rate management system as follows:

(1) on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics available as of December 31, 2019;

(2) on November 1, 2024, based on wage data by SOC from the Bureau of Labor Statistics available as of December 31, 2021; and

(3) on July 1, 2026, and every two years thereafter, based on wage data by SOC from the Bureau of Labor Statistics available 30 months and one day prior to the scheduled update.

(j) Beginning February 1, 2021, and every two years thereafter, the commissioner 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 an analysis of the competitive workforce factor. The report must include recommendations to update the competitive workforce factor using:

(1) the most recently available wage data by SOC code for the weighted average wage for direct care staff for residential services and direct care staff for day services;

(2) the most recently available wage data by SOC code of the weighted average wage of comparable occupations; and

(3) workforce data as required under subdivision 10a, paragraph (g).

The commissioner shall not recommend an increase or decrease of the competitive workforce factor from the current value by more than two percentage points. If, after a biennial analysis for the next report, the competitive workforce factor is less than or equal to zero, the commissioner shall recommend a competitive workforce factor of zero.

(k) ~~On July 1, 2022, and every two years thereafter,~~ The commissioner shall update the framework components in paragraph (d), clause (6); paragraph (e), clause (6); paragraph (f), clause (6); and paragraph (g), clause (6); subdivision 6, paragraphs (b), clauses (9) and (10), and (e), clause (10); and subdivision 7, clauses (11), (17), and (18), for changes in the Consumer Price Index. The commissioner shall adjust these values higher or lower ~~by the percentage change in the CPI-U from the date of the previous update to the data available 30 months and one day prior to the scheduled update.~~ The commissioner shall publish these updated values, and load them into the rate management system as follows:

(1) on January 1, 2022, by the percentage change in the CPI-U from the date of the previous update to the data available on December 31, 2019;

(2) on November 1, 2024, by the percentage change in the CPI-U from the date of the previous update to the data available as of December 31, 2021; and

(3) on July 1, 2026, and every two years thereafter, by the percentage change in the CPI-U from the date of the previous update to the data available 30 months and one day prior to the scheduled update.

(l) Upon the implementation of the updates under paragraphs (i) and (k), rate adjustments authorized under section 256B.439, subdivision 7; Laws 2013, chapter 108, article 7, section 60; and Laws 2014, chapter 312, article 27, section 75, shall be removed from service rates calculated under this section.

(m) Any rate adjustments applied to the service rates calculated under this section outside of the cost components and rate methodology specified in this section shall be removed from rate calculations upon implementation of the updates under paragraphs (i) and (k).

(n) In this subdivision, if Bureau of Labor Statistics occupational codes or Consumer Price Index items are unavailable in the future, the commissioner shall recommend to the legislature codes or items to update and replace missing component values.

(o) At least 80 percent of the marginal increase in revenue from the rate adjustment applied to the service rates calculated under this section in paragraphs (i) and (k) beginning on January 1, 2022, for services rendered between January 1, 2022, and March 31, 2024, must be used to increase compensation-related costs for employees directly employed by the program on or after January 1, 2022. For the purposes of this paragraph, compensation-related costs include:

(1) wages and salaries;

(2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, and mileage reimbursement;

(3) the employer's paid share of health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, pensions, and contributions to employee retirement accounts; and

(4) benefits that address direct support professional workforce needs above and beyond what employees were offered prior to January 1, 2022, including retention and recruitment bonuses and tuition reimbursement.

Compensation-related costs for persons employed in the central office of a corporation or entity that has an ownership interest in the provider or exercises control over the provider, or for persons paid by the provider under a management contract, do not count toward the 80 percent requirement under this paragraph. A provider agency or individual provider that receives a rate subject to the requirements of this paragraph shall prepare, and upon request submit to the commissioner, a distribution plan that specifies the amount of money the provider expects to receive that is subject to the requirements of this paragraph, including how that money was or will be distributed to increase compensation-related costs for employees. Within 60 days of final implementation of a rate adjustment subject to the requirements of this paragraph, the provider must post the distribution plan and leave it posted for a period of at least six months in an area of the provider's operation to which all direct support professionals have access.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 43. Minnesota Statutes 2020, section 256B.4914, subdivision 6, is amended to read:

Subd. 6. **Payments for residential support services.** (a) For purposes of this subdivision, residential support services includes 24-hour customized living services, community residential services, customized living services, family residential services, foster care services, integrated community supports, and supportive living services daily.

(b) Payments for community residential services, corporate foster care services, corporate supportive living services daily, family residential services, and family foster care services must be calculated as follows:

(1) determine the number of shared staffing and individual direct staff hours to meet a recipient's needs provided on site or through monitoring technology;

(2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in subdivision 5;

(3) except for subdivision 5, paragraph (a), clauses (4) and (21) to (23), multiply the result of clause (2) by the product of one plus the competitive workforce factor in subdivision 5, paragraph (b), clause (1);

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of shared and individual direct staff hours provided on site or through monitoring technology and nursing hours by the appropriate staff wages;

(6) multiply the number of shared and individual direct staff hours provided on site or through monitoring technology and nursing hours by the product of the supervision span of control ratio in subdivision 5, paragraph (b), clause (2), and the appropriate supervision wage in subdivision 5, paragraph (a), clause (21);

(7) combine the results of clauses (5) and (6), excluding any shared and individual direct staff hours provided through monitoring technology, and multiply the result by one plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b), clause (3). This is defined as the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost, excluding any shared and individual direct staff hours provided through monitoring technology, by one plus the employee-related cost ratio in subdivision 5, paragraph (b), clause (4);

(9) for client programming and supports, the commissioner shall add \$2,179; and

(10) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if customized for adapted transport, based on the resident with the highest assessed need.

(c) The total rate must be calculated using the following steps:

(1) subtotal paragraph (b), clauses (8) to (10), and the direct staffing cost of any shared and individual direct staff hours provided through monitoring technology that was excluded in clause (8);

(2) sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization ratio;

(3) divide the result of clause (1) by one minus the result of clause (2). This is the total payment amount; and

(4) adjust the result of clause (3) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

(d) ~~The payment methodology for customized living, and 24-hour customized living, and residential care services must be the customized living tool. Revisions to~~ The commissioner shall revise the customized living tool must be made to reflect the services and activities unique to disability-related recipient needs, and adjust for regional differences in the cost of providing services. The rate adjustments described in section 256S.205 do not apply to rates paid under this section. Customized living and 24-hour customized living rates determined under this section shall not include more than 24 hours of support in a daily unit. The commissioner shall establish the following acuity-based customized living tool input limits, based on case mix, for customized living and 24-hour customized living rates determined under this section:

(1) no more than two hours of mental health management per day for people assessed for case mixes A, D, and G;

(2) no more than four hours of activities of daily living assistance per day for people assessed for case mix B; and

(3) no more than six hours of activities of daily living assistance per day for people assessed for case mix D.

(e) Payments for integrated community support services must be calculated as follows:

(1) the base shared staffing ~~shall~~ must be eight hours divided by the number of people receiving support in the integrated community support setting;

(2) the individual staffing hours ~~shall~~ must be the average number of direct support hours provided directly to the service recipient;

(3) the personnel hourly wage rate must be based on the most recent Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in subdivision 5;

(4) except for subdivision 5, paragraph (a), clauses (4) and (21) to (23), multiply the result of clause (3) by the product of one plus the competitive workforce factor in subdivision 5, paragraph (b), clause (1);

(5) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (4);

(6) multiply the number of shared and individual direct staff hours in clauses (1) and (2) by the appropriate staff wages;

(7) multiply the number of shared and individual direct staff hours in clauses (1) and (2) by the product of the supervisory span of control ratio in subdivision 5, paragraph (b), clause (2), and the appropriate supervisory wage in subdivision 5, paragraph (a), clause (21);

(8) combine the results of clauses (6) and (7) and multiply the result by one plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b), clause (3). This is defined as the direct staffing cost;

(9) for employee-related expenses, multiply the direct staffing cost by one plus the employee-related cost ratio in subdivision 5, paragraph (b), clause (4); and

(10) for client programming and supports, the commissioner shall add \$2,260.21 divided by 365.

(f) The total rate must be calculated as follows:

(1) add the results of paragraph (e), clauses (9) and (10);

(2) add the standard general and administrative rate, the program-related expense ratio, and the absence and utilization factor ratio;

(3) divide the result of clause (1) by one minus the result of clause (2). This is the total payment amount; and

(4) adjust the result of clause (3) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

~~(g) The payment methodology for customized living and 24-hour customized living services must be the customized living tool. The commissioner shall revise the customized living tool to reflect the services and activities unique to disability-related recipient needs and adjust for regional differences in the cost of providing services.~~

~~(h)~~ (g) The number of days authorized for all individuals enrolling in residential services must include every day that services start and end.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later, except the fifth sentence in paragraph (d) is effective January 1, 2022. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 44. Minnesota Statutes 2020, section 256B.5012, is amended by adding a subdivision to read:

**Subd. 18. ICF/DD rate increases effective January 1, 2022.** (a) For the rate period beginning January 1, 2022, the commissioner must increase operating payments for each facility reimbursed under this section equal to five percent of the operating payment rates in effect on December 31, 2021.

(b) For each facility, the commissioner must apply the rate increase based on occupied beds, using the percentage specified in this subdivision multiplied by the total payment rate, including the variable rate but excluding the property-related payment rate in effect on December 31, 2021. The total rate increase must include the adjustment provided in section 256B.501, subdivision 12.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 45. Minnesota Statutes 2020, section 256B.5013, subdivision 1, is amended to read:

Subdivision 1. **Variable rate adjustments.** ~~(a) For rate years beginning on or after October 1, 2000,~~ When there is a documented increase in the needs of a current ICF/DD recipient, the county of financial responsibility may recommend a variable rate to enable the facility to meet the individual's increased needs. Variable rate adjustments made under this subdivision replace payments for persons with special needs for crisis intervention services under section 256B.501, subdivision 8a. ~~Effective July 1, 2003, facilities with a base rate above the 50th percentile of the statewide average reimbursement rate for a Class A facility or Class B facility, whichever matches the facility licensure, are not eligible for a variable rate adjustment. Variable rate adjustments may not exceed a 12-month period, except when approved for purposes established in paragraph (b), clause (1).~~ Once approved, variable rate adjustments must continue to remain in place unless there is an identified change in need. A review of needed resources must be done at the time of the individual's annual support plan meeting. Any change in need identified must result in submission of a request to adjust the resources for the individual. Variable rate adjustments approved solely on the basis of changes on a developmental disabilities screening document will end June 30, 2002.

(b) The county of financial responsibility must act on a variable rate request within 30 days and notify the initiator of the request of the county's recommendation in writing.

~~(b)~~ (c) A variable rate may be recommended by the county of financial responsibility for increased needs in the following situations:

(1) a need for resources due to an individual's full or partial retirement from participation in a day training and habilitation service when the individual: (i) has reached the age of 65 or has a change in health condition that makes it difficult for the person to participate in day training and habilitation services over an extended period of time because it is medically contraindicated; and (ii) has expressed a desire for change through the developmental disability screening process under section 256B.092;

(2) a need for additional resources for intensive short-term programming ~~which~~ that is necessary prior to an individual's discharge to a less restrictive, more integrated setting;

(3) a demonstrated medical need that significantly impacts the type or amount of services needed by the individual; ~~or~~

(4) a demonstrated behavioral or cognitive need that significantly impacts the type or amount of services needed by the individual; or

~~(c) The county of financial responsibility must justify the purpose, the projected length of time, and the additional funding needed for the facility to meet the needs of the individual.~~

~~(d) The facility shall provide an annual report to the county case manager on the use of the variable rate funds and the status of the individual on whose behalf the funds were approved. The county case manager will forward the facility's report with a recommendation to the commissioner to approve or disapprove a continuation of the variable rate.~~

~~(e) Funds made available through the variable rate process that are not used by the facility to meet the needs of the individual for whom they were approved shall be returned to the state.~~

(5) a demonstrated increased need for staff assistance, changes in the type of staff credentials needed, or a need for expert consultation based on assessments conducted prior to the annual support plan meeting.

(d) Variable rate requests must include the following information:

(1) the service needs change;

(2) the variable rate requested and the difference from the current rate;

(3) a basis for the underlying costs used for the variable rate and any accompanying documentation; and

(4) documentation of the expected outcomes to be achieved and the frequency of progress monitoring associated with the rate increase.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 46. Minnesota Statutes 2020, section 256B.5013, subdivision 6, is amended to read:

Subd. 6. **Commissioner's responsibilities.** The commissioner shall:

(1) make a determination to approve, deny, or modify a request for a variable rate adjustment within 30 days of the receipt of the completed application;

(2) notify the ICF/DD facility and county case manager of the ~~duration and conditions of variable rate adjustment approvals~~ determination; and

(3) modify MMIS II service agreements to reimburse ICF/DD facilities for approved variable rates.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 47. Minnesota Statutes 2020, section 256B.5015, subdivision 2, is amended to read:

Subd. 2. **Services during the day.** (a) Services during the day, as defined in section 256B.501, but excluding day training and habilitation services, shall be paid as a pass-through payment ~~no later than January 1, 2004~~. The commissioner shall establish rates for these services, other than day training and habilitation services, at ~~levels that do not exceed 75~~ 100 percent of a recipient's day training and habilitation service costs prior to the service change.

(b) An individual qualifies for services during the day under paragraph (a) if, through consultation with the individual and the individual's support team or interdisciplinary team:

(1) it has been determined that the individual's needs can best be met through partial or full retirement from:

(i) participation in a day training and habilitation service; or

(ii) the use of services during the day in the individual's home environment; and

(2) an individualized plan has been developed with designated outcomes that:

(i) address the support needs and desires contained in the person-centered plan or individual support plan; and

(ii) include goals that focus on community integration as appropriate for the individual.

(c) When establishing a rate for these services, the commissioner shall also consider an individual recipient's needs as identified in the ~~individualized service~~ individual support plan and the person's need for active treatment as defined under federal regulations. The pass-through payments for services during the day shall be paid separately by the commissioner and shall not be included in the computation of the ICF/DD facility total payment rate.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 48. Minnesota Statutes 2020, section 256B.69, subdivision 5a, as amended by Laws 2021, chapter 30, article 13, section 57, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and section 256L.12 shall be entered into or renewed on a calendar year basis. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B and 256L is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B and 256L established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) The commissioner shall withhold five percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. Clinical or utilization performance targets and their related criteria must consider



evidence-based research and reasonable interventions when available or applicable to the populations served, and must be developed with input from external clinical experts and stakeholders, including managed care plans, county-based purchasing plans, and providers. The managed care or county-based purchasing plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23.

(d) The commissioner shall require that managed care plans:

(1) use the assessment and authorization processes, forms, timelines, standards, documentation, and data reporting requirements, protocols, billing processes, and policies consistent with medical assistance fee-for-service or the Department of Human Services contract requirements for all personal care assistance services under section 256B.0659 and community first services and supports under section 256B.85; and

(2) by January 30 of each year that follows a rate increase for any aspect of services under section 256B.0659 or 256B.85, inform the commissioner and the chairs and ranking minority members of the legislative committees with jurisdiction over rates determined under section 256B.851 of the amount of the rate increase that is paid to each personal care assistance provider agency with which the plan has a contract.

(e) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the health plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. For 2012, the reduction shall be based on the health plan's utilization in 2009. To earn the return of the withhold each subsequent year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than ten percent of the plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, compared to the previous measurement year until the final performance target is reached. When measuring performance, the commissioner must consider the difference in health risk in a managed care or county-based purchasing plan's membership in the baseline year compared to the measurement year, and work with the managed care or county-based purchasing plan to account for differences that they agree are significant.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue for each consecutive contract period until the plan's emergency room utilization rate for state health care program enrollees is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance and MinnesotaCare enrollees for calendar year 2009. Hospitals shall cooperate with the health plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(f) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than five percent of the plan's hospital admission rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, compared to the previous calendar year until the final performance target is reached. When measuring performance, the commissioner must consider the difference in health risk in a managed care or county-based purchasing plan's membership in the baseline year compared to the measurement year, and work with the managed care or county-based purchasing plan to account for differences that they agree are significant.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue until there is a 25 percent reduction in the hospital admission rate compared to the hospital admission rates in calendar year 2011, as determined by the commissioner. The hospital admissions in this performance target do not include the admissions applicable to the subsequent hospital admission performance target under paragraph (g). Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(g) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rates for subsequent hospitalizations within 30 days of a previous hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, of no less than five percent compared to the previous calendar year until the final performance target is reached.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a qualifying reduction in the subsequent hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph must continue for each consecutive contract period until the plan's subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that must be returned to the hospitals if the performance target is achieved.

(h) Effective for services rendered on or after January 1, 2013, through December 31, 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld

funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(i) Effective for services rendered on or after January 1, 2014, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance program. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(j) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

(k) Contracts between the commissioner and a prepaid health plan are exempt from the set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and 7.

(l) The return of the withhold under paragraphs (h) and (i) is not subject to the requirements of paragraph (c).

(m) Managed care plans and county-based purchasing plans shall maintain current and fully executed agreements for all subcontractors, including bargaining groups, for administrative services that are expensed to the state's public health care programs. Subcontractor agreements determined to be material, as defined by the commissioner after taking into account state contracting and relevant statutory requirements, must be in the form of a written instrument or electronic document containing the elements of offer, acceptance, consideration, payment terms, scope, duration of the contract, and how the subcontractor services relate to state public health care programs. Upon request, the commissioner shall have access to all subcontractor documentation under this paragraph. Nothing in this paragraph shall allow release of information that is nonpublic data pursuant to section 13.02.

**EFFECTIVE DATE.** This section is effective October 1, 2021.

Sec. 49. Minnesota Statutes 2020, section 256B.85, subdivision 2, as amended by Laws 2021, chapter 30, article 13, section 59, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section and section 256B.851, the terms defined in this subdivision have the meanings given.

(b) "Activities of daily living" or "ADLs" means:

(1) dressing, including assistance with choosing, applying, and changing clothing and applying special appliances, wraps, or clothing;

(2) grooming, including assistance with basic hair care, oral care, shaving, applying cosmetics and deodorant, and care of eyeglasses and hearing aids. Grooming includes nail care, except for recipients who are diabetic or have poor circulation;

(3) bathing, including assistance with basic personal hygiene and skin care;

(4) eating, including assistance with hand washing and applying orthotics required for eating, transfers, or feeding;

(5) transfers, including assistance with transferring the participant from one seating or reclining area to another;

(6) mobility, including assistance with ambulation and use of a wheelchair. Mobility does not include providing transportation for a participant;

(7) positioning, including assistance with positioning or turning a participant for necessary care and comfort; and

(8) toileting, including assistance with bowel or bladder elimination and care, transfers, mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing the perineal area, inspection of the skin, and adjusting clothing.

(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.

(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) 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, advanced practice registered nurse, or physician's assistant and is specified in a community 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.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, advanced practice registered nurse, or physician's assistant 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, as determined in subdivision 8. Services and supports are based on the coordinated service and support plan identified in sections 256B.092, subdivision 1b, and 256S.10.
- (i) "Consultation services" means a Minnesota health care program enrolled provider organization that 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 must 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 the CFSS service delivery plan through one of the home and community-based services waivers and as approved and authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state plan CFSS services for participants. Extended CFSS excludes the purchase of goods.

(m) "Financial management services provider" or "FMS provider" means a qualified organization required for participants using the budget model under subdivision 13 that is an enrolled provider with the department to provide vendor fiscal/employer agent financial management services (FMS).

(n) "Health-related procedures and tasks" means procedures and tasks related to the specific assessed health needs of 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, including traveling to medical appointments. For purposes of this paragraph, traveling includes driving and accompanying the recipient in the recipient's chosen mode of transportation and according to the individual CFSS service delivery plan.

(p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, paragraph (e).

(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 toward self or others or destruction of property that requires the immediate response of another person.

(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 must 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.

(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. If the participant is unable to assist in the selection of a participant's representative, the legal representative shall appoint one.

(v) "Person-centered planning process" means a process that is directed by the participant to plan for CFSS services and supports.

(w) "Service budget" means the authorized dollar amount used for the budget model or for the purchase of goods.

(x) "Shared services" means the provision of CFSS services by the same CFSS support worker to two or three participants who voluntarily enter into a written agreement to receive services at the same time, in the same setting, and through the same agency-provider or FMS provider.

(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.

(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.

(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.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later, except paragraph (a) is effective October 1, 2021, or upon federal approval, whichever is later. The commissioner of human services must notify the revisor of statutes when federal approval is obtained.

Sec. 50. Minnesota Statutes 2020, section 256B.85, subdivision 7a, is amended to read:

Subd. 7a. **Enhanced rate.** An enhanced rate of 107.5 percent of the rate paid for CFSS must be paid for services provided to persons who qualify for ~~12 ten~~ or more hours of CFSS per day when provided by a support worker who meets the requirements of subdivision 16, paragraph (e). ~~The enhanced rate for CFSS includes, and is not in addition to, any rate adjustments implemented by the commissioner on July 1, 2019, to comply with the terms of a collective bargaining agreement between the state of Minnesota and an exclusive representative of individual providers under section 179A.54 that provides for wage increases for individual providers who serve participants assessed to need 12 or more hours of CFSS per day. Any change in the eligibility criteria for the enhanced rate for CFSS as described in this subdivision and referenced in subdivision 16, paragraph (e), does not constitute a change in a term or condition for individual providers as defined in section 256B.0711, and is not subject to the state's obligation to meet and negotiate under chapter 179A.~~

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever occurs later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 51. Minnesota Statutes 2020, section 256B.85, subdivision 11, as amended by Laws 2021, chapter 30, article 13, section 69, is amended to read:

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 meets 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. The agency must make a reasonable effort to fulfill the participant's request for the participant's preferred support worker.

(c) A participant may use authorized units of CFSS services as needed within a service 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, except all of the revenue generated by a medical assistance rate increase due to a collective bargaining agreement under section 179A.54 must be used 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 participants who 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, case manager, or care coordinator; and

(2) use the FMS provider for the billing and payment of such goods.

(h) The agency provider is responsible for ensuring that any worker driving a participant under subdivision 2, paragraph (o), has a valid driver's license and the vehicle used is registered and insured according to Minnesota law.

Sec. 52. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision to read:

Subd. 12c. **Community first services and supports agency provider requirements; documentation of travel time.** A community first services and supports agency provider must ensure that travel and driving, as described in subdivision 2, paragraph (o), is documented. The documentation must include:

(1) start and stop times with a.m. and p.m. designation;

(2) the origination site; and

(3) the destination site.



Sec. 53. Minnesota Statutes 2020, section 256B.85, subdivision 14, is amended to read:

Subd. 14. **Participant's responsibilities.** (a) 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) 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; and

(10) ensuring that a worker driving the participant under subdivision 2, paragraph (o), has a valid driver's license and the vehicle used is registered and insured according to Minnesota law.

Sec. 54. Minnesota Statutes 2020, section 256B.85, subdivision 16, is amended to read:

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) is not disqualified under section 245C.14; or

(ii) is disqualified, but 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) 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;

(5) complete employer-directed training and orientation on the participant's individual needs;

(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) does not meet the requirements in paragraph (a);

(2) fails to provide the authorized services required by the 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 310 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.

(e) CFSS qualify for an enhanced rate if the support worker providing the services:

(1) provides services, within the scope of CFSS described in subdivision 7, to a participant who qualifies for ~~at least~~ ten or more hours per day of CFSS; and

(2) satisfies the current requirements of Medicare for training and competency or competency evaluation of home health aides or nursing assistants, as provided in the Code of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state-approved training or competency requirements.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever occurs later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

**Sec. 55. [256B.851] COMMUNITY FIRST SERVICES AND SUPPORTS; PAYMENT RATES.**

**Subdivision 1. Application.** (a) The payment methodologies in this section apply to:

(1) community first services and supports (CFSS), extended CFSS, and enhanced rate CFSS under section 256B.85; and

(2) personal care assistance services under section 256B.0625, subdivisions 19a and 19c; extended personal care assistance services as defined in section 256B.0659, subdivision 1; and enhanced rate personal care assistance services under section 256B.0659, subdivision 17a.

(b) This section does not change existing personal care assistance program or community first services and supports policies and procedures.

**Subd. 2. Definitions.** (a) For purposes of this section, the following terms have the meanings given in section 256B.85, subdivision 2, and as follows.

(b) "Commissioner" means the commissioner of human services.

(c) "Component value" means an underlying factor that is built into the rate methodology to calculate service rates and is part of the cost of providing services.

(d) "Payment rate" or "rate" means reimbursement to an eligible provider for services provided to a qualified individual based on an approved service authorization.

Subd. 3. **Payment rates; base wage index.** When initially establishing the base wage component values, the commissioner must use the Minnesota-specific median wage for the standard occupational classification (SOC) codes published by the Bureau of Labor Statistics in the edition of the Occupational Handbook available January 1, 2021. The commissioner must calculate the base wage component values as follows for:

(1) personal care assistance services, CFSS, extended personal care assistance services, and extended CFSS. The base wage component value equals the median wage for personal care aide (SOC code 31-1120);

(2) enhanced rate personal care assistance services and enhanced rate CFSS. The base wage component value equals the product of median wage for personal care aide (SOC code 31-1120) and the value of the enhanced rate under section 256B.0659, subdivision 17a; and

(3) qualified professional services and CFSS worker training and development. The base wage component value equals the sum of 70 percent of the median wage for registered nurse (SOC code 29-1141), 15 percent of the median wage for health care social worker (SOC code 21-1099), and 15 percent of the median wage for social and human service assistant (SOC code 21-1093).

Subd. 4. **Payment rates; total wage index.** (a) The commissioner must multiply the base wage component values in subdivision 3 by one plus the appropriate competitive workforce factor. The product is the total wage component value.

(b) For personal care assistance services, CFSS, extended personal care assistance services, extended CFSS, enhanced rate personal care assistance services, and enhanced rate CFSS, the initial competitive workforce factor is 4.7 percent.

(c) For qualified professional services and CFSS worker training and development, the competitive workforce factor is zero percent.

Subd. 5. **Payment rates; component values.** (a) The commissioner must use the following component values:

(1) employee vacation, sick, and training factor, 8.71 percent;

(2) employer taxes and workers' compensation factor, 11.56 percent;

(3) employee benefits factor, 12.04 percent;

(4) client programming and supports factor, 2.30 percent;

(5) program plan support factor, 7.00 percent;

(6) general business and administrative expenses factor, 13.25 percent;

(7) program administration expenses factor, 2.90 percent; and

(8) absence and utilization factor, 3.90 percent.

(b) For purposes of implementation, the commissioner shall use the following implementation components:

(1) personal care assistance services and CFSS: 75.45 percent;

(2) enhanced rate personal care assistance services and enhanced rate CFSS: 75.45 percent; and

(3) qualified professional services and CFSS worker training and development: 75.45 percent.

**Subd. 6. Payment rates; rate determination.** (a) The commissioner must determine the rate for personal care assistance services, CFSS, extended personal care assistance services, extended CFSS, enhanced rate personal care assistance services, enhanced rate CFSS, qualified professional services, and CFSS worker training and development as follows:

(1) multiply the appropriate total wage component value calculated in subdivision 4 by one plus the employee vacation, sick, and training factor in subdivision 5;

(2) for program plan support, multiply the result of clause (1) by one plus the program plan support factor in subdivision 5;

(3) for employee-related expenses, add the employer taxes and workers' compensation factor in subdivision 5 and the employee benefits factor in subdivision 5. The sum is employee-related expenses. Multiply the product of clause (2) by one plus the value for employee-related expenses;

(4) for client programming and supports, multiply the product of clause (3) by one plus the client programming and supports factor in subdivision 5;

(5) for administrative expenses, add the general business and administrative expenses factor in subdivision 5, the program administration expenses factor in subdivision 5, and the absence and utilization factor in subdivision 5;

(6) divide the result of clause (4) by one minus the result of clause (5). The quotient is the hourly rate;

(7) multiply the hourly rate by the appropriate implementation component under subdivision 5. This is the adjusted hourly rate; and

(8) divide the adjusted hourly rate by four. The quotient is the total adjusted payment rate.

(b) The commissioner must publish the total adjusted payment rates.

**Subd. 7. Treatment of rate adjustments provided outside of cost components.** Any rate adjustments applied to the service rates calculated under this section outside of the cost components and rate methodology specified in this section, including but not limited to those implemented to enable participant-employers and provider agencies to meet the terms and conditions of any collective bargaining agreement negotiated under chapter 179A, shall be applied as changes to the value of component values or implementation components in subdivision 5.

**Subd. 8. Personal care provider agency; required reporting of cost data; training.** (a) As determined by the commissioner and in consultation with stakeholders, agencies enrolled to provide services with rates determined under this section must submit requested cost data to the commissioner. The commissioner may request cost data, including but not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

- (5) vacation, sick, and training time paid;
- (6) taxes, workers' compensation, and unemployment insurance costs paid;
- (7) administrative costs paid;
- (8) program costs paid;
- (9) transportation costs paid;
- (10) staff vacancy rates; and
- (11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any three-year period, a provider must submit the required cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner must provide each provider a 90-day notice prior to its submission due date. If a provider fails to submit required cost data, the commissioner must provide notice to a provider that has not provided required cost data 30 days after the required submission date and a second notice to a provider that has not provided required cost data 60 days after the required submission date. The commissioner must temporarily suspend payments to a provider if the commissioner has not received required cost data 90 days after the required submission date. The commissioner must make withheld payments when the required cost data is received by the commissioner.

(c) The commissioner must conduct a random validation of data submitted under this subdivision to ensure data accuracy. The commissioner shall analyze cost documentation in paragraph (a) and provide recommendations for adjustments to cost components.

(d) The commissioner, in consultation with stakeholders, must develop and implement a process for providing training and technical assistance necessary to support provider submission of cost data required under this subdivision.

**Subd. 9. Analysis of costs; recommendations.** (a) The commissioner shall evaluate on an ongoing basis whether the base wage component values and component values in this section appropriately address the cost to provide the service.

(b) The commissioner shall analyze cost data submitted by provider agencies under subdivision 8 and report recommendations on component values, updated base wage component values, and competitive workforce factors to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services policy and finance every two years beginning August 1, 2026. The commissioner shall release cost data in an aggregate form, and cost data from individual providers shall not be released except as provided for in current law.

(c) Beginning August 1, 2024, and every two years thereafter, the commissioner shall report recommendations to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance to update the base wage index in subdivision 3, the competitive workforce factors in subdivision 4, and the component values in subdivision 5 using the most recently available data. In making recommendations, the commissioner shall:

- (1) make adjustments to the competitive workforce factor toward the percent difference between:
  - (i) the median wage for personal care aide (SOC code 31-1120); and

(ii) the weighted average wage for all other SOC codes with the same Bureau of Labor Statistics classifications for education, experience, and training required for job competency;

(2) not recommend an increase or decrease of the competitive workforce factor from its previous value of more than three percentage points;

(3) not recommend a competitive workforce factor of less than zero;

(4) make adjustments to the value of the base wage components based on the most recently available federal wage data; and

(5) make adjustments to any component values affected by inflation, including but not limited to the client programming and supports factor.

Subd. 10. **Payment rate evaluation; reports required.** The commissioner must assess the long-term impacts of the rate methodology implementation on staff providing services with rates determined under this section, including but not limited to measuring changes in wages, benefits provided, hours worked, and retention. The commissioner must publish evaluation findings in a report to the legislature by August 1, 2028, and once every two years thereafter.

Subd. 11. **Self-directed services workforce.** Nothing in this section limits the commissioner's authority over terms and conditions for individual providers in covered programs as defined in section 256B.0711. The commissioner's authority over terms and conditions for individual providers in covered programs remains subject to the state's obligations to meet and negotiate under chapter 179A, as modified and made applicable to individual providers under section 179A.54, and to agreements with any exclusive representative of individual providers, as authorized by chapter 179A, as modified and made applicable to individual providers under section 179A.54. A change in the rate for services within the covered programs defined in section 256B.0711 does not constitute a change in a term or condition for individual providers in covered programs and is not subject to the state's obligation to meet and negotiate under chapter 179A.

**EFFECTIVE DATE.** This section is effective October 1, 2021, or upon federal approval, whichever is later. The commissioner of human services must notify the revisor of statutes when federal approval is obtained.

Sec. 56. Minnesota Statutes 2020, section 256I.05, subdivision 1c, is amended to read:

Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for housing support above those in effect on June 30, 1993, except as provided in paragraphs (a) to (f).

(a) An agency may increase the rates for room and board to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) An agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total housing support rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) An agency must increase the room and board rates ~~will be increased~~ each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

~~(d) When housing support pays for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences are reported in advance to the county agency's social service staff. Advance reporting is not required for emergency absences due to crisis, illness, or injury.~~

~~(e) For~~ An agency may increase the rates for residents in facilities meeting substantial change criteria within the prior year. Substantial change criteria exists exist if the establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

~~(f)~~ (e) Until June 30, 1994, an agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to 9549.0058.

(f) Notwithstanding the provisions of subdivision 1, an agency may increase the monthly room and board rates by \$50 per month for residents in settings under section 256I.04, subdivision 2a, paragraph (b), clause (2). Participants in the Minnesota supportive housing demonstration program under section 256I.04, subdivision 3, paragraph (a), clause (3), may not receive the increase under this paragraph.

**EFFECTIVE DATE.** This section is effective July 1, 2021, except paragraph (f) is effective July 1, 2022.

Sec. 57. Minnesota Statutes 2020, section 256I.05, is amended by adding a subdivision to read:

Subd. 2a. **Absent days.** (a) When a person receiving housing support is temporarily absent and the absence is reported in advance to the agency's social service staff, the agency must continue to pay on behalf of the person the applicable rate for housing support. Advance reporting is not required for absences due to crisis, illness, or injury. The limit on payments for absence days under this paragraph is 18 calendar days per incident, not to exceed 60 days in a calendar year.

(b) An agency must continue to pay an additional 74 days per incident, not to exceed a total of 92 days in a calendar year, for a person who is temporarily absent due to admission at a residential behavioral health facility, inpatient hospital, or nursing facility.

(c) If a person is temporarily absent due to admission at a residential behavioral health facility, inpatient hospital, or nursing facility for a period of time exceeding the limits described in paragraph (b), the agency may request in a format prescribed by the commissioner an absence day limit exception to continue housing support payments until the person is discharged.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 58. Minnesota Statutes 2020, section 256I.06, subdivision 8, is amended to read:

Subd. 8. **Amount of housing support payment.** (a) The amount of a room and board payment to be made on behalf of an eligible individual is determined by subtracting the individual's countable income



under section 256I.04, subdivision 1, for a whole calendar month from the room and board rate for that same month. The housing support payment is determined by multiplying the housing support rate times the period of time the individual was a resident or temporarily absent under section 256I.05, subdivision 1, ~~paragraph~~ ~~(c)~~ 2a.

(b) For an individual with earned income under paragraph (a), prospective budgeting must be used to determine the amount of the individual's payment for the following six-month period. An increase in income shall not affect an individual's eligibility or payment amount until the month following the reporting month. A decrease in income shall be effective the first day of the month after the month in which the decrease is reported.

(c) For an individual who receives housing support payments under section 256I.04, subdivision 1, paragraph (c), the amount of the housing support payment is determined by multiplying the housing support rate times the period of time the individual was a resident.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 59. Minnesota Statutes 2020, section 256S.18, subdivision 7, is amended to read:

Subd. 7. **Monthly case mix budget cap exception.** The commissioner shall approve an exception to the monthly case mix budget cap in ~~paragraph (a) subdivision 3~~ to account for the additional cost of providing enhanced rate personal care assistance services under section 256B.0659 or enhanced rate community first services and supports under section 256B.85. The exception shall not exceed 107.5 percent of the budget otherwise available to the individual. The commissioner must calculate the difference between the rate for personal care assistance services and enhanced rate personal care assistance services. The additional budget amount approved under an exception must not exceed this difference. The exception must be reapproved on an annual basis at the time of a participant's annual reassessment.

**EFFECTIVE DATE.** This section is effective July 1, 2021, or upon federal approval, whichever is later. The commissioner of human services must notify the revisor of statutes when federal approval is obtained.

Sec. 60. Minnesota Statutes 2020, section 256S.20, subdivision 1, is amended to read:

Subdivision 1. **Customized living services provider requirements.** ~~Only a provider licensed by the Department of Health as a comprehensive home care provider may provide~~ (a) To deliver customized living services or 24-hour customized living services, a provider must:

(1) be licensed as an assisted living facility under chapter 144G; or

(2) be licensed as a comprehensive home care provider under chapter 144A, be delivering services in a setting exempted from assisted living facility licensure under section 144G.08, subdivision 7, clauses (10) to (13), and meet standards in the federally approved home and community-based waiver plans under this chapter or section 256B.49. A licensed home care provider is subject to section 256B.0651, subdivision 14.

(b) Settings exempted from assisted living facility licensure under section 144G.08, subdivision 7, clauses (10) to (13), must comply with section 325F.722.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 61. Minnesota Statutes 2020, section 256S.203, is amended to read:

**256S.203 CUSTOMIZED LIVING SERVICES; MANAGED CARE RATES.**

Subdivision 1. **Capitation payments.** The commissioner ~~shall~~ must adjust the elderly waiver capitation payment rates for managed care organizations paid to reflect the monthly service rate limits for customized living services and 24-hour customized living services established under section 256S.202 and the rate adjustments for disproportionate share facilities under section 256S.205.

Subd. 2. **Reimbursement rates.** Medical assistance rates paid to customized living providers by managed care organizations under this chapter ~~shall~~ must not exceed the monthly service rate limits and component rates as determined by the commissioner under sections 256S.15 and 256S.20 to 256S.202, plus any rate adjustment under section 256S.205.

**Sec. 62. [256S.205] CUSTOMIZED LIVING SERVICES; DISPROPORTIONATE SHARE RATE ADJUSTMENTS.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given.

(b) "Application year" means a year in which a facility submits an application for designation as a disproportionate share facility.

(c) "Assisted living facility" or "facility" means an assisted living facility licensed under chapter 144G.

(d) "Disproportionate share facility" means an assisted living facility designated by the commissioner under subdivision 4.

Subd. 2. **Rate adjustment application.** An assisted living facility may apply to the commissioner for designation as a disproportionate share facility. Applications must be submitted annually between October 1 and October 31. The applying facility must apply in a manner determined by the commissioner. The applying facility must document as a percentage the census of elderly waiver participants residing in the facility on October 1 of the application year.

Subd. 3. **Rate adjustment eligibility criteria.** Only facilities with a census of at least 80 percent elderly waiver participants on October 1 of the application year are eligible for designation as a disproportionate share facility.

Subd. 4. **Designation as a disproportionate share facility.** By November 15 of each application year, the commissioner must designate as a disproportionate share facility a facility that complies with the application requirements of subdivision 2 and meets the eligibility criteria of subdivision 3.

Subd. 5. **Rate adjustment; rate floor.** (a) Notwithstanding the 24-hour customized living monthly service rate limits under section 256S.202, subdivision 2, and the component service rates established under section 256S.201, subdivision 4, the commissioner must establish a rate floor equal to \$119 per resident per day for 24-hour customized living services provided in a designated disproportionate share facility for the purpose of ensuring the minimal level of staffing required to meet the health and safety needs of elderly waiver participants.

(b) The commissioner must adjust the rate floor at least annually in the manner described under section 256S.18, subdivisions 5 and 6.

(c) The commissioner shall not implement the rate floor under this section if the customized living rates established under sections 256S.21 to 256S.215 will be implemented at 100 percent on January 1 of the year following an application year.

Subd. 6. **Budget cap disregard.** The value of the rate adjustment under this section must not be included in an elderly waiver client's monthly case mix budget cap.

**EFFECTIVE DATE.** This section is effective October 1, 2021, or upon federal approval, whichever is later, and applies to services provided on or after July 1, 2022, or on or after the date upon which federal approval is obtained, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 63. Minnesota Statutes 2020, section 256S.21, is amended to read:

**256S.21 RATE SETTING; APPLICATION.**

The payment methodologies in sections 256S.2101 to 256S.215 apply to elderly waiver, elderly waiver customized living, and elderly waiver foster care, and elderly waiver residential care under this chapter; alternative care under section 256B.0913; essential community supports under section 256B.0922; and community access for disability inclusion customized living and brain injury customized living under section 256B.49.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 64. Minnesota Statutes 2020, section 256S.2101, is amended to read:

**256S.2101 RATE SETTING; PHASE-IN.**

Subdivision 1. **Phase-in for disability waiver customized living rates.** All rates and rate components for ~~services listed in section 256S.21~~ community access for disability inclusion customized living and brain injury customized living under section 256B.4914 shall be the sum of ten percent of the rates calculated under sections 256S.211 to 256S.215 and 90 percent of the rates calculated using the rate methodology in effect as of June 30, 2017.

Subd. 2. **Phase-in for elderly waiver rates.** Except for home-delivered meals as described in section 256S.215, subdivision 15, all rates and rate components for elderly waiver, elderly waiver customized living, and elderly waiver foster care under this chapter; alternative care under section 256B.0913; and essential community supports under section 256B.0922 shall be the sum of 18.8 percent of the rates calculated under sections 256S.211 to 256S.215, and 81.2 percent of the rates calculated using the rate methodology in effect as of June 30, 2017. The rate for home-delivered meals shall be the sum of the service rate in effect as of January 1, 2019, and the increases described in section 256S.215, subdivision 15.

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 65. **[325F.722] CONSUMER PROTECTIONS FOR EXEMPT SETTINGS.**

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

(b) "Exempt setting" means a setting that is exempted from assisted living facility licensure under section 144G.08, subdivision 7, clauses (10) to (13).

(c) "Resident" means a person residing in an exempt setting.

Subd. 2. **Contracts.** (a) Every exempt setting must execute a written contract with a resident or the resident's representative and must operate in accordance with the terms of the contract. The resident or the resident's representative must be given a complete copy of the contract and all supporting documents and attachments and any changes whenever changes are made.

(b) The contract must include at least the following elements in itself or through supporting documents or attachments:

(1) the name, street address, and mailing address of the exempt setting;

(2) the name and mailing address of the owner or owners of the exempt setting and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners;

(3) the name and mailing address of the managing agent, through management agreement or lease agreement, of the exempt setting, if different from the owner or owners;

(4) the name and address of at least one natural person who is authorized to accept service of process on behalf of the owner or owners and managing agent;

(5) a statement identifying the license number of the home care provider that provides services to some or all of the residents and that is either the setting itself or another entity with which the setting has an arrangement;

(6) the term of the contract;

(7) an itemization and description of the housing and, if applicable, services to be provided to the resident;

(8) a conspicuous notice informing the resident of the policy concerning the conditions under which and the process through which the contract may be modified, amended, or terminated;

(9) a description of the exempt setting's complaint resolution process available to residents including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;

(10) the individual designated as the resident's representative, if any;

(11) the exempt setting's referral procedures if the contract is terminated;

(12) a statement regarding the ability of a resident to receive services from providers with whom the exempt setting does not have an arrangement;

(13) a statement regarding the availability of public funds for payment for residence or services; and

(14) a statement regarding the availability of and contact information for long-term care consultation services under section 256B.0911 in the county in which the exempt setting is located.

(c) The contract must include a statement regarding:

(1) the ability of a resident to furnish and decorate the resident's unit within the terms of the lease;

(2) a resident's right to access food at any time;

(3) a resident's right to choose the resident's visitors and times of visits;

(4) a resident's right to choose a roommate if sharing a unit; and

(5) a resident's right to have and use a lockable door to the resident's unit. The exempt setting must provide the locks on the unit. Only a staff member with a specific need to enter the unit shall have keys, and advance notice must be given to the resident before entrance by the staff member, when possible.

(d) A restriction of a resident's rights under this subdivision is allowed only if determined necessary for health and safety reasons identified by a home care provider's registered nurse in an initial assessment or reassessment, as defined under section 144A.4791, subdivision 8, and documented in the written service plan under section 144A.4791, subdivision 9. Any restrictions of those rights for people served under section 256B.49 and chapter 256S must be documented in the resident's coordinated service and support plan, as defined under sections 256B.49, subdivision 15, and 256S.10.

(e) The contract and related documents executed by each resident or resident's representative must be maintained by the exempt setting in files from the date of execution until three years after the contract is terminated.

Subd. 3. **Termination of contract.** An exempt setting must include with notice of termination of contract information about how to contact the ombudsman for long-term care, including the address and telephone number, along with a statement of how to request problem-solving assistance.

Subd. 4. **Emergency planning.** (a) Each exempt setting must meet the following requirements:

(1) have a written emergency disaster plan that contains a plan for evacuation, addresses elements of sheltering in place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency;

(2) prominently post an emergency disaster plan;

(3) provide building emergency exit diagrams to all residents upon signing a contract;

(4) post emergency exit diagrams on each floor; and

(5) have a written policy and procedure regarding missing residents.

(b) Each exempt setting must provide emergency and disaster training to all staff during the initial staff orientation and annually thereafter and must make emergency and disaster training available to all residents annually. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

(c) Each exempt setting location must conduct and document a fire drill or other emergency drill at least once every six months. To the extent possible, drills must be coordinated with local fire departments or other community emergency resources.

Subd. 5. **Training in dementia.** (a) If an exempt setting has a special program or special care unit for residents with Alzheimer's disease or other dementias whether in a segregated or general unit, employees of the setting must meet the following training requirements:

(1) supervisors of direct care staff must have completed at least eight hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must complete at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct care employees must have completed at least eight hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial eight hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b), or a supervisor meeting the requirements in clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct care employees must complete at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have completed at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must complete at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements under clauses (1) to (3) by producing written proof of previously completed required training within the past 18 months.

(b) Areas of required training include:

(1) an explanation of Alzheimer's disease and related disorders;

(2) assistance with activities of daily living;

(3) problem-solving with challenging behaviors; and

(4) communication skills.

(c) The setting must provide to residents, and prospective residents upon request, in written or electronic form, a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

Subd. 6. **Manager requirements.** (a) The person primarily responsible for oversight and management of the exempt setting, as designated by the owner, must obtain at least 30 hours of continuing education every two years of employment as the manager in topics relevant to the operations of the setting and the needs of its residents. Continuing education earned to maintain a professional license, such as a nursing home administrator license, assisted living facility director license, nursing license, social worker license, or real estate license, can be used to complete this requirement.

(b) New managers may satisfy the initial dementia training requirements by producing written proof of previously completed required training within the past 18 months.

Subd. 7. **Restraints.** Residents must be free from any physical or chemical restraints imposed for purposes of discipline or convenience.

Subd. 8. **Other laws.** Each exempt setting must comply with chapter 504B, and must obtain and maintain all other licenses, permits, registrations, or other required governmental approvals. An exempt setting is not required to obtain a lodging license under chapter 157 and related rules.

Subd. 9. **Remedy.** A state agency must make a good faith effort to reasonably resolve any dispute with an exempt setting before seeking any additional enforcement actions regarding the exempt setting's compliance with the requirements of this section. No private right of action may be maintained as provided under section 8.31, subdivision 3a.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

**Sec. 66. DIRECTION TO THE COMMISSIONER; CUSTOMIZED LIVING REPORT.**

(a) By January 15, 2022, the commissioner of human services shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance. The report must include the commissioner's:

(1) assessment of the prevalence of customized living services provided under Minnesota Statutes, section 256B.49, supplanting the provision of residential services and supports licensed under Minnesota Statutes, chapter 245D, and provided in settings licensed under Minnesota Statutes, chapter 245A;

(2) recommendations regarding the continuation of the moratorium on home and community-based services customized living settings under Minnesota Statutes, section 256B.49, subdivision 28;

(3) other policy recommendations to ensure that customized living services are being provided in a manner consistent with the policy objectives of the foster care licensing moratorium under Minnesota Statutes, section 245A.03, subdivision 7; and

(4) recommendations for needed statutory changes to implement the transition from existing four-person or fewer customized living settings to corporate adult foster care or community residential settings.

(b) The commissioner of health shall provide the commissioner of human services with the required data to complete the report in paragraph (a) and implement the moratorium on home and community-based services customized living settings under Minnesota Statutes, section 256B.49, subdivision 28. The data must include, at a minimum, each registered housing with services establishment under Minnesota Statutes, chapter 144D, enrolled as a customized living setting to deliver customized living services as defined under the brain injury or community access for disability inclusion waiver plans under Minnesota Statutes, section 256B.49.

**Sec. 67. PERSONAL CARE ASSISTANCE ENHANCED RATE FOR PERSONS WHO USE CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

The commissioner of human services shall increase the annual budgets for participants who use consumer-directed community supports under Minnesota Statutes, sections 256B.0913, subdivision 5, clause (17); 256B.092, subdivision 1b, paragraph (a), clause (4); and 256B.49, subdivision 16, paragraph (c); and chapter 256S, by 7.5 percent for participants who are determined by assessment to be eligible for ten or more hours of personal care assistance services or community first services and supports per day when the participant uses direct support services provided by a worker employed by the participant who has completed training identified in Minnesota Statutes, section 256B.0659, subdivision 11, paragraph (d), or 256B.85, subdivision 16, paragraph (e).

**EFFECTIVE DATE.** This section is effective January 1, 2022, or upon federal approval, whichever occurs later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

**Sec. 68. DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; DIRECT CARE SERVICES DURING SHORT-TERM ACUTE HOSPITAL VISITS.**

The commissioner of human services, in consultation with stakeholders, shall develop a new covered service under Minnesota Statutes, chapter 256B, or develop modifications to existing covered services, that

permits receipt of direct care services in an acute care hospital in a manner consistent with the requirements of United States Code, title 42, section 1396a(h). By August 31, 2022, the commissioner must provide to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over direct care services any draft legislation as may be necessary to implement the new or modified covered service.

**Sec. 69. DIRECTION TO THE COMMISSIONER; SUPPORTIVE PARENTING SERVICES STUDY.**

(a) The commissioner of human services shall:

(1) study the feasibility of developing and providing supportive parenting services and providing adaptive parenting equipment to parents with disabilities and disabling conditions under Medicaid state plan or waiver authorities; and

(2) submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services by February 15, 2023.

(b) The report must include:

(1) an evaluation and recommendation on eligibility and service design for supportive parenting services and adaptive parenting equipment;

(2) the estimated cost to the state of a supportive parenting service and reimbursement for adaptive parenting equipment;

(3) draft legislative language and recommended Medicaid state plan and waiver amendments required to implement supportive parenting services; and

(4) other information and recommendations that improve family-centered approaches to Medicaid service design and delivery.

**EFFECTIVE DATE.** This section is effective upon federal approval of Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the federal American Rescue Plan Act of 2021. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

**Sec. 70. PERSONAL CARE ASSISTANCE COMPENSATION FOR SERVICES PROVIDED BY A PARENT OR SPOUSE.**

(a) Notwithstanding Minnesota Statutes, section 256B.0659, subdivisions 3, paragraph (a), clause (1); 11, paragraph (c); and 19, paragraph (b), clause (3), a parent, stepparent, or legal guardian of a minor who is a personal care assistance recipient or a spouse of a personal care assistance recipient may provide and be paid for providing personal care assistance services.

(b) This section expires upon the expiration of the COVID-19 public health emergency declared by the United States Secretary of Health and Human Services.

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



**Sec. 71. DIRECTION TO COMMISSIONER; PROVIDER STANDARDS FOR CUSTOMIZED LIVING SERVICES IN EXEMPT SETTINGS.**

The commissioner of human services shall review policies and provider standards for customized living services provided in settings identified in Minnesota Statutes, section 256S.20, subdivision 1, paragraph (a), clause (2), in consultation with stakeholders. The commissioner may provide recommendations to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over customized living services by February 15, 2022, regarding appropriate regulatory oversight and payment policies for customized living services delivered in these settings.

**Sec. 72. RATE INCREASE FOR DIRECT SUPPORT SERVICES WORKFORCE.**

(a) Effective October 1, 2021, or upon federal approval, whichever is later, if the labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota under Minnesota Statutes, section 179A.54, is approved pursuant to Minnesota Statutes, section 3.855, the commissioner of human services shall increase:

(1) reimbursement rates, individual budgets, grants, or allocations by 4.14 percent for services under paragraph (b) provided on or after October 1, 2021, or upon federal approval, whichever is later, to implement the minimum hourly wage, holiday, and paid time off provisions of that agreement;

(2) reimbursement rates, individual budgets, grants, or allocations by 2.95 percent for services under paragraph (b) provided on or after July 1, 2022, or upon federal approval, whichever is later, to implement the minimum hourly wage, holiday, and paid time off provisions of that agreement;

(3) individual budgets, grants, or allocations by 1.58 percent for services under paragraph (c) provided on or after October 1, 2021, or upon federal approval, whichever is later, to implement the minimum hourly wage, holiday, and paid time off provisions of that agreement; and

(4) individual budgets, grants, or allocations by .81 percent for services under paragraph (c) provided on or after July 1, 2022, or upon federal approval, whichever is later, to implement the minimum hourly wage, holiday, and paid time off provisions of that agreement.

(b) The rate changes described in paragraph (a), clauses (1) and (2), apply to direct support services provided through a covered program, as defined in Minnesota Statutes, section 256B.0711, subdivision 1, with the exception of consumer-directed community supports available under programs established pursuant to home and community-based service waivers authorized under section 1915(c) of the federal Social Security Act and Minnesota Statutes, including but not limited to chapter 256S and sections 256B.092 and 256B.49, and under the alternative care program under Minnesota Statutes, section 256B.0913. These rate changes are included within, and are not in addition to, any other rate changes for the covered programs authorized under Minnesota Statutes, section 256B.851.

(c) The funding changes described in paragraph (a), clauses (3) and (4), apply to consumer-directed community supports available under programs established pursuant to home and community-based service waivers authorized under section 1915(c) of the federal Social Security Act, and Minnesota Statutes, including but not limited to chapter 256S and sections 256B.092 and 256B.49, and under the alternative care program under Minnesota Statutes, section 256B.0913.

**Sec. 73. WAIVER REIMAGINE PHASE II.**

(a) The commissioner of human services must implement a two-home and community-based services waiver program structure, as authorized under section 1915(c) of the federal Social Security Act, that serves persons who are determined by a certified assessor to require the levels of care provided in a nursing home, a hospital, a neurobehavioral hospital, or an intermediate care facility for persons with developmental disabilities.

(b) The commissioner of human services must implement an individualized budget methodology, as authorized under section 1915(c) of the federal Social Security Act, that serves persons who are determined by a certified assessor to require the levels of care provided in a nursing home, a hospital, a neurobehavioral hospital, or an intermediate care facility for persons with developmental disabilities.

(c) The commissioner of human services may seek all federal authority necessary to implement this section.

(d) The commissioner must ensure that the new waiver service menu and individual budgets allow people to live in their own home, family home, or any home and community-based setting of their choice. The commissioner must ensure, within available resources and subject to state and federal regulations and law, that waiver reimagine does not result in unintended service disruptions.

**EFFECTIVE DATE.** This section is effective July 1, 2024, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

**Sec. 74. RATE INCREASE FOR CERTAIN HOME CARE SERVICES.**

Effective January 1, 2022, or upon federal approval, whichever is later, payment rates for home health services and home care nursing services under Minnesota Statutes, section 256B.0651, subdivision 2, clauses (1) to (3), and respiratory therapy under Minnesota Rules, part 9505.0295, subpart 2, item E, shall be increased by five percent from the rates in effect on December 31, 2021.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

**Sec. 75. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; WAIVER REIMAGINE AND INFORMED CHOICE STAKEHOLDER CONSULTATION.**

Subdivision 1. **Stakeholder consultation; generally.** (a) The commissioner of human services must consult with and seek input and assistance from stakeholders concerning potential adjustments to the streamlined service menu from waiver reimagine phase I and to the existing rate exemption criteria and process.

(b) The commissioner of human services must consult with and seek input and assistance from stakeholders concerning the development and implementation of waiver reimagine phase II, including criteria and a process for individualized budget exemptions, and how waiver reimagine phase II can support and expand informed choice and informed decision making, including integrated employment, independent living, and self-direction, consistent with Minnesota Statutes, section 256B.4905.

Subd. 2. **Public stakeholder engagement.** The commissioner must offer a public method to regularly receive input and concerns from people with disabilities and their families about waiver reimagine phase II.

The commissioner shall provide regular public updates on policy development and on how stakeholder input was used throughout the development and implementation of waiver reimagine phase II.

Subd. 3. **Waiver Reimagine Advisory Committee.** (a) The commissioner must convene, at regular intervals throughout the development and implementation of waiver reimagine phase II, a Waiver Reimagine Advisory Committee that consists of a group of diverse, representative stakeholders. The commissioner must solicit and endeavor to include racially, ethnically, and geographically diverse membership from each of the following groups:

- (1) people with disabilities who use waiver services;
- (2) family members of people who use waiver services;
- (3) disability and behavioral health advocates;
- (4) lead agency representatives; and
- (5) waiver service providers.

(b) The Waiver Reimagine Advisory Committee must have the opportunity to assist in developing and providing feedback on proposed plans for waiver reimagine components, including an individual budget methodology, criteria and a process for individualized budget exemptions, the consolidation of the four current home and community-based waiver service programs into two-waiver programs, and other aspects of waiver reimagine phase II.

(c) The Waiver Reimagine Advisory Committee must have an opportunity to assist in the development of and provide feedback on proposed adjustments and modifications to the streamlined menu of services and the existing rate exception criteria and process.

Subd. 4. **Required report.** Prior to seeking federal approval for any aspect of waiver reimagine phase II and in consultation with the Waiver Reimagine Advisory Committee, the commissioner must submit to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services a report on plans for waiver reimagine phase II. The report must also include any plans to adjust or modify the streamlined menu of services or the existing rate exemption criteria or process.

Subd. 5. **Transition process.** (a) Prior to implementation of waiver reimagine phase II, the commissioner must establish a process to assist people who use waiver services and lead agencies transition to a two-waiver system with an individual budget methodology.

(b) The commissioner must ensure that the new waiver service menu and individual budgets allow people to live in their own home, family home, or any home and community-based setting of their choice. The commissioner must ensure, within available resources and subject to state and federal regulations and law, that waiver reimagine does not result in unintended service disruptions.

Subd. 6. **Online support planning tool.** The commissioner must develop an online support planning and tracking tool for people using disability waiver services that allows access to the total budget available to the person, the services for which they are eligible, and the services they have chosen and used. The commissioner must explore operability options that would facilitate real-time tracking of a person's remaining available budget throughout the service year. The online support planning tool must provide information in an accessible format to support the person's informed choice. The commissioner must seek input from people with disabilities about the online support planning tool prior to its implementation.

**Subd. 7. Curriculum and training.** The commissioner must develop and implement a curriculum and training plan to ensure all lead agency assessors and case managers have the knowledge and skills necessary to comply with informed decision making for people who used home and community-based disability waivers. Training and competency evaluations must be completed annually by all staff responsible for case management as described in Minnesota Statutes, sections 256B.092, subdivision 1a, paragraph (f), and 256B.49, subdivision 13, paragraph (e).

**Sec. 76. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; RESIDENTIAL SUPPORT SERVICES CRITERIA REPORT.**

The commissioner must collect data on the implementation of residential support services criteria under Minnesota Statutes, sections 256B.092, subdivision 11a, and 256B.49, subdivision 29, and by January 15, 2024, or 18 months following federal approval, whichever is later, submit to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services a report containing an analysis of the collected data and recommendations. The report must include data on shifts in the home and community-based service system for people who access services in their own home and in nonprovider-controlled settings. The report must also include recommended modifications to the criteria that align with disability waiver reconfiguration and individual support range implementation.

**Sec. 77. SELF-DIRECTED WORKER CONTRACT RATIFICATION.**

The labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota, submitted to the Legislative Coordinating Commission on March 1, 2021, is ratified.

**Sec. 78. REVISOR INSTRUCTION.**

The revisor of statutes shall change the headnote for Minnesota Statutes, section 256B.097, to read "REGIONAL AND SYSTEMS IMPROVEMENT FOR MINNESOTANS WHO HAVE DISABILITIES."

**Sec. 79. REPEALER.**

(a) Minnesota Statutes 2020, sections 256B.0916, subdivisions 2, 3, 4, 5, 8, 11, and 12; and 256B.49, subdivisions 26 and 27, are repealed effective July 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

(b) Minnesota Statutes 2020, section 256B.4905, subdivisions 1, 2, 3, 4, 5, and 6, are repealed.

(c) Minnesota Statutes 2020, section 256S.20, subdivision 2, is repealed effective August 1, 2021.

(d) Minnesota Statutes 2020, section 256B.097, subdivisions 1, 2, 3, 4, 5, and 6, are repealed effective July 1, 2021.

(e) Laws 2019, First Special Session chapter 9, article 5, section 90, is repealed.

**ARTICLE 14****MISCELLANEOUS****Section 1. [3.9215] OMBUDSPERSON FOR AMERICAN INDIAN FAMILIES.**

**Subdivision 1. Scope.** In recognition of the sovereign status of Indian Tribes and the unique laws and standards involved in protecting Indian children, this section creates the Office of the Ombudsperson for American Indian Families and gives the ombudsperson the powers and duties necessary to effectively carry out the functions of the office.

**Subd. 2. Creation.** The ombudsperson shall operate independently from and in collaboration with the Indian Affairs Council and the American Indian Child Welfare Advisory Council under section 260.835.

**Subd. 3. Selection; qualifications.** The ombudsperson shall be selected by the American Indian community-specific board established in section 3.9216. The ombudsperson serves in the unclassified service at the pleasure of the community-specific board and may be removed only for just cause. Each ombudsperson must be selected without regard to political affiliation and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children. In addition, the ombudsperson must be experienced in working collaboratively with the American Indian and Alaska Native communities or nations and knowledgeable about the needs of those communities, the Indian Child Welfare Act and Minnesota Indian Family Preservation Act, and best practices regarding prevention, cultural resources, and historical trauma. No individual may serve as the ombudsperson for American Indian families while holding any other public office.

**Subd. 4. Appropriation.** Money appropriated for the ombudsperson for American Indian families from the general fund or the special fund authorized by section 256.01, subdivision 2, paragraph (o), is under the control of the ombudsperson.

**Subd. 5. Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Agency" means the local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. Agency also means any individual, service, organization, or program providing child protection, placement, or adoption services in coordination with or under contract with any other entity specified in this subdivision, including guardians ad litem.

(c) "American Indian" refers to individuals who are members of federally recognized Tribes, eligible for membership in a federally recognized Tribe, or children or grandchildren of a member of a federally recognized Tribe. American Indian is a political status established through treaty rights between the federal government and Tribes. Each Tribe has a unique culture and practices specific to the Tribe.

(d) "Facility" means any entity required to be licensed under chapter 245A.

(e) "Indian custodian" has the meaning given in United States Code, title 25, section 1903.

**Subd. 6. Organization.** (a) The ombudsperson may select, appoint, and compensate assistants and employees that the ombudsperson finds necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff are members of the Minnesota State Retirement Association.

(b) The ombudsperson may delegate to staff members or members of the American Indian Community-Specific Board under section 3.9216 any of the ombudsperson's authority or duties except the duty of formally making recommendations to an administrative agency or reports to the Office of the Governor or to the legislature.

Subd. 7. **Duties and powers.** (a) The ombudsperson has the duties listed in this paragraph.

(1) The ombudsperson shall monitor agency compliance with all laws governing child protection and placement, public education, and housing issues related to child protection that impact American Indian children and their families. In particular, the ombudsperson shall monitor agency compliance with sections 260.751 to 260.835; section 260C.193, subdivision 3; and section 260C.215.

(2) The ombudsperson shall work with local state courts to ensure that:

(i) court officials, public policy makers, and service providers are trained in cultural competency. The ombudsperson shall document and monitor court activities to heighten awareness of diverse belief systems and family relationships;

(ii) qualified expert witnesses from the appropriate American Indian community, including Tribal advocates, are used as court advocates and are consulted in placement decisions that involve American Indian children; and

(iii) guardians ad litem and other individuals from American Indian communities are recruited, trained, and used in court proceedings to advocate on behalf of American Indian children.

(3) The ombudsperson shall primarily work on behalf of American Indian children and families, but shall also work on behalf of any Minnesota children and families as the ombudsperson deems necessary and appropriate.

(b) The ombudsperson has the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to American Indian children. In carrying out this authority and the duties in paragraph (a), the ombudsperson has the power to:

(1) prescribe the methods by which complaints are made, reviewed, and acted upon;

(2) determine the scope and manner of investigations;

(3) investigate, upon a complaint or upon personal initiative, any action of any agency;

(4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause retains the classification that the data has under section 13.02 and the ombudsperson shall maintain and disseminate the data according to chapter 13;

(5) examine the records and documents of an agency;

(6) enter and inspect, during normal business hours, premises within the control of an agency; and

(7) subpoena any agency personnel to appear, testify, or produce documentation or other evidence that the ombudsperson deems relevant to a particular matter under investigation, and petition the appropriate state court to seek enforcement of the subpoena. Any witness at a hearing or for an investigation has the same privileges of a witness in the courts or under the laws of this state. The ombudsperson may compel

individuals who are not agency personnel to testify or produce evidence according to procedures developed by the advisory board.

(c) The ombudsperson may apply for grants and accept gifts, donations, and appropriations for training relating to the duties of the ombudsperson. Grants, gifts, donations, and appropriations received by the ombudsperson shall be used for training. The ombudsperson may seek and apply for grants to develop new programs and initiatives and to continue existing programs and initiatives. These funds may not be used for operating expenses for the Office of the Ombudsperson for American Indian Families.

Subd. 8. **Matters appropriate for review.** (a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

(1) may be contrary to law or rule;

(2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;

(3) may result in abuse or neglect of a child;

(4) may disregard the rights of a child or another individual served by an agency or facility; or

(5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) The ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a Tribal organization under the authority of sections 260.751 to 260.835.

Subd. 9. **Complaints.** The ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 260E.07, against an individual who, in good faith, makes a complaint or assists in an investigation.

Subd. 10. **Recommendations to agency.** (a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines that the complaint has merit or that the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a rule, order, or internal policy;

(4) explain more fully the action in question; or

(5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with the recommendation.

(c) Data obtained from any agency under this section retains the classification that the data has under section 13.02, and the ombudsperson shall maintain and disseminate the data according to chapter 13.

Subd. 11. **Recommendations and public reports.** (a) The ombudsperson may send conclusions and suggestions concerning any reviewed matter to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement of reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

(b) In addition to conclusions or recommendations that the ombudsperson makes to the governor on an ad hoc basis, the ombudsperson shall, at the end of each year, report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

Subd. 12. **Civil actions.** The ombudsperson and designees are not civilly liable for any action taken under this section if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

Subd. 13. **Use of funds.** Any funds received by the ombudsperson from any source may be used to compensate members of the American Indian community-specific board for reasonable and necessary expenses incurred in aiding and assisting the ombudsperson in programs and initiatives.

## Sec. 2. **[3.9216] AMERICAN INDIAN COMMUNITY-SPECIFIC BOARD.**

Subdivision 1. **Membership.** The board consists of five members who are members of a federally recognized Tribe or members of the American Indian community. The chair of the Indian Affairs Council shall appoint the members of the board. In making appointments, the chair must consult with other members of the council.

Subd. 2. **Compensation.** Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred doing board-related work, including travel for meetings, trainings, and presentations. Board members may also receive per diem payments in a manner and amount prescribed by the board.

Subd. 3. **Meetings.** The board shall meet regularly at the request of the appointing chair, board chair, or ombudsperson. The board must meet at least quarterly. The appointing chair, board chair, or ombudsperson may also call special or emergency meetings as necessary.

Subd. 4. **Removal and vacancy.** (a) A member may be removed by the appointing authority at any time, either for cause, as described in paragraph (b), or after missing three consecutive meetings, as described in paragraph (c).

(b) If a removal is for cause, the member must be given notice and an opportunity for a hearing before removal.

(c) After a member misses two consecutive meetings, and before the next meeting, the board chair shall notify the member in writing that the member may be removed if the member misses the next meeting. If a member misses three consecutive meetings, the board chair must notify the appointing authority.



(d) If there is a vacancy on the board, the appointing authority shall appoint a person to fill the vacancy for the remainder of the unexpired term.

Subd. 5. **Duties.** (a) The board shall appoint the Ombudsperson for American Indian Families and shall advise and assist the ombudsperson in various ways, including, but not limited to:

(1) selecting matters for attention;

(2) developing policies, plans, and programs to carry out the ombudsperson's functions and powers;

(3) attending policy meetings when requested by the ombudsperson;

(4) establishing protocols for working with American Indian communities;

(5) developing procedures for the ombudsperson's use of the subpoena power to compel testimony and evidence from individuals who are not agency personnel; and

(6) making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights.

(b) The board shall not make individual case recommendations.

Subd. 6. **Grants, gifts, donations, and appropriations.** The board may apply for grants for the purpose of training and educating the American Indian community on child protection issues involving American Indian families. The board may also accept gifts, donations, and appropriations for training and education. Grants, gifts, donations, and appropriations received by the board shall be used for training and education purposes. The board may seek and apply for grants to develop new programs and initiatives and to continue existing programs and initiatives. These funds may also be used to reimburse board members for reasonable and necessary expenses incurred in aiding and assisting the Office of the Ombudsperson for American Indian Families in Office of the Ombudsperson for American Indian Families programs and initiatives, but may not be used for operating expenses for the Office of Ombudsperson for American Indian Families.

Subd. 7. **Terms and expiration.** The terms and expiration of board membership are governed by section 15.0575.

### Sec. 3. **[119B.195] RETAINING EARLY EDUCATORS THROUGH ATTAINING INCENTIVES NOW (REETAIN) GRANT PROGRAM.**

Subdivision 1. **Establishment; purpose.** The retaining early educators through attaining incentives now (REETAIN) grant program is established to provide competitive grants to incentivize well-trained child care professionals to remain in the workforce. The overall goal of the REETAIN grant program is to create more consistent care for children over time.

Subd. 2. **Administration.** The commissioner shall administer the REETAIN grant program through a grant to a nonprofit with the demonstrated ability to manage benefit programs for child care professionals. Up to ten percent of grant money may be used for administration of the grant program.

Subd. 3. **Application.** Applicants must apply for the REETAIN grant program using the forms and according to timelines established by the commissioner.

Subd. 4. **Eligibility.** (a) To be eligible for a grant, an applicant must:

(1) be licensed to provide child care or work for a licensed child care program;

(2) work directly with children at least 30 hours per week;

(3) have worked in the applicant's current position for at least 12 months;

(4) agree to work in the early childhood care and education field for at least 12 months upon receiving a grant under this section;

(5) have a career lattice step of five or higher;

(6) have a current membership with the Minnesota quality improvement and registry tool;

(7) not be a current teacher education and compensation helps scholarship recipient; and

(8) meet any other requirements determined by the commissioner.

(b) Grant recipients must sign a contract agreeing to remain in the early childhood care and education field for 12 months.

Subd. 5. **Grant awards.** Grant awards must be made annually and may be made up to an amount per recipient determined by the commissioner. Grant recipients may use grant money for program supplies, training, or personal expenses.

Subd. 6. **Report.** By January 1 each year, the commissioner must report to the legislative committees with jurisdiction over child care about the number of grants awarded to recipients and outcomes of the grant program since the last report.

Sec. 4. Minnesota Statutes 2020, section 124D.142, is amended to read:

#### **124D.142 QUALITY RATING AND IMPROVEMENT SYSTEM.**

Subdivision 1. **System established.** ~~(a)~~ There is established a quality rating and improvement system (QRIS) framework, known as Parent Aware, to ensure that Minnesota's children have access to high-quality early learning and care programs in a range of settings so that they are fully ready for kindergarten by 2020. ~~Creation of a standards-based voluntary quality rating and improvement system includes:~~

Subd. 2. **System components.** The standards-based voluntary quality rating and improvement system includes:

(1) quality opportunities in order to improve the educational outcomes of children so that they are ready for school. ~~The~~

(2) a framework ~~shall be~~ based on the Minnesota quality rating system rating tool and a common set of child outcome and program standards ~~and~~ informed by evaluation results;

~~(2)~~ (3) a tool to increase the number of publicly funded and regulated early learning and care services in both public and private market programs that are high quality. ~~If~~

(4) voluntary participation ensuring that if a program or provider chooses to participate, the program or provider will be rated and may receive public funding associated with the rating. ~~The state shall develop a plan to link future early learning and care state funding to the framework in a manner that complies with federal requirements; and~~

~~(3) (5) tracking progress toward statewide access to high-quality early learning and care programs, progress toward the number of low-income children whose parents can access quality programs, and progress toward increasing the number of children who are fully prepared to enter kindergarten.~~

~~(b) In planning a statewide quality rating and improvement system framework in paragraph (a), the state shall use evaluation results of the Minnesota quality rating system rating tool in use in fiscal year 2008 to recommend:~~

~~(1) a framework of a common set of child outcome and program standards for a voluntary statewide quality rating and improvement system;~~

~~(2) a plan to link future funding to the framework described in paragraph (a), clause (2); and~~

~~(3) a plan for how the state will realign existing state and federal administrative resources to implement the voluntary quality rating and improvement system framework. The state shall provide the recommendation in this paragraph to the early childhood education finance committees of the legislature by March 15, 2011.~~

~~(c) Prior to the creation of a statewide quality rating and improvement system in paragraph (a), the state shall employ the Minnesota quality rating system rating tool in use in fiscal year 2008 in the original Minnesota Early Learning Foundation pilot areas and additional pilot areas supported by private or public funds with its modification as a result of the evaluation results of the pilot project.~~

Subd. 3. **Evaluation.** (a) By February 1, 2022, the commissioner of human services must arrange an independent evaluation of the quality rating and improvement system's effectiveness and impact on:

(1) children's progress toward school readiness;

(2) the quality of the early learning and care system supply and workforce;

(3) parents' ability to access and use meaningful information about early learning and care program quality; and

(4) providers' ability to serve children and families, including those from racially, ethnically, or culturally diverse backgrounds.

(b) The evaluation must be performed by a staff member from another agency or a consultant. An evaluator must have experience in program evaluation and must not be regularly involved in implementing the quality rating and improvement system.

(c) The evaluation findings, along with the commissioner's recommendations for revisions, potential future evaluations, and plans for continuous improvement, must be reported to the chairs and ranking minority members of the legislative committees with jurisdiction over early childhood programs by December 31, 2024.

(d) At a minimum, the evaluation must:

(1) analyze the effectiveness of the quality rating and improvement system, including but not limited to reviewing:

(i) whether quality indicators and measures used in the quality rating and improvement system are consistent with evidence and research findings on early learning and care program quality; and

(ii) patterns or differences in observed quality of participating early learning and care programs in comparison to programs at other quality rating and improvement system star rating levels and accounting for other factors;

(2) perform evidence-based assessments of children's developmental gains aligned with the state early childhood indicators of progress, including in ways that are appropriate for children's linguistic and cultural backgrounds;

(3) analyze the extent to which differences in developmental gains among children correspond to the star ratings of the early learning and care programs, providing disaggregated findings by:

(i) children's demographic factors, including geographic area, family income level, and racial and ethnic groups;

(ii) type of provider, including family child care providers, child care centers, Head Start and Early Head Start, and school-based early childhood providers; and

(iii) any other categories identified by the commissioner, in consultation with the commissioners of health and education or the entity performing the evaluation;

(4) analyze the accessibility for providers to participate in the quality rating and improvement system, including ease of application and supports for a provider to receive or improve a rating, and provide disaggregated findings by children's demographic factors and type of provider, as each is defined in clause (3);

(5) analyze the availability of providers participating in the quality rating and improvement system to families, and provide disaggregated findings by children's demographic factors and type of provider, as each is defined in clause (3);

(6) analyze the degree to which the quality rating and improvement system accounts for racial, cultural, linguistic, and ethnic diversity when measuring quality; and

(7) analyze the impact of financial or administrative requirements of the quality rating and improvement system on family child care providers and child care providers, including those providers serving racially, ethnically, and culturally diverse communities.

(e) The evaluation must include a comparison of the quality rating and improvement system with at least three other quality metric systems used in other states. The other chosen metric systems must incorporate methods of assessing and monitoring developmental and achievement benchmarks in early care and education settings to assess kindergarten readiness, including for racially, ethnically, and culturally diverse populations.

Subd. 4. **Equity report.** The Department of Human Services shall conduct outreach to a racially, ethnically, culturally, and geographically diverse group of early learning and care providers to identify any barriers that prevent the providers from pursuing a Parent Aware rating. The department shall summarize and submit the results of the outreach, along with a plan for reducing those barriers, to the chairs and ranking minority members of the legislative committees with jurisdiction over early learning and care programs by March 1, 2022.

Sec. 5. Minnesota Statutes 2020, section 136A.128, subdivision 2, is amended to read:

Subd. 2. **Program components.** (a) The nonprofit organization must use the grant for:

(1) tuition scholarships up to ~~\$5,000~~ \$10,000 per year for courses leading to the nationally recognized child development associate credential or college-level courses leading to an associate's degree or bachelor's degree in early childhood development and school-age care; and

(2) education incentives of a minimum of ~~\$100~~ \$250 to participants in the tuition scholarship program if they complete a year of working in the early care and education field.

(b) Applicants for the scholarship must be employed by a licensed early childhood or child care program and working directly with children, a licensed family child care provider, employed by a public prekindergarten program, or an employee in a school-age program exempt from licensing under section 245A.03, subdivision 2, paragraph (a), clause (12). Lower wage earners must be given priority in awarding the tuition scholarships. Scholarship recipients must contribute at least ten percent of the total scholarship and must be sponsored by their employers, who must also contribute ~~ten~~ at least five percent of the total scholarship. Scholarship recipients who are self-employed must contribute 20 percent of the total scholarship.

Sec. 6. Minnesota Statutes 2020, section 136A.128, subdivision 4, is amended to read:

Subd. 4. **Administration.** A nonprofit organization that receives a grant under this section may use ~~five~~ ten percent of the grant amount to administer the program.

Sec. 7. Minnesota Statutes 2020, section 256.041, is amended to read:

#### **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~~ implementing strategies to reduce inequities and disparities that particularly affect racial and ethnic groups in Minnesota.

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; and cultural and ethnic communities leadership council members.

(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~~ section 15.0145.

(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 accept recommendations from the council to appoint a chair or chairs.

~~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 in a timely manner, no more than three months after the council reviews panel recommendations.

Subd. 7. **Duties of commissioner.** (a) The commissioner of human services or the commissioner's designee shall:

- (1) maintain and actively engage with 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, equitable, and culturally responsive models of service delivery such as including careful adaptation adoption of clinically proven services that constitute one strategy for increasing to increase 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; and advise the department on progress and accountability measures for addressing inequities;
- (6) in partnership with the council, renew and implement equity policy with action plans and resources necessary to implement the action plans;
- (7) support interagency collaboration to advance equity;
- (8) address the council at least twice annually on the state of equity within the department; and

(9) support member participation in the council, including participation in educational and community engagement events across Minnesota that address equity in human services.

(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 policy, budgetary, and operational decisions and practices that maintain impact racial, ethnic, cultural, linguistic, and tribal disparities;

(2) with community input, advance legislative proposals to improve racial and health equity outcomes;

(3) identify issues regarding inequities and disparities by engaging diverse populations in human services programs;

~~(3)~~ (4) engage in mutual learning essential for achieving human services parity and optimal wellness for service recipients;

~~(4)~~ (5) raise awareness about human services disparities to the legislature and media;

~~(5)~~ (6) 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)~~ (7) provide technical assistance to promote statewide development of culturally and linguistically appropriate, accessible, and cost-effective human services and related policies;

~~(7)~~ provide (8) recommend and monitor 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~~ in the second year of the biennium, 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, and recommendations to strengthen equity, diversity, and inclusion within the department. 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.~~ identify racial and ethnic groups' difficulty in accessing human services and make recommendations to address the issues. The report must include any updated Department of Human Services equity policy, implementation plans, equity initiatives, and the council's progress.

Subd. 9. **Duties of council members.** The members of the council shall:

(1) attend ~~and~~ scheduled meetings with no more than three absences per year, 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 inequity and disparity reduction efforts;

(5) communicate updates of the council's work progress and status on the Department of Human Services website; ~~and~~

(6) participate in any activities the council or chair deems appropriate and necessary to facilitate the goals and duties of the council; and

(7) participate in work groups to carry out council duties.

Subd. 10. **Expiration.** The council expires on June 30, ~~2022~~ 2025.

Subd. 11. **Compensation.** Compensation for members of the council is governed by section 15.059, subdivision 3.

Sec. 8. Minnesota Statutes 2020, section 257.0755, subdivision 1, is amended to read:

Subdivision 1. **Creation.** Each ombudsperson shall operate independently from but in collaboration with the community-specific board that appointed the ombudsperson under section 257.0768: ~~the Indian Affairs Council~~, the Minnesota Council on Latino Affairs, the Council for Minnesotans of African Heritage, and the Council on Asian-Pacific Minnesotans.

Sec. 9. Minnesota Statutes 2020, section 257.076, subdivision 3, is amended to read:

Subd. 3. **Communities of color.** "Communities of color" means the following: ~~American-Indian~~, Hispanic-Latino, Asian-Pacific, African, and African-American communities.

Sec. 10. Minnesota Statutes 2020, section 257.076, subdivision 5, is amended to read:

Subd. 5. **Family of color.** "Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of ~~American-Indian~~, Hispanic-Latino, Asian-Pacific, African, or African-American descent.

Sec. 11. Minnesota Statutes 2020, section 257.0768, subdivision 1, is amended to read:

Subdivision 1. **Membership.** ~~Four~~ Three community-specific boards are created. Each board consists of five members. The chair of each of the following groups shall appoint the board for the community represented by the group: ~~the Indian Affairs Council~~; the Minnesota Council on Latino Affairs; the Council for Minnesotans of African Heritage; and the Council on Asian-Pacific Minnesotans. In making appointments, the chair must consult with other members of the council.



Sec. 12. Minnesota Statutes 2020, section 257.0768, subdivision 6, is amended to read:

Subd. 6. **Joint meetings.** The members of the ~~four~~ three community-specific boards shall meet jointly at least four times each year to advise the ombudspersons on overall policies, plans, protocols, and programs for the office.

Sec. 13. Minnesota Statutes 2020, section 257.0769, is amended to read:

**257.0769 FUNDING FOR THE OMBUDSPERSON PROGRAM.**

Subdivision 1. **Appropriations.** ~~(a) money is appropriated from \$23,000 from the special fund account authorized by section 256.01, subdivision 2, paragraph (o), is annually appropriated to the Indian Affairs Council Office of Ombudsperson for American Indian Families for the purposes purpose of sections 257.0755 to 257.0768~~ section 3.9215.

~~(b) money is appropriated from \$69,000 from the special fund account authorized by section 256.01, subdivision 2, paragraph (o), is annually appropriated to the Minnesota Council on Latino Affairs Office of Ombudsperson for Families for the purposes of sections 257.0755 to 257.0768.~~

~~(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, paragraph (o), to the Council for Minnesotans of African Heritage for the purposes of sections 257.0755 to 257.0768.~~

~~(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, paragraph (o), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.~~

Subd. 2. **Title IV-E reimbursement.** The commissioner shall obtain federal title IV-E financial participation for eligible activity by the ombudsperson for families under section 257.0755 and the ombudsperson for American Indian families under section 3.9215. The ombudsperson for families and the ombudsperson for American Indian families shall maintain and transmit to the Department of Human Services documentation that is necessary in order to obtain federal funds.

Sec. 14. **TRANSFER OF MONEY.**

Before the end of fiscal year 2021, the Office of the Ombudsperson for Families must transfer to the Office of the Ombudsperson for American Indian Families any remaining money designated for use by the Ombudsperson for American Indian Families. This section is cost-neutral.

Sec. 15. **CHILDREN WITH DISABILITIES INCLUSIVE CHILD CARE ACCESS EXPANSION GRANT PROGRAM.**

Subdivision 1. **Establishment.** (a) The commissioner of human services shall establish a competitive grant program to expand access to licensed family child care providers or licensed child care centers for children with disabilities including medical complexities. The commissioner shall award grants to counties or Tribes, including at least one county from the seven-county metropolitan area and at least one county or Tribe outside the seven-county metropolitan area, and grant funds shall be used to enable child care providers to develop an inclusive child care setting and offer care to children with disabilities and children without disabilities. Grants shall be awarded to at least two applicants beginning no later than January 15, 2022.

(b) For purposes of this section, "child with a disability" means a child who has a substantial delay or has an identifiable physical, medical, emotional, or mental condition that hinders development.

(c) For purposes of this section, "inclusive child care setting" means child care provided in a manner that serves children with disabilities in the same setting as children without disabilities.

Subd. 2. **Commissioner's duties.** To administer the grant program, the commissioner shall:

(1) consult with relevant stakeholders to develop a request for proposals that at least requires grant applicants to identify the items or services and estimated accompanying costs, where possible, needed to expand access to inclusive child care settings for children with disabilities;

(2) develop procedures for data collection, qualitative and quantitative measurement of grant program outcomes, and reporting requirements for grant recipients;

(3) convene a working group of grant recipients, partner child care providers, and participating families to assess progress on grant activities, share best practices, and collect and review data on grant activities; and

(4) by February 1, 2023, provide a report to the chairs and ranking minority members of the legislative committees with jurisdiction over early childhood programs on the activities and outcomes of the grant program with legislative recommendations for implementing inclusive child care settings statewide. The report shall be made available to the public.

Subd. 3. **Grant activities.** Grant recipients shall use grant funds for the cost of facility modifications, resources, or services necessary to expand access to inclusive child care settings for children with disabilities, including:

(1) onetime needs to equip a child care setting to serve children with disabilities, including but not limited to environmental modifications; accessibility modifications; sensory adaptation; training materials and staff time for training, including for substitutes; or equipment purchases, including durable medical equipment;

(2) ongoing medical- or disability-related services for children with disabilities in inclusive child care settings, including but not limited to mental health supports; inclusion specialist services; home care nursing; behavioral supports; coaching or training for staff and substitutes; substitute teaching time; or additional child care staff, an enhanced rate, or another mechanism to increase staff-to-child ratio; and

(3) other expenses determined by the grant recipient and each partner child care provider to be necessary to establish an inclusive child care setting and serve children with disabilities at the provider's location.

Subd. 4. **Requirements for grant recipients.** Upon receipt of grant funds and throughout the grant period, grant recipients shall:

(1) partner with at least two but no more than five child care providers, each of which must meet one of the following criteria:

(i) serve 29 or fewer children, including at least two children with a disability who are not a family member of the child care provider if the participating child care provider is a family child care provider; or

(ii) serve more than 30 children, including at least three children with a disability;

(2) develop and follow a process to ensure that grant funding is used to support children with disabilities who, without the additional supports made available through the grant, would have difficulty accessing an inclusive child care setting;

(3) pursue funding for ongoing services needed for children with disabilities in inclusive child care settings, such as Medicaid or private health insurance coverage; additional grant funding; or other funding sources;

(4) explore and seek opportunities to use existing federal funds to provide ongoing support to family child care providers or child care centers serving children with disabilities. Grant recipients shall seek to minimize family financial obligations for child care for a child with disabilities beyond what child care would cost for a child without disabilities; and

(5) identify and utilize training resources for child care providers, where available and applicable, for at least one of the grant recipient's partner child care providers.

Subd. 5. **Reporting.** Grant recipients shall report to the commissioner every six months, in a manner specified by the commissioner, on the following:

(1) the number, type, and cost of additional supports needed to serve children with disabilities in inclusive child care settings;

(2) best practices for billing;

(3) availability and use of funding sources other than through the grant program;

(4) processes for identifying families of children with disabilities who could benefit from grant activities and connecting them with a child care provider interested in serving them;

(5) processes and eligibility criteria used to determine whether a child is a child with a disability and means of prioritizing grant funding to serve children with significant support needs associated with their disability; and

(6) any other information deemed relevant by the commissioner.

**Sec. 16. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FAMILY CHILD CARE SHARED SERVICES INNOVATION GRANTS.**

The commissioner of human services shall establish a grant program to test strategies by which family child care providers may share services and thereby achieve economies of scale. The commissioner shall report the results of the grant program to the legislative committees with jurisdiction over early care and education programs.

**Sec. 17. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FOSTER FAMILY RECRUITMENT AND LICENSING TECHNOLOGY REQUEST FOR INFORMATION.**

The commissioner of human services shall publish a request for information to identify available technology to support foster family recruitment and training through an online portal for potential foster families to apply for licensure online, including the potential costs for implementing the technology. The technology shall enable relative families of foster youth to apply online and receive real-time support through the online application software; offer content in multiple languages; enable tracking of users' ethnic identity to identify potential gaps in recruitment and to ensure racial equity in serving foster families; and recognize Tribal government sovereignty over data control and recruiting and licensing of families to support children in their community. By January 15, 2022, the commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services on responses received in response to the request for information.

**Sec. 18. AFFORDABLE, HIGH-QUALITY EARLY CARE AND EDUCATION FOR ALL FAMILIES.**

Subdivision 1. **Goal.** It is the goal of the state for all families to have access to affordable, high-quality early care and education that enriches, nurtures, and supports children and their families. The goal will be achieved by:

(1) creating a system in which family costs for early care and education are affordable;

(2) ensuring that a child's access to high-quality early care and education is not determined by the child's race, family income, or zip code; and

(3) ensuring that Minnesota's early childhood educators are qualified, diverse, supported, and equitably compensated regardless of setting.

Subd. 2. **Great Start for All Minnesota Children Task Force; establishment.** The Great Start for All Minnesota Children Task Force is established to develop strategies that will meet the goal identified in subdivision 1.

Subd. 3. **Membership.** (a) The task force shall consist of the following 15 voting members, appointed by the governor, except as otherwise specified:

(1) two members of the house of representatives, one appointed from the majority party by the speaker of the house and one appointed from the minority party by the minority leader;

(2) two members of the senate, one appointed from the majority party by the majority leader and one appointed from the minority party by the minority leader;

(3) two individuals who are directors of a licensed child care center, one from greater Minnesota and one from the seven-county metropolitan area;

(4) two individuals who are license holders of family child care programs, one from greater Minnesota and one from the seven-county metropolitan area;

(5) three individuals who are early childhood educators, one who works in a licensed child care center, one who works in a public school-based early childhood program, and one who works in a Head Start program or a community education program;

(6) two parents of children under five years of age, one parent whose child attends a private early care and education program and one parent whose child attends a public program, and one parent from greater Minnesota and one parent from the seven-county metropolitan area;

(7) one representative of a federally recognized tribe who has expertise in the early care and education system; and

(8) one representative from the Children's Cabinet.

(b) The task force shall have nonvoting members who participate in meetings and provide data and information to the task force upon request. One person appointed by each of the commissioners of the following state agencies, one person appointed by the board of each of the following organizations, and persons appointed by the governor as specified, shall serve as nonvoting members of the task force:

(1) the Department of Education;

- (2) the Department of Employment and Economic Development;
  - (3) the Department of Health;
  - (4) the Department of Human Services;
  - (5) the Department of Labor and Industry;
  - (6) the Department of Management and Budget;
  - (7) the Department of Revenue;
  - (8) the Minnesota Business Partnership;
  - (9) the Minnesota Community Education Association;
  - (10) the Minnesota Child Care Association;
  - (11) the statewide child care resource and referral network, known as Child Care Aware;
  - (12) the Minnesota Head Start Association;
  - (13) the Minnesota Association of County Social Service Administrators;
  - (14) the Minnesota Chamber of Commerce;
  - (15) a member of a statewide advocacy organization that supports and promotes early childhood education and welfare, appointed by the governor;
  - (16) a faculty representative who teaches early childhood education in a Minnesota institution of higher education, appointed by the governor;
  - (17) the Minnesota Initiative Foundations;
  - (18) a member of the Kids Count on Us Coalition, appointed by the governor;
  - (19) the Minnesota Child Care Provider Information Network;
  - (20) the Minnesota Association of Child Care Professionals;
  - (21) a member of Indigenous Visioning, appointed by the governor; and
  - (22) a nationally recognized expert in early care and education financing, appointed by the governor.
- Subd. 4. **Administration.** (a) The governor must select a chair or cochair for the task force from among the voting members. The first task force meeting shall be convened by the chair or cochair and held no later than December 1, 2021. Thereafter, the chair or cochair shall convene the task force at least monthly and may convene other meetings as necessary. The chair or cochair shall convene meetings in a manner to allow for access from diverse geographic locations in Minnesota.
- (b) Compensation of task force members, filling of task force vacancies, and removal of task force members shall be governed by Minnesota Statutes, section 15.059, except that nonvoting members of the task force shall serve without compensation.
- (c) The commissioner of management and budget shall provide staff and administrative services for the task force.

(d) The task force shall expire upon submission of the final report required under subdivision 9.

(e) The duties of the task force in this section shall be transferred to an applicable state agency if specifically authorized under law to carry out such duties.

(f) The task force is subject to Minnesota Statutes, chapter 13D.

**Subd. 5. Plan development.** (a) The task force must develop strategies and a plan to achieve the goal outlined in subdivision 1 by July 2031.

(b) The plan must include an affordability standard that clearly identifies the maximum percentage of income that a family must pay for early care and education. The standard must take into account all relevant factors, including but not limited to:

(1) the annual income of the family;

(2) the recommended maximum of income spent on child care expenses from the United States Department of Health and Human Services;

(3) the average cost of private child care for children under the age of five; and

(4) geographic disparities in child care costs.

**Subd. 6. Affordable, high-quality early care and education.** In developing the plan under subdivision 5, the task force must:

(1) identify the most efficient infrastructure, benefit mechanisms, and financing mechanisms under which families will access financial assistance so that early care and education is affordable, high-quality, and easy to access;

(2) consider how payment rates for child care will be determined and updated;

(3) describe how the plan will be administered, including the roles for state agencies, local government agencies, and community-based organizations and how that plan will streamline funding and reduce complexity and fragmentation in the administration of early childhood programs; and

(4) identify how to maintain and encourage the further development of Minnesota's mixed-delivery system for early care and education, including licensed family child care, to match family preferences.

**Subd. 7. Workforce compensation.** In developing the plan under subdivision 5, the task force must:

(1) include strategies to increase racial and ethnic equity and diversity in the early care and education workforce and recognize the value of cultural competency and multilingualism;

(2) include a compensation framework that supports recruitment and retention of a qualified workforce in every early care and education setting;

(3) consider the need for and development of a mechanism that ties child care reimbursement rates to employee compensation;

(4) develop affordable, accessible, and aligned pathways to support early childhood educators' career and educational advancement;

(5) set compensation for early childhood educators by reference to compensation for elementary school teachers; and

(6) consider the recommendations from previous work including the Transforming Minnesota's Early Childhood Workforce project and other statewide reports on systemic issues in early care and education.

Subd. 8. **Implementation timeline.** The task force must develop an implementation timeline that phases in the plan over a period of no more than six years, beginning in July 2025 and finishing no later than July 2031. In developing the implementation timeline, the task force must consider:

(1) how to simultaneously ensure that child care is affordable to as many families as possible while minimizing disruptions in the availability and cost of currently available early care and education arrangements;

(2) the capacity for the state to increase the availability of different types of early care and education settings from which a family may choose;

(3) how the inability to afford and access early care and education settings disproportionately affects certain populations; and

(4) how to provide additional targeted investments for early childhood educators serving a high proportion of families currently eligible for or receiving public assistance for early care and education.

Subd. 9. **Required reports.** By December 15, 2022, the task force must submit to the governor and legislative committees with jurisdiction over early childhood programs preliminary findings and draft implementation plans. By February 1, 2023, the task force must submit to the governor and legislative committees with jurisdiction over early childhood programs final recommendations and implementation plans pursuant to subdivision 5.

**Sec. 19. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FAMILY SUPPORTS AND IMPROVEMENT PROGRAM RECOMMENDATIONS.**

The commissioner of human services shall collaborate with the children's cabinet to engage with the Minnesota Department of Education, the Minnesota Department of Health and other relevant state agencies, county and Tribal agencies, child care providers, early childhood education providers, school administrators, parents of families who qualify for or are receiving state or county assistance, and other service providers working with those families to develop recommendations for implementing a family-focused voluntary information sharing program intended to improve the effectiveness of public assistance programs and the delivery of services to families, including but not limited to the child care assistance program, Minnesota family investment program, supplemental nutritional assistance program, early learning scholarships, medical assistance, and home visiting programs. To the extent possible, the commissioner may use existing data, materials, or reports. The commissioner may engage a third-party vendor to assist with developing recommendations. The family-focused information sharing program design may include data sharing under Minnesota Statutes, section 13.32, subdivision 12. The recommendations must include whether grant money is necessary for counties, Tribes, or other agencies for costs associated with operating the family-focused information sharing program. The recommendations must include an estimated budget and timeline for the project, a proposed methodology to distribute grant money to counties, Tribes, or other grantees if needed to operate the project, and deadlines for an interim and final report on the results of the program. The commissioner shall provide the chairs and ranking minority members of the legislative committees with jurisdiction over early childhood and human services programs with recommendations and, if necessary, proposed legislation by January 15, 2023.

**Sec. 20. REPORT ON PARTICIPATION IN EARLY CHILDHOOD PROGRAMS BY CHILDREN IN FOSTER CARE.**

Subdivision 1. Reporting requirement. (a) The commissioner of human services shall report on the participation in early care and education programs by children under six years of age who have experienced foster care, as defined in Minnesota Statutes, section 260C.007, subdivision 18, at any time during the reporting period.

(b) For purposes of this section, "early care and education program" means Early Head Start and Head Start under the federal Improving Head Start for School Readiness Act of 2007; special education programs under Minnesota Statutes, chapter 125A; early learning scholarships under Minnesota Statutes, section 124D.165; school readiness under Minnesota Statutes, sections 124D.15 and 124D.16; school readiness plus under Laws 2017, First Special Session chapter 5, article 8, section 9; voluntary prekindergarten under Minnesota Statutes, section 124D.151; child care assistance under Minnesota Statutes, chapter 119B; and other programs as determined by the commissioner.

Subd. 2. Report content. (a) The report shall provide counts and rates of participation in early care and education programs disaggregated, to the extent practicable, by children's race, ethnicity, age, and county of residence.

(b) The report may include recommendations for:

(1) providing the data described in paragraph (a) on an annual basis as part of the report required under Minnesota Statutes, section 257.0725;

(2) facilitating children's continued participation in early care and education programs after reunification, adoption, or a transfer of permanent legal and physical custody;

(3) increasing the rates of participation among children and their foster families in early care and education programs, including processes for referrals and follow-up; and

(4) regularly reporting measures of early childhood well-being for children who have experienced foster care. Measures of early childhood well-being include administrative data from developmental screenings, school readiness assessments, well-child medical visits, and other sources as determined by the commissioner.

(c) For any recommendation under paragraph (b) not included in the report, the report shall provide an explanation and identify resources needed to address the recommendation in any future reports.

(d) The report shall identify any administrative barriers to ensuring that early care and education programs are responsive to the cultural, logistical, and racial equity concerns and needs of children's foster families and families of origin, and the report shall identify methods to ensure that the experiences and feedback from children's foster families and families of origin are included in the ongoing implementation of early care and education programs.

(e) The report shall identify stakeholders who were not consulted in the development of the report and provide recommendations for including the stakeholders' contributions in future reports.

Subd. 3. Data and collaboration. (a) The report shall use the most current administrative data and systems, including the Early Childhood Longitudinal Data System, and publicly available data. The report shall identify barriers to other potential data sources and make recommendations about accessing and incorporating the data in future reports.

(b) To the extent practicable, the commissioner shall:



(1) incorporate the experiences of and feedback from children's foster families and families of origin into the content of the report; and

(2) collaborate and consult with the commissioners of health and education, county agencies, early care and education providers, the judiciary, and school districts in developing the content of the report.

Subd. 4. **Submission to legislature.** By December 1, 2022, the commissioner shall submit the report required under this section to the legislative committees with jurisdiction over early care and education programs.

Sec. 21. **CHILD CARE STABILIZATION GRANTS.**

Subdivision 1. **Child care stabilization grants.** The commissioner of human services shall award grant money to eligible child care programs to support the stability of the child care sector during and after the COVID-19 public health emergency.

Subd. 2. **Eligible programs.** (a) The following programs are eligible to receive child care stabilization grants under this section:

(1) family and group family child care homes licensed under Minnesota Rules, chapter 9502;

(2) child care centers licensed under Minnesota Rules, chapter 9503;

(3) certified license-exempt child care centers under Minnesota Statutes, chapter 245H;

(4) legal nonlicensed child care providers as defined in Minnesota Statutes, section 119B.011, subdivision 16; and

(5) other programs as determined by the commissioner.

(b) Programs must not be:

(1) the subject of a finding of fraud;

(2) prohibited from receiving public funds under Minnesota Statutes, section 245.095; or

(3) under revocation, suspension, temporary immediate suspension, or decertification, regardless of whether the action is under appeal.

Subd. 3. **Grant requirements.** (a) To receive grant money under this section, an eligible program must:

(1) complete an application developed by the commissioner for each grant period for which the eligible program applies for funding;

(2) attest and agree in writing that, for the duration of the grant period, the program will comply with the requirements in section 2202(d)(2)(D)(i) of the federal American Rescue Plan Act, Public Law 117-2, including maintaining compensation levels for employees and, to the extent practicable, providing tuition and co-payment relief to families enrolled in the program; and

(3) attest and agree in writing that the program intends to remain operating and serving children for the duration of the grant period, with the exceptions of:

(i) service disruptions that are necessary due to public health guidance to protect the safety and health of children and child care programs issued by the Centers for Disease Control and Prevention, the commissioner of health, the commissioner of human services, or a local public health agency; and

(ii) planned temporary closures for provider vacation and holidays for a duration specified by the commissioner for each grant period.

(b) Grant recipients must comply with all requirements listed in the application for grants under this section.

(c) Grant recipients must use at least 70 percent of base grant awards under subdivision 4, paragraph (b), to provide increased compensation, benefits, or premium pay to all paid employees, sole proprietors, or independent contractors regularly caring for children. Grant recipients may request a waiver from this requirement if they cannot increase compensation, benefits, or premium pay due to restrictions included in agreements with employee bargaining units, or if the program is experiencing unusual and significant financial hardship.

(d) Grant recipients that fail to meet the requirements under this section are subject to discontinuation of future installment payments, recoupment of payments already made, or referral to the Office of Inspector General for additional action. Except when based on a finding of fraud, actions to establish recoupment must be made within six years of the conclusion of the grant program established under this section. Once recoupment is established, collection may continue until funds have been repaid in full.

Subd. 4. **Grant awards.** (a) The commissioner shall award transition grants to all eligible programs on a noncompetitive basis through August 31, 2021.

(b) The commissioner shall award base grant amounts to all eligible programs on a noncompetitive basis beginning September 1, 2021, through June 30, 2023. The base grant amounts shall be:

(1) based on the full-time equivalent number of staff who regularly care for children in the program, including any employees, sole proprietors, or independent contractors;

(2) reduced between July 1, 2022, and June 30, 2023, with amounts for the final month being no more than 50 percent of the amounts awarded in September 2021; and

(3) enhanced in amounts determined by the commissioner for any providers receiving payments through the child care assistance program under sections 119B.03 and 119B.05 or early learning scholarships under section 124D.165.

(c) The commissioner may provide grant amounts in addition to any base grants received to eligible programs in extreme financial hardship until all money set aside for that purpose is awarded.

(d) The commissioner may pay any grants awarded to eligible programs under this section in the form and manner established by the commissioner, except that such payments must occur on a monthly basis.

Subd. 5. **Eligible uses of grant money.** Grant recipients may use grant money awarded under this section for one or more of the following uses directly related to the operation of a child care program:

(1) paying personnel costs, such as payroll, salaries, or similar compensation, employee benefits, premium pay, or costs for employee recruitment and retention, for an employee, including a sole proprietor or an independent contractor;

(2) providing relief from co-payments and tuition payments for the families enrolled in the program, to the extent possible, with eligible programs prioritizing relief for families struggling to make co-payments or tuition payments;

(3) paying rent, including rent under a lease agreement, or making payments on any mortgage obligation, utilities, facility maintenance or improvements, or insurance;

(4) purchasing personal protective equipment, purchasing cleaning and sanitization supplies and services, or obtaining training and professional development related to health and safety practices;

(5) purchasing or updating equipment and supplies to respond to the COVID-19 public health emergency;

(6) purchasing goods and services necessary to maintain or resume child care services;

(7) providing mental health supports for children and employees; or

(8) providing reimbursement for losses incurred during the COVID-19 public health emergency. An expenditure is eligible for reimbursement if it was for one of the uses identified in this subdivision and it was paid between January 31, 2020, and the date of application for grants under this section.

**Sec. 22. DIRECTION TO THE CHILDREN'S CABINET; EARLY CHILDHOOD GOVERNANCE REPORT.**

Subdivision 1. **Recommendations.** The Children's Cabinet shall develop recommendations on the governance of programs relating to early childhood development, care, and learning, including how such programs could be consolidated into an existing state agency or a new state Department of Early Childhood. The recommendations shall address the impact of such a consolidation on:

(1) state efforts to ensure that all Minnesota children are kindergarten-ready, with race, income, and zip code no longer predictors of school readiness;

(2) coordination and alignment among programs;

(3) the effort required of families to receive services to which they are entitled;

(4) the effort required of service providers to participate in childhood programs; and

(5) the articulation between early care and education programs and the kindergarten through grade 12 system.

Subd. 2. **Public input.** In developing the recommendations required under subdivision 1, the Children's Cabinet must provide for a community engagement process to seek input from the public and stakeholders.

Subd. 3. **Report.** (a) The Children's Cabinet shall produce a report that includes:

(1) the recommendations required under subdivision 1;

(2) the explanations and reasoning behind such recommendations;

(3) a description of the community engagement process required under subdivision 2; and

(4) a summary of the feedback received from the public and early care and education stakeholders through the community engagement process.

(b) The Children's Cabinet may arrange for consultants to assist with the development of the report.

(c) By February 1, 2022, the Children's Cabinet shall submit the report to the governor and the legislative committees with jurisdiction over early childhood programs.

**Sec. 23. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FEDERAL FUND AND CHILD CARE AND DEVELOPMENT BLOCK GRANT ALLOCATIONS.**

(a) The commissioner of human services shall allocate \$1,435,000 in fiscal year 2022 from the child care and development block grant for the quality rating and improvement system evaluation and equity report under Minnesota Statutes, section 124D.142, subdivisions 3 and 4.

(b) The commissioner of human services shall allocate \$499,000 in fiscal year 2022 from the child care and development block grant for the ombudsperson for family child care providers under Minnesota Statutes, section 245.975.

(c) The commissioner of human services shall allocate \$858,000 in fiscal year 2022 from the child care and development block grant for transfer to the commissioner of management and budget for the affordable high-quality child care and early education for all families working group.

(d) The commissioner of human services shall allocate \$200,000 in fiscal year 2022 from the child care and development block grant for transfer to the commissioner of management and budget for completion of the early childhood governance report.

(e) The commissioner of human services shall allocate \$150,000 in fiscal year 2022 from the child care and development block grant to develop recommendations for implementing a family supports and improvement program.

(f) The commissioner of human services shall allocate \$1,000,000 in fiscal year 2022 from the child care and development block grant for REETAIN grants under Minnesota Statutes, section 119B.195.

(g) The commissioner of human services shall allocate \$2,000,000 in fiscal year 2022 from the child care and development block grant for the TEACH program under Minnesota Statutes, section 136A.128.

(h) The commissioner of human services shall allocate \$304,398,000 in fiscal year 2022 from the federal fund for child care stabilization grants, including up to \$5,000,000 for administration.

(i) The commissioner of human services shall allocate \$200,000 in fiscal year 2022 from the federal fund for the shared services pilot program for family child care providers.

(j) The commissioner of human services shall allocate \$290,000 in fiscal year 2022 from the child care and development block grant for a report on participation in early care and education programs by children in foster care.

(k) The commissioner of human services shall allocate \$3,500,000 in fiscal year 2022 from the child care and development block grant for the commissioner of human services to administer the child care and development block grant allocations in this act.

(l) The allocations in this section are available until June 30, 2025.

**Sec. 24. REVISOR INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 136A.128, in Minnesota Statutes, chapter 119B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

**ARTICLE 15**  
**REINSURANCE**

Section 1. Laws 2017, chapter 13, article 1, section 15, as amended by Laws 2017, First Special Session chapter 6, article 5, section 10, and Laws 2019, First Special Session chapter 9, article 8, section 19, is amended to read:

**Sec. 15. MINNESOTA PREMIUM SECURITY PLAN FUNDING.**

(a) The Minnesota Comprehensive Health Association shall fund the operational and administrative costs and reinsurance payments of the Minnesota security plan and association using the following amounts deposited in the premium security plan account in Minnesota Statutes, section 62E.25, subdivision 1, in the following order:

- (1) any federal funding available;
- (2) funds deposited under article 1, sections 12 and 13;
- (3) any state funds from the health care access fund; and
- (4) any state funds from the general fund.

(b) The association shall transfer from the premium security plan account any remaining state funds not used for the Minnesota premium security plan by June 30, ~~2023~~ 2024, to the commissioner of commerce. Any amount transferred to the commissioner of commerce shall be deposited in the health care access fund in Minnesota Statutes, section 16A.724.

(c) The Minnesota Comprehensive Health Association may not spend more than \$271,000,000 for benefit year 2018 and not more than \$271,000,000 for benefit year 2019 for the operational and administrative costs of, and reinsurance payments under, the Minnesota premium security plan.

**Sec. 2. MINNESOTA PREMIUM SECURITY PLAN ADMINISTERED THROUGH THE 2022 BENEFIT YEAR.**

(a) The Minnesota Comprehensive Health Association must administer the Minnesota premium security plan through the 2022 benefit year.

(b) Notwithstanding Minnesota Statutes, section 62E.23, the Minnesota premium security plan payment parameters for benefit year 2022 are:

- (1) an attachment point of \$50,000;
- (2) a coinsurance rate of 60 percent; and
- (3) a reinsurance cap of \$250,000.

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

**Sec. 3. PLAN YEAR 2022 PROPOSED RATE FILINGS FOR THE INDIVIDUAL MARKET.**

The rate filing deadline for individual health plans, as defined in Minnesota Statutes, section 62E.21, subdivision 9, to be offered, issued, sold, or renewed on or after January 1, 2022, is July 9, 2021. Eligible

health carriers under Minnesota Statutes, section 62E.21, subdivision 8, filing individual health plans to be offered, issued, sold, or renewed for benefit year 2022 shall include the impact of the Minnesota premium security plan payment parameters in the proposed individual health plan rates. Notwithstanding Minnesota Statutes, section 60A.08, subdivision 15, paragraph (g), the commissioner must provide public access on the Department of Commerce's website to compiled data of the proposed changes to rates for individual health plans and small group health plans, as defined in Minnesota Statutes, section 62K.03, subdivision 12, separated by health plan and geographic rating area, no later than July 23, 2021.

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

**Sec. 4. CONTINUATION OF STATE INNOVATION WAIVER.**

The commissioner of commerce shall apply to the secretary of health and human services under United States Code, title 42, section 18052, for a continuation of the state innovation waiver previously granted to implement the Minnesota premium security plan for benefit years beginning January 1, 2023, to maximize federal funding. The commissioner must submit the application by December 31, 2021. The waiver application must clearly state that operation of the Minnesota premium security plan after the 2022 benefit year is contingent on approval of the waiver request.

**Sec. 5. TRANSFERS; REINSURANCE.**

(a) The commissioner of management and budget shall transfer \$79,101,000 from the general fund to the health care access fund by June 30, 2023, for state basic health plan costs related to the loss of federal revenue associated with a reinsurance plan. This is a onetime transfer.

(b) The commissioner of commerce shall transfer \$5,948,000 from the premium security plan account, authorized in Minnesota Statutes, section 62E.25, subdivision 1, to the health care access fund by June 30, 2023, for state basic health plan costs related to the loss of federal revenue associated with a reinsurance plan. This is a onetime transfer.

(c) The commissioner of management and budget shall transfer \$3,844,000 in fiscal year 2022 from the general fund to the MNsure account established under Minnesota Statutes, section 62V.07. This is a onetime transfer.

(d) The commissioner of human services, in consultation with the commissioners of commerce and management and budget, shall review the federal funding for the state basic health plan to determine whether federal funding for the plan has been modified to account for changes in the benchmark premium due to the Minnesota premium security plan authorized in section 2 for calendar year 2022.

(e) The commissioner shall conduct the review in paragraph (d) prior to the February 2022 and November 2022 state budget forecasts. If the commissioner determines the federal funding for the state basic health plan has been modified, the commissioner shall estimate the loss of federal funding for the basic health plan after the modification. The commissioner of management and budget must adjust the February 2022 and November 2022 state budget forecasts based on the findings of this review, according to this section.

(f) If the commissioner determines that the reduction of federal funding for the basic health plan in paragraph (d) is less than \$85,049,000, the commissioner of management and budget shall transfer the difference between \$85,049,000 and the estimated reduction in federal funding from the health care access fund to the general fund and the premium security plan account in amounts proportional to the transfers in paragraphs (a) and (b). These transfers are onetime and must be made by June 30, 2023.

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

Sec. 6. **APPROPRIATIONS; REINSURANCE.**

(a) \$155,000 is appropriated in fiscal year 2022 from the general fund to the commissioner of commerce to prepare and submit the state innovation waiver renewal. This is a onetime appropriation.

(b) \$41,393,000 in fiscal year 2022 and \$43,656,000 in fiscal year 2023 are appropriated from the health care access fund to the commissioner of human services for MinnesotaCare program costs. These are onetime appropriations.

**ARTICLE 16**

**APPROPRIATIONS**

Section 1. **HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium" is fiscal years 2022 and 2023.

**APPROPRIATIONS**

**Available for the Year**

**Ending June 30**

**2022**                      **2023**

Sec. 2. **COMMISSIONER OF HUMAN SERVICES**

Subdivision 1. **Total Appropriation**                                      \$      **8,356,760,000**    \$      **9,803,181,000**

Appropriations by Fund

	<u>2022</u>	<u>2023</u>
<u>General</u>	<u>7,295,463,000</u>	<u>8,951,733,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>4,299,000</u>	<u>4,299,000</u>
<u>Health Care Access</u>	<u>769,889,000</u>	<u>564,448,000</u>

<u>Federal TANF</u>	<u>282,653,000</u>	<u>278,245,000</u>
<u>Lottery Prize</u>	<u>1,896,000</u>	<u>1,896,000</u>
<u>Opiate Epidemic Response</u>	<u>2,560,000</u>	<u>2,560,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. TANF Maintenance of Effort**

(a) **Nonfederal Expenditures.** The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1. In order to meet these basic TANF/MOE requirements, the commissioner may report as TANF/MOE expenditures only nonfederal money expended for allowable activities listed in the following clauses:

(1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;

(2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

(3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;

(4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;

(5) expenditures made on behalf of legal noncitizen MFIP recipients who qualify for the MinnesotaCare program under Minnesota Statutes, chapter 256L;

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671;

(7) qualifying Minnesota education credit expenditures under Minnesota Statutes, section 290.0674; and

(8) qualifying Head Start expenditures under Minnesota Statutes, section 119A.50.



**(b) Nonfederal Expenditures; Reporting.** For the activities listed in paragraph (a), clauses (2) to (8), the commissioner may report only expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

**(c) Limitation; Exceptions.** The commissioner must not claim an amount of TANF/MOE in excess of the 75 percent standard in Code of Federal Regulations, title 45, section 263.1(a)(2), except:

(1) to the extent necessary to meet the 80 percent standard under Code of Federal Regulations, title 45, section 263.1(a)(1), if it is determined by the commissioner that the state will not meet the TANF work participation target rate for the current year;

(2) to provide any additional amounts under Code of Federal Regulations, title 45, section 264.5, that relate to replacement of TANF funds due to the operation of TANF penalties; and

(3) to provide any additional amounts that may contribute to avoiding or reducing TANF work participation penalties through the operation of the excess MOE provisions of Code of Federal Regulations, title 45, section 261.43(a)(2).

**(d) Supplemental Expenditures.** For the purposes of paragraph (d), the commissioner may supplement the MOE claim with working family credit expenditures or other qualified expenditures to the extent such expenditures are otherwise available after considering the expenditures allowed in this subdivision.

**(e) Reduction of Appropriations; Exception.** The requirement in Minnesota Statutes, section 256.011, subdivision 3, that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, does not apply if the grants or aids are federal TANF funds.

**(f) IT Appropriations Generally.** This appropriation includes funds for information technology projects, services, and support. Notwithstanding Minnesota Statutes, section 16E.0466, funding for information technology project costs shall be incorporated into the service level agreement and paid to the Office of MN.IT Services by the Department of Human Services

under the rates and mechanism specified in that agreement.

(g) Receipts for Systems Project. Appropriations and federal receipts for information technology systems projects for MAXIS, PRISM, MMIS, ISDS, METS, and SSIS must be deposited in the state systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for information technology projects approved by the commissioner of the Office of MN.IT Services, funded by the legislature, and approved by the commissioner of management and budget may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel and is available for ongoing development and operations.

(h) Federal SNAP Education and Training Grants. Federal funds available during fiscal years 2022 and 2023 for Supplemental Nutrition Assistance Program Education and Training and SNAP Quality Control Performance Bonus grants are appropriated to the commissioner of human services for the purposes allowable under the terms of the federal award. This paragraph is effective the day following final enactment.

Subd. 3. Central Office; Operations

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>177,263,000</u>	<u>172,772,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>4,174,000</u>	<u>4,174,000</u>
<u>Health Care Access</u>	<u>16,966,000</u>	<u>16,966,000</u>
<u>Federal TANF</u>	<u>131,000</u>	<u>100,000</u>

(a) Administrative Recovery; Set-Aside. The commissioner may invoice local entities through the SWIFT accounting system as an alternative means to recover the actual cost of administering the following provisions:

(1) Minnesota Statutes, section 125A.744, subdivision 3;

(2) Minnesota Statutes, section 245.495, paragraph (b);

(3) Minnesota Statutes, section 256B.0625, subdivision 20, paragraph (k);

(4) Minnesota Statutes, section 256B.0924, subdivision 6, paragraph (g);

(5) Minnesota Statutes, section 256B.0945, subdivision 4, paragraph (d); and

(6) Minnesota Statutes, section 256F.10, subdivision 6, paragraph (b).

(b) **Background Studies.** (1) \$2,074,000 in fiscal year 2022 is from the general fund to provide a credit to providers who paid for emergency background studies in NETStudy 2.0.

(2) \$2,060,000 in fiscal year 2022 is from the general fund for the costs of reprocessing emergency studies conducted under interagency agreements.

(c) **Family Foster Setting Background Studies.** \$431,000 in fiscal year 2022 and \$453,000 in fiscal year 2023 are from the general fund for implementing licensed family foster setting background study requirements. The general fund base for this appropriation is \$225,000 in fiscal year 2024 and \$225,000 in fiscal year 2025.

(d) **Cultural and Ethnic Communities Leadership Council.** \$18,000 in fiscal year 2022 and \$62,000 in fiscal year 2023 are from the general fund for the Cultural and Ethnic Communities Leadership Council.

(e) **Base Level Adjustment.** The general fund base is \$163,715,000 in fiscal year 2024 and \$163,180,000 in fiscal year 2025.

Subd. 4. **Central Office; Children and Families**

Appropriations by Fund

<u>General</u>	<u>18,295,000</u>	<u>18,370,000</u>
<u>Federal TANF</u>	<u>2,582,000</u>	<u>2,582,000</u>

(a) **Financial Institution Data Match and Payment of Fees.** The commissioner is authorized to allocate up to \$310,000 in fiscal year 2022 and \$310,000 in

fiscal year 2023 from the systems special revenue account to make payments to financial institutions in exchange for performing data matches between account information held by financial institutions and the public authority's database of child support obligors as authorized by Minnesota Statutes, section 13B.06, subdivision 7.

**(b) Indian Child Welfare Training.** \$1,012,000 in fiscal year 2022 and \$993,000 in fiscal year 2023 are from the general fund for establishment and operation of the Tribal Training and Certification Partnership at the University of Minnesota, Duluth campus, to provide training, establish federal Indian Child Welfare Act and Minnesota Indian Family Preservation Act training requirements for county child welfare workers, and develop Indigenous child welfare training for American Indian Tribes. The general fund base for this appropriation is \$1,053,000 in fiscal year 2024 and \$1,053,000 in fiscal year 2025.

**(c) Base Level Adjustment.** The general fund base is \$18,640,000 in fiscal year 2024 and \$18,640,000 in fiscal year 2025.

**Subd. 5. Central Office; Health Care**

<u>Appropriations by Fund</u>		
<u>General</u>	<u>26,397,000</u>	<u>24,804,000</u>
<u>Health Care Access</u>	<u>30,168,000</u>	<u>28,168,000</u>

**Base Level Adjustment.** The general fund base is \$24,415,000 in fiscal year 2024 and \$23,557,000 in fiscal year 2025.

**Subd. 6. Central Office; Continuing Care for Older Adults**

<u>Appropriations by Fund</u>		
<u>General</u>	<u>21,988,000</u>	<u>22,132,000</u>
<u>State Government Special Revenue</u>	<u>125,000</u>	<u>125,000</u>

**(a) Resident Experience Survey and Family Survey for Housing with Services Establishments and Assisted Living Facilities.** \$2,593,000 in fiscal year

2022 and \$2,593,000 in fiscal year 2023 are from the general fund for development and administration of a resident experience survey and family survey for all housing with services establishments and assisted living facilities. These appropriations are available in either year of the biennium.

(b) **Base Level Adjustment.** The general fund base is \$21,198,000 in fiscal year 2024 and \$19,279,000 in fiscal year 2025.

**Subd. 7. Central Office; Community Supports**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>41,767,000</u>	<u>42,015,000</u>
<u>Lottery Prize</u>	<u>163,000</u>	<u>163,000</u>
<u>Opioid Epidemic Response</u>	<u>60,000</u>	<u>60,000</u>

(a) **Children's Mental Health Residential Treatment Work Group.** \$70,000 in fiscal year 2022 is for the children's mental health residential treatment work group.

(b) **Base Level Adjustment.** The general fund base is \$39,668,000 in fiscal year 2024 and \$35,479,000 in fiscal year 2025. The opiate epidemic response fund base is \$60,000 in fiscal year 2024 and \$0 in fiscal year 2025.

**Subd. 8. Forecasted Programs; MFIP/DWP**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>92,588,000</u>	<u>91,366,000</u>
<u>Federal TANF</u>	<u>104,285,000</u>	<u>100,852,000</u>

**Subd. 9. Forecasted Programs; MFIP Child Care Assistance** 103,347,000 110,695,000

**Subd. 10. Forecasted Programs; General Assistance** 53,574,000 52,785,000

(a) **General Assistance Standard.** The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents

or a legal guardian at \$203. The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

**(b) Emergency General Assistance Limit.** The amount appropriated for emergency general assistance is limited to no more than \$6,729,812 in fiscal year 2022 and \$6,729,812 in fiscal year 2023. Funds to counties shall be allocated by the commissioner using the allocation method under Minnesota Statutes, section 256D.06.

<b><u>Subd. 11. Forecasted Programs; Minnesota Supplemental Aid</u></b>	<u>51,779,000</u>	<u>52,486,000</u>
<b><u>Subd. 12. Forecasted Programs; Housing Support</u></b>	<u>183,358,000</u>	<u>192,440,000</u>
<b><u>Subd. 13. Forecasted Programs; Northstar Care for Children</u></b>	<u>110,583,000</u>	<u>121,246,000</u>
<b><u>Subd. 14. Forecasted Programs; MinnesotaCare</u></b>	<u>114,612,000</u>	<u>162,584,000</u>

This appropriation is from the health care access fund.

**Subd. 15. Forecasted Programs; Medical Assistance**

Appropriations by Fund

<u>General</u>	<u>5,415,163,000</u>	<u>6,981,559,000</u>
<u>Health Care Access</u>	<u>602,596,000</u>	<u>353,265,000</u>

**(a) Behavioral Health Services.** \$1,000,000 in fiscal year 2022 and \$1,000,000 in fiscal year 2023 are from the general fund for behavioral health services provided by hospitals identified under Minnesota Statutes, section 256.969, subdivision 2b, paragraph (a), clause (4). The increase in payments shall be made by increasing the adjustment under Minnesota Statutes, section 256.969, subdivision 2b, paragraph (e), clause (2).

**(b) Base Level Adjustment.** The health care access fund base is \$869,524,000 in fiscal year 2024 and \$612,099,000 in fiscal year 2025.

<b><u>Subd. 16. Forecasted Programs; Alternative Care</u></b>	<u>35,227,000</u>	<u>45,922,000</u>
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**Alternative Care Transfer.** Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but must be transferred to the medical assistance account.

<b><u>Subd. 17. Forecasted Programs; Behavioral Health Fund</u></b>	<b><u>95,923,000</u></b>	<b><u>119,125,000</u></b>
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**Subd. 18. Grant Programs; Support Services Grants**

Appropriations by Fund

<u>General</u>	<u>8,715,000</u>	<u>8,715,000</u>
<u>Federal TANF</u>	<u>96,311,000</u>	<u>96,311,000</u>

<b><u>Subd. 19. Grant Programs; BSF Child Care Grants</u></b>	<b><u>53,350,000</u></b>	<b><u>53,362,000</u></b>
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**Base Level Adjustment.** The general fund base is \$53,366,000 in fiscal year 2024 and \$53,366,000 in fiscal year 2025.

<b><u>Subd. 20. Grant Programs; Child Care Development Grants</u></b>	<b><u>1,737,000</u></b>	<b><u>1,737,000</u></b>
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<b><u>Subd. 21. Grant Programs; Child Support Enforcement Grants</u></b>	<b><u>50,000</u></b>	<b><u>50,000</u></b>
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**Subd. 22. Grant Programs; Children's Services Grants**

Appropriations by Fund

<u>General</u>	<u>52,653,000</u>	<u>52,368,000</u>
<u>Federal TANF</u>	<u>140,000</u>	<u>140,000</u>

**(a) Title IV-E Adoption Assistance.** (1) The commissioner shall allocate funds from the Title IV-E reimbursement to the state from the Fostering Connections to Success and Increasing Adoptions Act for adoptive, foster, and kinship families as required in Minnesota Statutes, section 256N.261.

(2) Additional federal reimbursement to the state as a result of the Fostering Connections to Success and Increasing Adoptions Act's expanded eligibility for Title IV-E adoption assistance is for postadoption,

foster care, adoption, and kinship services, including a parent-to-parent support network.

**(b) Initial Implementation of Court-Appointed Counsel in Child Protection Proceedings.** \$520,000 in fiscal year 2022 and \$520,000 in fiscal year 2023 are from the general fund for county costs, including administrative costs to obtain Title IV-E federal reimbursement, related to court-appointed counsel in child protection proceedings pursuant to Minnesota Statutes, section 260C.163, subdivision 3. The commissioner shall distribute funds to counties based upon their proportional share of emergency protective care hearings averaged over the previous three years. Beginning in fiscal year 2024, the distribution formula shall be based upon the formula recommended by the commissioner in the required legislative report regarding initial implementation of court-appointed counsel in child protection proceedings.

**Subd. 23. Grant Programs; Children and Community Service Grants**

	<u>61,251,000</u>	<u>61,856,000</u>
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**Subd. 24. Grant Programs; Children and Economic Support Grants**

	<u>29,740,000</u>	<u>29,740,000</u>
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**Minnesota Food Assistance Program.** Unexpended funds for the Minnesota food assistance program for fiscal year 2022 do not cancel but are available in fiscal year 2023.

**Subd. 25. Grant Programs; Health Care Grants**

Appropriations by Fund

<u>General</u>	<u>4,811,000</u>	<u>4,811,000</u>
<u>Health Care Access</u>	<u>5,547,000</u>	<u>3,465,000</u>

**Onetime Grants for Navigator Organizations.** \$2,082,000 in fiscal year 2022 is from the health care access fund for grants to organizations with a MNsure grant services navigator assister contract in good standing as of June 30, 2021. The grants to each organization must be in proportion to the number of Medical Assistance and MinnesotaCare enrollees each organization assisted that resulted in a successful enrollment in the second quarter of fiscal year 2020, as determined by MNsure's navigator payment process.



<b><u>Subd. 26. Grant Programs; Other Long-Term Care Grants</u></b>	<b><u>10,608,000</u></b>	<b><u>19,513,000</u></b>
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**Base Level Adjustment.** The general fund base is \$19,013,000 in fiscal year 2024 and \$1,925,000 in fiscal year 2025.

<b><u>Subd. 27. Grant Programs; Aging and Adult Services Grants</u></b>	<b><u>32,995,000</u></b>	<b><u>34,445,000</u></b>
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**Base Level Adjustment.** The general fund base is \$34,445,000 in fiscal year 2024 and \$32,995,000 in fiscal year 2025.

<b><u>Subd. 28. Grant Programs; Deaf and Hard-of-Hearing Grants</u></b>	<b><u>2,886,000</u></b>	<b><u>2,886,000</u></b>
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<b><u>Subd. 29. Grant Programs; Disabilities Grants</u></b>	<b><u>31,398,000</u></b>	<b><u>31,010,000</u></b>
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**(a) Training Stipends for Direct Support Services Providers.** \$1,000,000 in fiscal year 2022 is from the general fund for stipends for individual providers of direct support services as defined in Minnesota Statutes, section 256B.0711, subdivision 1. These stipends are available to individual providers who have completed designated voluntary trainings made available through the State-Provider Cooperation Committee formed by the State of Minnesota and the Service Employees International Union Healthcare Minnesota. Any unspent appropriation in fiscal year 2022 is available in fiscal year 2023. This is a onetime appropriation. This appropriation is available only if the labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota under Minnesota Statutes, section 179A.54, is approved under Minnesota Statutes, section 3.855.

**(b) Parent-to-Parent Peer Support.** \$125,000 in fiscal year 2022 and \$125,000 in fiscal year 2023 are from the general fund for a grant to an alliance member of Parent to Parent USA to support the alliance member's parent-to-parent peer support program for families of children with a disability or special health care need.

**(c) Self-Advocacy Grants.** (1) \$143,000 in fiscal year 2022 and \$143,000 in fiscal year 2023 are from the

general fund for a grant under Minnesota Statutes, section 256.477, subdivision 1.

(2) \$105,000 in fiscal year 2022 and \$105,000 in fiscal year 2023 are from the general fund for subgrants under Minnesota Statutes, section 256.477, subdivision 2.

(d) **Minnesota Inclusion Initiative Grants.** \$150,000 in fiscal year 2022 and \$150,000 in fiscal year 2023 are from the general fund for grants under Minnesota Statutes, section 256.4772.

(e) **Grants to Expand Access to Child Care for Children with Disabilities.** \$250,000 in fiscal year 2022 and \$250,000 in fiscal year 2023 are from the general fund for grants to expand access to child care for children with disabilities. This is a onetime appropriation.

(f) **Parenting with a Disability Pilot Project.** The general fund base includes \$1,000,000 in fiscal year 2024 and \$0 in fiscal year 2025 to implement the parenting with a disability pilot project.

(g) **Base Level Adjustment.** The general fund base is \$29,260,000 in fiscal year 2024 and \$22,260,000 in fiscal year 2025.

**Subd. 30. Grant Programs; Housing Support Grants**

19,364,000

19,364,000

**Base Level Adjustment** The general fund base is \$18,364,000 in fiscal year 2024 and \$10,364,000 in fiscal year 2025.

**Subd. 31. Grant Programs; Adult Mental Health Grants**

Appropriations by Fund

<u>General</u>	<u>98,772,000</u>	<u>98,703,000</u>
<u>Opiate Epidemic Response</u>	<u>2,000,000</u>	<u>2,000,000</u>

(a) **Culturally and Linguistically Appropriate Services Implementation Grants.** \$2,275,000 in fiscal year 2022 and \$2,206,000 in fiscal year 2023 are from the general fund for grants to disability services, mental health, and substance use disorder treatment providers to implement culturally and linguistically appropriate

services standards, according to the implementation and transition plan developed by the commissioner. The general fund base for this appropriation is \$1,655,000 in fiscal year 2024 and \$0 in fiscal year 2025.

**(b) Base Level Adjustment.** The general fund base is \$93,295,000 in fiscal year 2024 and \$83,324,000 in fiscal year 2025. The opiate epidemic response fund base is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

**Subd. 32. Grant Programs; Child Mental Health Grants** 30,167,000 30,182,000

**(a) Children's Residential Facilities.** \$1,964,000 in fiscal year 2022 and \$1,979,000 in fiscal year 2023 are to reimburse counties and Tribal governments for a portion of the costs of treatment in children's residential facilities. The commissioner shall distribute the appropriation on an annual basis to counties and Tribal governments proportionally based on a methodology developed by the commissioner.

**(b) Base Level Adjustment.** The general fund base is \$29,580,000 in fiscal year 2024 and \$27,705,000 in fiscal year 2025.

**Subd. 33. Grant Programs; Chemical Dependency Treatment Support Grants**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>4,273,000</u>	<u>4,274,000</u>
<u>Lottery Prize</u>	<u>1,733,000</u>	<u>1,733,000</u>
<u>Opiate Epidemic Response</u>	<u>500,000</u>	<u>500,000</u>

**(a) Problem Gambling.** \$225,000 in fiscal year 2022 and \$225,000 in fiscal year 2023 are from the lottery prize fund for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education, training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research related to problem gambling.

**(b) Recovery Community Organization Grants.** \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 are from the general fund for grants to recovery community organizations, as defined in Minnesota Statutes, section 254B.01, subdivision 8, to provide for costs and community-based peer recovery support services that are not otherwise eligible for reimbursement under Minnesota Statutes, section 254B.05, as part of the continuum of care for substance use disorders. The general fund base for this appropriation is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025

**(c) Base Level Adjustment.** The general fund base is \$4,636,000 in fiscal year 2024 and \$2,636,000 in fiscal year 2025. The opiate epidemic response fund base is \$500,000 in fiscal year 2024 and \$0 in fiscal year 2025.

**Subd. 34. Direct Care and Treatment - Transfer Authority**

Money appropriated for budget activities under subdivisions 35 to 38 may be transferred between budget activities and between years of the biennium with the approval of the commissioner of management and budget.

**Subd. 35. Direct Care and Treatment - Mental Health and Substance Abuse**

137,934,000

146,710,000

**(a) Transfer Authority.** Money appropriated to support the continued operations of the Community Addiction Recovery Enterprise (C.A.R.E.) program may be transferred to the enterprise fund for C.A.R.E.

**(b) Operating Adjustment.** \$2,594,000 in fiscal year 2023 is for the Community Addiction Recovery Enterprise program. The commissioner may transfer \$2,594,000 in fiscal year 2023 to the enterprise fund for Community Addiction Recovery Enterprise.

**Subd. 36. Direct Care and Treatment - Community-Based Services**

17,292,000

19,789,000

**(a) Transfer Authority.** Money appropriated to support the continued operations of the Minnesota State Operated Community Services (MSOCS) program may be transferred to the enterprise fund for MSOCS.

(b) Operating Adjustment. \$2,381,000 in fiscal year 2023 is for the Minnesota State Operated Community Services program. The commissioner may transfer \$2,381,000 in fiscal year 2023 to the enterprise fund for Minnesota State Operated Community Services.

Subd. 37. <u>Direct Care and Treatment - Forensic Services</u>	<u>119,206,000</u>	<u>124,415,000</u>
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Subd. 38. <u>Direct Care and Treatment - Sex Offender Program</u>	<u>97,585,000</u>	<u>101,672,000</u>
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Transfer Authority. Money appropriated for the Minnesota sex offender program may be transferred between fiscal years of the biennium with the approval of the commissioner of management and budget.

Subd. 39. <u>Direct Care and Treatment - Operations</u>	<u>53,424,000</u>	<u>58,414,000</u>
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Subd. 40. <u>Technical Activities</u>	<u>79,204,000</u>	<u>78,260,000</u>
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(a) This appropriation is from the federal TANF fund.

(b) Base Level Adjustment. The TANF fund base is \$71,493,000 in fiscal year 2024 and \$71,493,000 in fiscal year 2025.

### Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. <u>Total Appropriation</u>	<u>\$</u>	<u>282,967,000</u>	<u>\$</u>	<u>283,702,000</u>
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#### Appropriations by Fund

	<u>2022</u>	<u>2023</u>
<u>General</u>	<u>162,464,000</u>	<u>161,977,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>71,278,000</u>	<u>73,180,000</u>
<u>Health Care Access</u>	<u>37,512,000</u>	<u>36,832,000</u>
<u>Federal TANF</u>	<u>11,713,000</u>	<u>11,713,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

#### Subd. 2. Health Improvement

Appropriations by Fund

<u>General</u>	<u>123,714,000</u>	<u>124,000,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>11,967,000</u>	<u>11,290,000</u>
<u>Health Care Access</u>	<u>37,512,000</u>	<u>36,832,000</u>
<u>Federal TANF</u>	<u>11,713,000</u>	<u>11,713,000</u>

(a) TANF Appropriations. (1) \$3,579,000 in fiscal year 2022 and \$3,579,000 in fiscal year 2023 are from the TANF fund for home visiting and nutritional services listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funds must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1;

(2) \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 are from the TANF fund for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7;

(3) \$4,978,000 in fiscal year 2022 and \$4,978,000 in fiscal year 2023 are from the TANF fund for the family home visiting grant program according to Minnesota Statutes, section 145A.17. \$4,000,000 of the funding in each fiscal year must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1. \$978,000 of the funding in each fiscal year must be distributed to tribal governments according to Minnesota Statutes, section 145A.14, subdivision 2a;

(4) \$1,156,000 in fiscal year 2022 and \$1,156,000 in fiscal year 2023 are from the TANF fund for family planning grants under Minnesota Statutes, section 145.925; and

(5) the commissioner may use up to 6.23 percent of the funds appropriated from the TANF fund each fiscal year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

(b) **TANF Carryforward.** Any unexpended balance of the TANF appropriation in the first year of the biennium does not cancel but is available for the second year.

(c) **Tribal Public Health Grants.** \$500,000 in fiscal year 2022 and \$500,000 in fiscal year 2023 are from the general fund for Tribal public health grants under Minnesota Statutes, section 145A.14, for public health infrastructure projects as defined by the Tribal government.

(d) **Public Health Infrastructure Funds.** \$6,000,000 in fiscal year 2022 and \$6,000,000 in fiscal year 2023 are from the general fund for public health infrastructure funds to distribute to community health boards and Tribal governments to support their ability to meet national public health standards.

(e) **Public Health System Assessment and Oversight.** \$1,500,000 in fiscal year 2022 and \$1,500,000 in fiscal year 2023 are from the general fund for the commissioner to assess the capacity of the public health system to meet national public health standards and oversee public health system improvement efforts.

(f) **Health Professional Education Loan Forgiveness.** Notwithstanding the priorities and distribution requirements under Minnesota Statutes, section 144.1501, \$3,000,000 in fiscal year 2022 and \$3,000,000 in fiscal year 2023 are from the general fund for loan forgiveness under article 3, section 43, for individuals who are eligible alcohol and drug counselors, eligible medical residents, or eligible mental health professionals, as defined in article 3, section 43. The general fund base for this appropriation is \$2,625,000 in fiscal year 2024 and \$0 in fiscal year 2025. The health care access fund base for this appropriation is \$875,000 in fiscal year 2024, \$3,500,000 in fiscal year 2025, and \$0 in fiscal year 2026. The general fund amounts in this paragraph are available until March 31, 2024. This paragraph expires on April 1, 2024.

(g) **Mental Health Cultural Community Continuing Education Grant Program.** \$500,000 in fiscal year 2022 and \$500,000 in fiscal year 2023 are from the general fund for the mental health cultural community continuing education grant program. This is a onetime appropriation

(h) **Birth Records; Homeless Youth.** \$72,000 in fiscal year 2022 and \$32,000 in fiscal year 2023 are from the state government special revenue fund for administration and issuance of certified birth records and statements of no vital record found to homeless youth under Minnesota Statutes, section 144.2255.

(i) **Supporting Healthy Development of Babies During Pregnancy and Postpartum.** \$260,000 in fiscal year 2022 and \$260,000 in fiscal year 2023 are from the general fund for a grant to the Amherst H. Wilder Foundation for the African American Babies Coalition initiative for community-driven training and education on best practices to support healthy development of babies during pregnancy and postpartum. Grant funds must be used to build capacity in, train, educate, or improve practices among individuals, from youth to elders, serving families with members who are Black, indigenous, or people of color, during pregnancy and postpartum. This is a onetime appropriation and is available until June 30, 2023.

(j) **Dignity in Pregnancy and Childbirth.** \$494,000 in fiscal year 2022 and \$200,000 in fiscal year 2023 are from the general fund for purposes of Minnesota Statutes, section 144.1461. Of this appropriation: (1) \$294,000 in fiscal year 2022 is for a grant to the University of Minnesota School of Public Health's Center for Antiracism Research for Health Equity, to develop a model curriculum on anti-racism and implicit bias for use by hospitals with obstetric care and birth centers to provide continuing education to staff caring for pregnant or postpartum women. The model curriculum must be evidence-based and must meet the criteria in Minnesota Statutes, section 144.1461, subdivision 2, paragraph (a); and (2) \$200,000 in fiscal year 2022 and \$200,000 in fiscal year 2023 are for purposes of Minnesota Statutes, section 144.1461, subdivision 3.

(k) **Congenital Cytomegalovirus (CMV).** (1) \$196,000 in fiscal year 2022 and \$196,000 in fiscal year 2023 are from the general fund for outreach and education on congenital cytomegalovirus (CMV) under Minnesota Statutes, section 144.064.

(2) Contingent on the Advisory Committee on Heritable and Congenital Disorders recommending



and the commissioner of health approving inclusion of CMV in the newborn screening panel in accordance with Minnesota Statutes, section 144.065, subdivision 3, paragraph (d), \$656,000 in fiscal year 2023 is from the state government special revenue fund for follow-up services.

**(l) Nonnarcotic Pain Management and Wellness.** \$649,000 in fiscal year 2022 is from the general fund for nonnarcotic pain management and wellness in accordance with Laws 2019, chapter 63, article 3, section 1, paragraph (n).

**(m) Base Level Adjustments.** The general fund base is \$120,451,000 in fiscal year 2024 and \$115,594,000 in fiscal year 2025. The health care access fund base is \$38,385,000 in fiscal year 2024 and \$40,644,000 in fiscal year 2025.

**Subd. 3. Health Protection**

<u>Appropriations by Fund</u>		
<u>General</u>	<u>27,180,000</u>	<u>26,398,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>59,311,000</u>	<u>61,890,000</u>

**(a) Congenital Cytomegalovirus (CMV).** Contingent on the Advisory Committee on Heritable and Congenital Disorders recommending and the commissioner of health approving inclusion of congenital cytomegalovirus (CMV) in the newborn screening panel in accordance with Minnesota Statutes, section 144.064, subdivision 3, paragraph (d), \$2,195,000 in fiscal year 2023 is from the state government special revenue fund for screening services. The state government special revenue fund base for this appropriation is \$1,644,000 in fiscal year 2024 and \$1,644,000 in fiscal year 2025.

**(b) Transfer; Public Health Response Contingency Account.** The commissioner of health shall transfer \$300,000 in fiscal year 2022 from the general fund to the public health response contingency account established in Minnesota Statutes, section 144.4199. This is a onetime transfer.

**(c) Base Level Adjustments.** The general fund base is \$26,411,000 in fiscal year 2024 and \$26,411,000 in

fiscal year 2025. The state government special revenue fund base is \$61,339,000 in fiscal year 2024 and \$61,339,000 in fiscal year 2025.

Subd. 4. <b><u>Health Operations</u></b>	<u>11,570,000</u>	<u>11,579,000</u>
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Sec. 4. **HEALTH-RELATED BOARDS**

Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$ 27,535,000</u></b>	<b><u>\$ 26,960,000</u></b>
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Appropriations by Fund

<u>State Government</u>		
<u>Special Revenue</u>	<u>27,459,000</u>	<u>26,884,000</u>
<u>Health Care Access</u>	<u>76,000</u>	<u>76,000</u>

This appropriation is from the state government special revenue fund unless specified otherwise. The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <b><u>Board of Behavioral Health and Therapy</u></b>	<u>877,000</u>	<u>875,000</u>
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Subd. 3. <b><u>Board of Chiropractic Examiners</u></b>	<u>666,000</u>	<u>666,000</u>
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Subd. 4. <b><u>Board of Dentistry</u></b>	<u>4,228,000</u>	<u>3,753,000</u>
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**(a) Administrative Services Unit - Operating Costs.** Of this appropriation, \$2,738,000 in fiscal year 2022 and \$2,263,000 in fiscal year 2023 are for operating costs of the administrative services unit. The administrative services unit may receive and expend reimbursements for services it performs for other agencies.

**(b) Administrative Services Unit - Volunteer Health Care Provider Program.** Of this appropriation, \$150,000 in fiscal year 2022 and \$150,000 in fiscal year 2023 are to pay for medical professional liability coverage required under Minnesota Statutes, section 214.40.

**(c) Administrative Services Unit - Retirement Costs.** Of this appropriation, \$475,000 in fiscal year 2022 is a onetime appropriation to the administrative services unit to pay for the retirement costs of health-related board employees. This funding may be transferred to

the health board incurring retirement costs. Any board that has an unexpended balance for an amount transferred under this paragraph shall transfer the unexpended amount to the administrative services unit. This appropriation is available in either year of the biennium.

**(d) Administrative Services Unit - Contested Cases and Other Legal Proceedings.** Of this appropriation, \$200,000 in fiscal year 2022 and \$200,000 in fiscal year 2023 are for costs of contested case hearings and other unanticipated costs of legal proceedings involving health-related boards funded under this section. Upon certification by a health-related board to the administrative services unit that costs will be incurred and that there is insufficient money available to pay for the costs out of money currently available to that board, the administrative services unit is authorized to transfer money from this appropriation to the board for payment of those costs with the approval of the commissioner of management and budget. The commissioner of management and budget must require any board that has an unexpended balance for an amount transferred under this paragraph to transfer the unexpended amount to the administrative services unit to be deposited in the state government special revenue fund.

Subd. 5. <b><u>Board of Dietetics and Nutrition Practice</u></b>	<u>164,000</u>	<u>164,000</u>
Subd. 6. <b><u>Board of Executives for Long Term Services and Supports</u></b>	<u>693,000</u>	<u>635,000</u>
Subd. 7. <b><u>Board of Marriage and Family Therapy</u></b>	<u>413,000</u>	<u>410,000</u>
Subd. 8. <b><u>Board of Medical Practice</u></b>	<u>5,912,000</u>	<u>5,868,000</u>
<b><u>Health Professional Services Program.</u></b> <u>This appropriation includes \$1,002,000 in fiscal year 2022 and \$1,002,000 in fiscal year 2023 for the health professional services program.</u>		
Subd. 9. <b><u>Board of Nursing</u></b>	<u>5,345,000</u>	<u>5,355,000</u>
Subd. 10. <b><u>Board of Occupational Therapy Practice</u></b>	<u>456,000</u>	<u>456,000</u>
Subd. 11. <b><u>Board of Optometry</u></b>	<u>238,000</u>	<u>238,000</u>

**Subd. 12. Board of Pharmacy**Appropriations by Fund

<u>State Government</u>		
<u>Special Revenue</u>	<u>4,403,000</u>	<u>4,403,000</u>
<u>Health Care Access</u>	<u>76,000</u>	<u>76,000</u>

**Base Level Adjustment.** The health care access fund base is \$76,000 in fiscal year 2024, \$38,000 in fiscal year 2025, and \$0 in fiscal year 2026.

<b>Subd. 13. Board of Physical Therapy</b>	<u>564,000</u>	<u>564,000</u>
<b>Subd. 14. Board of Podiatric Medicine</b>	<u>214,000</u>	<u>214,000</u>
<b>Subd. 15. Board of Psychology</b>	<u>1,362,000</u>	<u>1,360,000</u>
<b>Subd. 16. Board of Social Work</b>	<u>1,561,000</u>	<u>1,560,000</u>
<b>Subd. 17. Board of Veterinary Medicine</b>	<u>363,000</u>	<u>363,000</u>
<b>Sec. 5. EMERGENCY MEDICAL SERVICES REGULATORY BOARD</b>	<u>\$ 4,780,000</u>	<u>\$ 4,576,000</u>

**(a) Cooper/Sams Volunteer Ambulance Program.** \$950,000 in fiscal year 2022 and \$950,000 in fiscal year 2023 are for the Cooper/Sams volunteer ambulance program under Minnesota Statutes, section 144E.40.

(1) Of this amount, \$861,000 in fiscal year 2022 and \$861,000 in fiscal year 2023 are for the ambulance service personnel longevity award and incentive program under Minnesota Statutes, section 144E.40.

(2) Of this amount, \$89,000 in fiscal year 2022 and \$89,000 in fiscal year 2023 are for the operations of the ambulance service personnel longevity award and incentive program under Minnesota Statutes, section 144E.40.

**(b) EMSRB Operations.** \$1,880,000 in fiscal year 2022 and \$1,880,000 in fiscal year 2023 are for board operations.

**(c) Regional Grants for Continuing Education.**

\$585,000 in fiscal year 2022 and \$585,000 in fiscal year 2023 are for regional emergency medical services programs, to be distributed equally to the eight emergency medical service regions under Minnesota Statutes, section 144E.52.

**(d) Regional Grants for Local and Regional Emergency Medical Services.**

\$800,000 in fiscal year 2022 and \$800,000 in fiscal year 2023 are for distribution to emergency medical services regions for regional emergency medical services programs specified in Minnesota Statutes, section 144E.50. Notwithstanding Minnesota Statutes, section 144E.50, subdivision 5, in each year the board shall distribute the appropriation equally among the eight emergency medical services regions. This is a onetime appropriation.

**(e) Ambulance Training Grants.**\$565,000 in fiscal year 2022 and \$361,000 in fiscal year 2023 are for training grants under Minnesota Statutes, section 144E.35.

**(f) Base Level Adjustment.**The general fund base is \$3,776,000 in fiscal year 2024 and \$3,776,000 in fiscal year 2025.

Sec. 6. <b><u>COUNCIL ON DISABILITY</u></b>	<b><u>\$</u></b>	<b><u>1,022,000</u></b>	<b><u>\$</u></b>	<b><u>1,038,000</u></b>
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Sec. 7. <b><u>OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES</u></b>	<b><u>\$</u></b>	<b><u>2,487,000</u></b>	<b><u>\$</u></b>	<b><u>2,536,000</u></b>
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**Department of Psychiatry Monitoring.**\$100,000 in fiscal year 2022 and \$100,000 in fiscal year 2023 are for monitoring the Department of Psychiatry at the University of Minnesota.

Sec. 8. <b><u>OMBUDSPERSONS FOR FAMILIES</u></b>	<b><u>\$</u></b>	<b><u>733,000</u></b>	<b><u>\$</u></b>	<b><u>744,000</u></b>
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Sec. 9. <b><u>OMBUDSPERSON FOR AMERICAN INDIAN FAMILIES</u></b>	<b><u>\$</u></b>	<b><u>190,000</u></b>	<b><u>\$</u></b>	<b><u>190,000</u></b>
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Sec. 10. <b><u>LEGISLATIVE COORDINATING COMMISSION</u></b>	<b><u>\$</u></b>	<b><u>132,000</u></b>	<b><u>\$</u></b>	<b><u>76,000</u></b>
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**Legislative Task Force on Human Services Background Study Disqualifications.**\$132,000 in

fiscal year 2022 and \$76,000 in fiscal year 2023 are from the general fund for the Legislative Task Force on Human Services Background Study Eligibility. This is a onetime appropriation.

Sec. 11. **SUPREME COURT** \$ **30,000** \$ **-0-**

Sec. 12. **COMMISSIONER OF MANAGEMENT AND BUDGET** \$ **300,000** \$ **300,000**

(a) This appropriation is from the opiate epidemic response fund.

(b) **Evaluation.** \$300,000 in fiscal year 2022 and \$300,000 in fiscal year 2023 is for evaluation activities under Minnesota Statutes, section 256.042, subdivision 1, paragraph (c).

(c) **Base Level Adjustment.** The opiate epidemic response fund base is \$300,000 in fiscal year 2024 and \$300,000 in fiscal year 2025.

Sec. 13. Laws 2019, First Special Session chapter 9, article 14, section 3, as amended by Laws 2019, First Special Session chapter 12, section 6, and Laws 2021, chapter 30, article 3, section 49, is amended to read:

**Sec. 3. COMMISSIONER OF HEALTH**

Subdivision 1. **Total Appropriation** \$ **231,829,000** \$ **233,584,000**  
**231,174,000**

Appropriations by Fund

	2020	2021
General	124,381,000	<del>125,881,000</del> <u>123,471,000</u>
State Government		
Special Revenue	58,450,000	59,158,000
Health Care Access	37,285,000	36,832,000
Federal TANF	11,713,000	11,713,000

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Health Improvement**

## Appropriations by Fund

General	94,980,000	95,722,000
State Government		
Special Revenue	7,614,000	6,924,000
Health Care Access	37,285,000	36,832,000
Federal TANF	11,713,000	11,713,000

(a) **TANF Appropriations.** (1) \$3,579,000 in fiscal year 2020 and \$3,579,000 in fiscal year 2021 are from the TANF fund for home visiting and nutritional services under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funds must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1;

(2) \$2,000,000 in fiscal year 2020 and \$2,000,000 in fiscal year 2021 are from the TANF fund for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7;

(3) \$4,978,000 in fiscal year 2020 and \$4,978,000 in fiscal year 2021 are from the TANF fund for the family home visiting grant program under Minnesota Statutes, section 145A.17. \$4,000,000 of the funding in each fiscal year must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1. \$978,000 of the funding in each fiscal year must be distributed to tribal governments according to Minnesota Statutes, section 145A.14, subdivision 2a;

(4) \$1,156,000 in fiscal year 2020 and \$1,156,000 in fiscal year 2021 are from the TANF fund for family planning grants under Minnesota Statutes, section 145.925; and

(5) The commissioner may use up to 6.23 percent of the amounts appropriated from the TANF fund each year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

(b) **TANF Carryforward.** Any unexpended balance of the TANF appropriation in the first year of the

biennium does not cancel but is available for the second year.

**(c) Comprehensive Suicide Prevention.** \$2,730,000 in fiscal year 2020 and \$2,730,000 in fiscal year 2021 are from the general fund for a comprehensive, community-based suicide prevention strategy. The funds are allocated as follows:

(1) \$955,000 in fiscal year 2020 and \$955,000 in fiscal year 2021 are for community-based suicide prevention grants authorized in Minnesota Statutes, section 145.56, subdivision 2. Specific emphasis must be placed on those communities with the greatest disparities. The base for this appropriation is \$1,291,000 in fiscal year 2022 and \$1,291,000 in fiscal year 2023;

(2) \$683,000 in fiscal year 2020 and \$683,000 in fiscal year 2021 are to support evidence-based training for educators and school staff and purchase suicide prevention curriculum for student use statewide, as authorized in Minnesota Statutes, section 145.56, subdivision 2. The base for this appropriation is \$913,000 in fiscal year 2022 and \$913,000 in fiscal year 2023;

(3) \$137,000 in fiscal year 2020 and \$137,000 in fiscal year 2021 are to implement the Zero Suicide framework with up to 20 behavioral and health care organizations each year to treat individuals at risk for suicide and support those individuals across systems of care upon discharge. The base for this appropriation is \$205,000 in fiscal year 2022 and \$205,000 in fiscal year 2023;

(4) \$955,000 in fiscal year 2020 and \$955,000 in fiscal year 2021 are to develop and fund a Minnesota-based network of National Suicide Prevention Lifeline, providing statewide coverage. The base for this appropriation is \$1,321,000 in fiscal year 2022 and \$1,321,000 in fiscal year 2023; and

(5) the commissioner may retain up to 18.23 percent of the appropriation under this paragraph to administer the comprehensive suicide prevention strategy.

**(d) Statewide Tobacco Cessation.** \$1,598,000 in fiscal year 2020 and \$2,748,000 in fiscal year 2021 are from the general fund for statewide tobacco cessation



services under Minnesota Statutes, section 144.397. The base for this appropriation is \$2,878,000 in fiscal year 2022 and \$2,878,000 in fiscal year 2023.

(e) **Health Care Access Survey.** \$225,000 in fiscal year 2020 and \$225,000 in fiscal year 2021 are from the health care access fund to continue and improve the Minnesota Health Care Access Survey. These appropriations may be used in either year of the biennium.

(f) **Community Solutions for Healthy Child Development Grant Program.** \$1,000,000 in fiscal year 2020 and \$1,000,000 in fiscal year 2021 are for the community solutions for healthy child development grant program to promote health and racial equity for young children and their families under article 11, section 107. The commissioner may use up to 23.5 percent of the total appropriation for administration. The base for this appropriation is \$1,000,000 in fiscal year 2022, \$1,000,000 in fiscal year 2023, and \$0 in fiscal year 2024.

(g) **Domestic Violence and Sexual Assault Prevention Program.** \$375,000 in fiscal year 2020 and \$375,000 in fiscal year 2021 are from the general fund for the domestic violence and sexual assault prevention program under article 11, section 108. This is a onetime appropriation.

(h) **Skin Lightening Products Public Awareness Grant Program.** \$100,000 in fiscal year 2020 and \$100,000 in fiscal year 2021 are from the general fund for a skin lightening products public awareness and education grant program. This is a onetime appropriation.

(i) **Cannabinoid Products Workgroup.** \$8,000 in fiscal year 2020 is from the state government special revenue fund for the cannabinoid products workgroup. This is a onetime appropriation.

(j) **Base Level Adjustments.** The general fund base is \$96,742,000 in fiscal year 2022 and \$96,742,000 in fiscal year 2023. The health care access fund base is \$37,432,000 in fiscal year 2022 and \$36,832,000 in fiscal year 2023.

### Subd. 3. **Health Protection**

## Appropriations by Fund

General	18,803,000	19,774,000
State Government Special Revenue	50,836,000	52,234,000

(a) **Public Health Laboratory Equipment.** \$840,000 in fiscal year 2020 and \$655,000 in fiscal year 2021 are from the general fund for equipment for the public health laboratory. This is a onetime appropriation and is available until June 30, 2023.

(b) **Base Level Adjustment.** The general fund base is \$19,119,000 in fiscal year 2022 and \$19,119,000 in fiscal year 2023. The state government special revenue fund base is \$53,782,000 in fiscal year 2022 and \$53,782,000 in fiscal year 2023.

Subd. 4. <b>Health Operations</b>	10,598,000	<del>10,385,000</del> <u>7,975,000</u>
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**Base Level Adjustment.** The general fund base is \$10,912,000 in fiscal year 2022 and \$10,912,000 in fiscal year 2023.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

Sec. 14. **GRANTS FOR PROJECT ECHO.**

Notwithstanding Laws 2019, chapter 63, article 3, section 1, paragraph (f), the commissioner of human services shall not award the \$200,000 grant to CHI St. Gabriel's Health Family Medical Center in fiscal years 2022, 2023, and 2024, and instead shall issue a competitive request for proposals for another opioid-focused Project ECHO program for the \$200,000 grant in fiscal years 2022, 2023, and 2024. This section expires June 30, 2024.

Sec. 15. **REDUCTION IN APPROPRIATION AND CANCELLATION; INCENTIVE PROGRAM.**

The fiscal year 2021 health care access fund appropriation in Laws 2019, First Special Session chapter 9, article 14, section 2, subdivision 25, is reduced by \$2,082,000 and that amount is canceled to the health care access fund.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 16. REDUCTION IN APPROPRIATION AND CANCELLATION; EMSRB AMBULANCE TRAINING GRANTS.**

The fiscal year 2021 general fund appropriation in Laws 2019, First Special Session chapter 9, article 14, section 5, is reduced by \$204,000 and that amount is canceled to the general fund.

**EFFECTIVE DATE.** This section is effective the day following final enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 17. REDUCTION IN APPROPRIATION AND CANCELLATION; NONNARCOTIC PAIN MANAGEMENT AND WELLNESS.**

The general fund appropriation in Laws 2019, chapter 63, article 3, section 1, paragraph (n), is reduced by \$649,000 and that amount is canceled to the general fund.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 18. REDUCTION IN APPROPRIATION AND CANCELLATION; RESIDENT EXPERIENCE SURVEY AND FAMILY SURVEY.**

The general fund appropriation for the 2020-2021 biennium in Laws 2019, chapter 60, article 5, section 1, paragraph (e), is reduced by \$3,858,000 and that amount is canceled to the general fund.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 19. REDUCTION AND GENERAL FUND APPROPRIATION; CORONAVIRUS RELIEF FUND REFINANCING.**

The commissioner of management and budget shall review all appropriations and transfers from the general fund in Laws 2020, chapters 66, 70, 71, 74, and 81, and Laws 2020, Seventh Special Session chapter 2, to determine whether those appropriations and transfers are eligible expenditures from the coronavirus relief fund. The commissioner shall designate \$59,547,000 of general fund appropriations and transfers in Laws 2020, chapters 66, 70, 71, 74, and 81, and Laws 2020, Seventh Special Session chapter 2, as eligible expenditures from the coronavirus relief fund. \$59,547,000 of the appropriations and transfers designated by the commissioner are canceled to the general fund. The commissioner may designate a portion of an appropriation or transfer for cancellation. \$59,547,000 is appropriated from the coronavirus relief fund for the purposes of the original general fund appropriation.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 20. BLUE RIBBON COMMISSION; REDUCTION IN BUDGET RESERVE.**

Notwithstanding Laws 2019, First Special Session chapter 9, article 14, section 11, as amended by Laws 2019, First Special Session chapter 12, section 7, the commissioner of management and budget must reduce the budget reserve by \$100,000,000 on July 1, 2021. No reduction to the budget reserve may be implemented under Laws 2019, First Special Session chapter 9, article 14, section 11, as amended by Laws 2019, First Special Session chapter 12, section 7.

**Sec. 21. MINNESOTA FAMILY INVESTMENT PROGRAM SUPPLEMENTAL PAYMENT; ALLOCATION OF FEDERAL FUNDING.**

The commissioner of human services shall allocate \$14,352,000 in fiscal year 2022 from the federal fund to provide a onetime cash benefit of up to \$435 for each assistance unit active in the Minnesota family investment program or diversionary work program under Minnesota Statutes, chapter 256J, in the month prior to when the cash benefit is distributed. The commissioner shall distribute the cash benefit through existing systems and in a manner that minimizes the burden to families. This is a onetime allocation.

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

**Sec. 22. APPROPRIATION; MINNESOTACARE PREMIUMS.**

\$134,000 in fiscal year 2021 from the general fund and \$44,000 in fiscal year 2021 from the health care access fund are appropriated to the commissioner of human services to implement changes to MinnesotaCare premiums.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 23. APPROPRIATION; OVERPAYMENTS FOR MEDICATION-ASSISTED TREATMENT SERVICES.**

\$28,873,000 in fiscal year 2021 is appropriated from the general fund to the commissioner of human services to settle the overpayments owed by the Leech Lake Band of Ojibwe and the White Earth Band of Chippewa for medication-assisted treatment services between fiscal year 2014 and fiscal year 2019. The amount for the Leech Lake Band of Ojibwe is \$14,666,000 and the amount for the White Earth Band of Chippewa is \$14,207,000. This is a onetime appropriation.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 24. APPROPRIATION; REIMBURSEMENT FOR INSTITUTIONS FOR MENTAL DISEASE PAYMENTS.**

\$8,328,000 in fiscal year 2021 is appropriated from the general fund to the commissioner of human services to reimburse counties for the amount of the statewide county share of costs for which federal funds were claimed, but were not eligible for federal funding for substance use disorder services provided in institutions for mental disease, for claims paid between January 1, 2014, and June 30, 2019. The commissioner of human services shall allocate this appropriation between the counties based on the amount that is owed by each county. Prior to a county receiving reimbursement, the county must pay in full any unpaid behavioral health fund invoiced county share. This is a onetime appropriation.

**EFFECTIVE DATE.** This section is effective the day following enactment, or retroactively to June 30, 2021, whichever is earlier.

**Sec. 25. TRANSFERS.**

Subdivision 1. **Grants.** The commissioner of human services, with the approval of the commissioner of management and budget, may transfer unencumbered appropriation balances for the biennium ending June 30, 2023, within fiscal years among the MFIP, general assistance, medical assistance, MinnesotaCare,

MFIP child care assistance under Minnesota Statutes, section 119B.05, Minnesota supplemental aid program, group residential housing program, the entitlement portion of Northstar Care for Children under Minnesota Statutes, chapter 256N, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium. The commissioner shall inform the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services quarterly about transfers made under this subdivision.

Subd. 2. **Administration.** Positions, salary money, and nonsalary administrative money may be transferred within the Departments of Health and Human Services as the commissioners consider necessary, with the advance approval of the commissioner of management and budget. The commissioners shall inform the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance quarterly about transfers made under this section.

Sec. 26. **INDIRECT COSTS NOT TO FUND PROGRAMS.**

The commissioners of health and human services shall not use indirect cost allocations to pay for the operational costs of any program for which they are responsible.

Sec. 27. **REDISTRIBUTION AUTHORITY.**

(a) For the purposes of securing federal approval of Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the federal American Rescue Plan Act of 2021, the commissioner of human services may modify in the initial state spending plan the amount for a purpose contained in this act that is contingent upon federal approval under section 28 by redistributing the amounts among such purposes as is necessary to secure federal approval.

(b) If federal approval of Minnesota's initial state spending plan requires the commissioner to modify in the initial state spending plan the amount for a purpose contained in this act that is contingent upon federal approval under section 28 by redistributing the amounts among such purpose as is necessary to secure federal approval, the commissioner of human services must provide written notice of the modification to the chairs and ranking minority members of the house of representatives and senate committees overseeing the Department of Human Services upon submitting or resubmitting the initial state spending plan for federal approval.

(c) If Minnesota's initial state spending plan is approved after the commissioner has exercised the commissioner's authority under this section, the commissioner may implement the federally approved plan including, with the approval of the commissioner of management and budget, necessary transfers within and between budget activities, but must prepare draft legislation to amend this article in a manner consistent with the modifications and redistributions the commissioner made and provide the draft legislation to the chairs and ranking minority members of the legislative committees with jurisdiction over home and community-based services funding.

Sec. 28. **CONTINGENT APPROPRIATIONS.**

Any appropriation in this act for a purpose included in Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the federal American Rescue Plan Act of 2021 is contingent upon approval of that purpose by the Centers for Medicare and Medicaid Services. This section expires June 30, 2024.

**Sec. 29. HOME AND COMMUNITY-BASED SERVICES FEDERAL MEDICAL ASSISTANCE PERCENTAGE MAINTENANCE OF EFFORT.**

(a) The commissioner of management and budget, in consultation with the commissioner of human services, must ensure that sufficient qualified nonfederal expenditures are made through March 31, 2024, to meet the state's reinvestment requirements under section 9817 of the federal American Rescue Plan Act of 2021 and related federal guidance.

(b) The commissioner of human services shall administer the general fund amount in this act attributable to the enhanced federal medical assistance percentage for home and community-based services the state receives under section 9817 of the federal American Rescue Plan Act of 2021, estimated to be \$686,091,000, as required by section 9817 of the American Rescue Plan Act and related federal guidance.

(c) To the extent projected qualified nonfederal expenditures on eligible activities included in the state spending plan are less than the required reinvestment in home and community-based services specified in guidance related to section 9817 of the federal American Rescue Plan Act of 2021, any reduction in the projected qualified nonfederal expenditures relative to the projected amount at the end of the 2021 First Special Session shall not result in an increase in the general fund balance in a budget and economic forecast prepared by the commissioner of management and budget as provided in Minnesota Statutes, section 16A.103.

(d) With each forecast prepared by the commissioner of management and budget under Minnesota Statutes, section 16A.103, the commissioner of management and budget and the commissioner of human services shall submit to the chairs and ranking minority members of the house of representative Ways and Means Committee, the senate Finance Committee, and the legislative committees with jurisdiction over home and community-based services funding and policy a joint report describing:

(1) the qualified nonfederal expenditures that met the state's home and community-based services reinvestment requirements; and

(2) any forgone increases in the general fund balance in the budget and economic forecast resulting from paragraph (c).

(e) Paragraphs (a) and (b) expire on June 30, 2025. Paragraphs (c) and (d) expire on June 30, 2022.

**Sec. 30. APPROPRIATION ENACTED MORE THAN ONCE.**

If an appropriation in this act is enacted more than once in the 2021 legislative session or 2021 First Special Session, the appropriation must be given effect only once.

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

**Sec. 31. EXPIRATION OF UNCODIFIED LANGUAGE.**

All uncodified language contained in this article expires on June 30, 2023, unless a different expiration date is explicit.

**Sec. 32. EFFECTIVE DATE.**

This article is effective July 1, 2021, unless a different effective date is specified.

**ARTICLE 17****HOME AND COMMUNITY-BASED SERVICES; SPECIAL TIME-LIMITED FUNDING PROVISIONS**

Section 1. Minnesota Statutes 2020, section 256.478, is amended to read:

**256.478 HOME AND COMMUNITY-BASED SERVICES TRANSITIONS GRANTS TRANSITION TO COMMUNITY INITIATIVE.**

Subdivision 1. Purpose. (a) The commissioner shall make available home and community-based services establish the transition to community initiative to award grants to serve individuals who do not meet eligibility criteria for the medical assistance program under section 256B.056 or 256B.057, but who otherwise meet the criteria under section 256B.092, subdivision 13, or 256B.49, subdivision 24, for whom supports and services not covered by medical assistance would allow them to:

- (1) live in the least restrictive setting and as independently as possible;
- (2) build or maintain relationships with family and friends; and
- (3) participate in community life.

(b) Grantees must ensure that individuals are engaged in a process that involves person-centered planning and informed choice decision-making. The informed choice decision-making process must provide accessible written information and be experiential whenever possible.

Subd. 2. Eligibility. An individual is eligible for the transition to community initiative if the individual does not meet eligibility criteria for the medical assistance program under section 256B.056 or 256B.057, but who meets at least one of the following criteria:

(1) the person otherwise meets the criteria under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(2) the person has met treatment objectives and no longer requires a hospital-level care or a secure treatment setting, but the person's discharge from the Anoka Metro Regional Treatment Center, the Minnesota Security Hospital, or a community behavioral health hospital would be substantially delayed without additional resources available through the transitions to community initiative;

(3) the person is in a community hospital and on the waiting list for the Anoka Metro Regional Treatment Center, but alternative community living options would be appropriate for the person, and the person has received approval from the commissioner; or

(4)(i) the person is receiving customized living services reimbursed under section 256B.4914, 24-hour customized living services reimbursed under section 256B.4914, or community residential services reimbursed under section 256B.4914; (ii) the person expresses a desire to move; and (iii) the person has received approval from the commissioner.

Sec. 2. Laws 2021, chapter 30, article 12, section 5, is amended to read:

**Sec. 5. GOVERNOR'S COUNCIL ON AN AGE-FRIENDLY MINNESOTA.**

The Governor's Council on an Age-Friendly Minnesota, established in Executive Order 19-38, shall:  
(1) work to advance age-friendly policies; and (2) coordinate state, local, and private partners' collaborative

work on emergency preparedness, with a focus on older adults, communities, and persons in zip codes most impacted by the COVID-19 pandemic. The Governor's Council on an Age-Friendly Minnesota is extended and expires ~~October 1, 2022~~ June 30, 2024.

**Sec. 3. GRANTS FOR TECHNOLOGY FOR HCBS RECIPIENTS.**

(a) This act includes \$500,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 for the commissioner of human services to issue competitive grants to home and community-based service providers. Grants must be used to provide technology assistance, including but not limited to Internet services, to older adults and people with disabilities who do not have access to technology resources necessary to use remote service delivery and telehealth. The general fund base included in this act for this purpose is \$1,500,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This section expires June 30, 2024.

**Sec. 4. DEVELOPMENT OF INDIVIDUAL HCBS PORTAL FOR RECIPIENTS.**

(a) This act includes \$2,500,000 in fiscal year 2022 and \$2,500,000 in fiscal year 2023 for the commissioner of human services to develop an online support planning tool for people who use home and community-based services waivers. The general fund base included in this act for this purpose is \$0 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) This section expires March 31, 2024.

**Sec. 5. HOUSING TRANSITIONAL COSTS.**

Subdivision 1. **Housing transition cost.** (a) This act includes \$682,000 in fiscal year 2022 and \$1,637,000 in fiscal year 2023 for a onetime payment per transition of up to \$3,000 to cover costs associated with moving to a community setting that are not covered by other sources. Covered costs include: (1) lease or rent deposits; (2) security deposits; (3) utilities setup costs, including telephone and Internet services; and (4) essential furnishings and supplies. The commissioner of human services shall seek an amendment to the medical assistance state plan to allow for these payments as a housing stabilization service under Minnesota Statutes, section 256B.051. The general fund base in this act for this purpose is \$1,227,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) This subdivision expires March 31, 2024.

Subd. 2. **Community living infrastructure.** (a) This act includes \$4,000,000 in fiscal year 2022 and \$4,000,000 in fiscal year 2023 for additional funding for grants under Minnesota Statutes, section 256I.09. In addition to the allowable uses of grants awarded under Minnesota Statutes, section 256I.09, grants may also be used to provide direct assistance to individuals to access or maintain housing in community settings. Allowable uses of grant funds include: (1) lease or rent deposits; (2) security deposits; (3) utilities setup costs, including telephone and Internet services; (4) essential furnishings and supplies; and (5) costs related to expungement, including filing fees and attorney fees. The general fund base in this act for this purpose is \$3,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This subdivision expires June 30, 2024.



**EFFECTIVE DATE.** Subdivision 1 is effective January 1, 2021, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 6. **TRANSITION TO COMMUNITY INITIATIVE.**

(a) This act includes \$5,500,000 in fiscal year 2022 and \$5,500,000 in fiscal year 2023 for additional funding for grants awarded under the transition to community initiative described in Minnesota Statutes, section 256.478. The general fund base in this act for this purpose is \$4,125,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This section expires June 30, 2024.

Sec. 7. **LEAD AGENCY PROCESS MAPPING.**

(a) This act includes \$1,115,000 in fiscal year 2022 and \$1,751,000 in fiscal year 2023 for the commissioner of human services to review lead agency policies and business practices and to identify potential efficiencies in long-term care consultation services. The commissioner must make recommendations to lead agencies based on the review. The commissioner of human services shall produce a guide documenting the process for determining medical assistance eligibility and authorization of long-term services and supports. The commissioner must ensure that the guide is available in accessible formats and in multiple languages. The commissioner must ensure the guide is available to people and families that request long-term care consultation services. The general fund base in this act for this purpose is \$1,188,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) This section expires March 31, 2024.

Sec. 8. **AGE-FRIENDLY MINNESOTA.**

Subdivision 1. **Age-friendly community grants.** (a) This act includes \$0 in fiscal year 2022 and \$875,000 in fiscal year 2023 for age-friendly community grants. The commissioner of human services, in collaboration with the Minnesota Board on Aging and the Governor's Council on an Age-Friendly Minnesota, established in Executive Order 19-38, shall develop the age-friendly community grant program to help communities, including cities, counties, other municipalities, tribes, and collaborative efforts, to become age-friendly communities, with an emphasis on structures, services, and community features necessary to support older adult residents over the next decade, including but not limited to:

- (1) coordination of health and social services;
- (2) transportation access;
- (3) safe, affordable places to live;
- (4) reducing social isolation and improving wellness;
- (5) combating ageism and racism against older adults;
- (6) accessible outdoor space and buildings;
- (7) communication and information technology access; and

(8) opportunities to stay engaged and economically productive.

The general fund base in this act for this purpose is \$875,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This subdivision expires June 30, 2024.

Subd. 2. **Technical assistance grants.** (a) This act includes \$0 in fiscal year 2022 and \$575,000 in fiscal year 2023 for technical assistance grants. The commissioner of human services, in collaboration with the Minnesota Board on Aging and the Governor's Council on an Age-Friendly Minnesota, established in Executive Order 19-38, shall develop the age-friendly technical assistance grant program. The general fund base in this act for this purpose is \$575,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This subdivision expires June 30, 2024.

**Sec. 9. CONTINUITY OF CARE FOR STUDENTS WITH BEHAVIORAL HEALTH AND DISABILITY SUPPORT NEEDS.**

This act includes \$70,000 in fiscal year 2022 and \$0 in fiscal year 2023 for the commissioner of human services to collaborate with the commissioner of education and consult with stakeholders to: (1) identify strategies to streamline access and reimbursement for behavioral health services for students who are enrolled in medical assistance and have individualized education programs or individualized family services plans; and (2) avoid duplication of services and procedures to the extent practicable. The commissioners must identify strategies to reduce administrative burdens for schools while ensuring continuity of care for students accessing services when not in school. By January 15, 2022, the commissioners must report their findings and recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over early learning education through grade 12 and health and human services policy and finance. The general fund base in this act for this purpose is \$0 in fiscal year 2024 and \$0 in fiscal year 2025.

**Sec. 10. PROVIDER CAPACITY GRANTS FOR RURAL AND UNDERSERVED COMMUNITIES.**

(a) This act includes \$6,000,000 in fiscal year 2022 and \$8,000,000 in fiscal year 2023 for the commissioner to establish a grant program for small provider organizations that provide services to rural or underserved communities with limited home and community-based services provider capacity. The grants are available to build organizational capacity to provide home and community-based services in Minnesota and to build new or expanded infrastructure to access medical assistance reimbursement. The general fund base in this act for this purpose is \$8,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and work with the commissioner of management and budget and the commissioner of the Department of Administration to mitigate barriers in accessing grant funds. Funding awarded for the community engagement activities described in this paragraph is exempt from state solicitation requirements under Minnesota Statutes, section 16B.97, for activities that occur in fiscal year 2022.

(c) All grant activities must be completed by March 31, 2024.

(d) This section expires June 30, 2024.

**Sec. 11. EXPAND MOBILE CRISIS.**

(a) This act includes \$8,000,000 in fiscal year 2022 and \$8,000,000 in fiscal year 2023 for additional funding for grants for adult mobile crisis services under Minnesota Statutes, section 245.4661, subdivision 9, paragraph (b), clause (15). The general fund base in this act for this purpose is \$4,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) Beginning April 1, 2024, counties may fund and continue conducting activities funded under this section.

(c) All grant activities must be completed by March 31, 2024.

(d) This section expires June 30, 2024.

**Sec. 12. PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY AND CHILD AND ADOLESCENT MOBILE TRANSITION UNIT.**

(a) This act includes \$2,500,000 in fiscal year 2022 and \$2,500,000 in fiscal year 2023 for the commissioner of human services to create children's mental health transition and support teams to facilitate transition back to the community of children from psychiatric residential treatment facilities, and child and adolescent behavioral health hospitals. The general fund base included in this act for this purpose is \$1,875,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) Beginning April 1, 2024, counties may fund and continue conducting activities funded under this section.

(c) This section expires March 31, 2024.

**Sec. 13. REDUCING RELIANCE ON CHILDREN'S CONGREGATE-CARE SETTINGS.**

This act includes \$200,000 in fiscal year 2022 and \$0 in fiscal year 2023 for an analysis of the utilization and efficacy of current residential and psychiatric residential treatment facility treatment options for children under the state Medicaid program. The commissioner of human services must conduct the analysis. When conducting the analysis, the commissioner must collaborate with the Department of Health, the Department of Education, hospitals, children's treatment facilities, social workers, juvenile justice officials, and parents of children receiving care. The commissioner may collaborate with children receiving care when conducting the analysis. By February 1, 2022, the commissioner must submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a report that identifies systemic obstacles in transitioning children into community-based options; identifies gaps in care for children with the most acute behavioral health treatment needs; and provides recommendations, including estimated costs, to develop infrastructure, eliminate system barriers, and enhance coordination to ensure children have access to behavioral health treatment services based on medical necessity and family and caregiver needs.

**Sec. 14. TASK FORCE ON ELIMINATING SUBMINIMUM WAGES.**

Subdivision 1. **Establishment; purpose.** The Task Force on Eliminating Subminimum Wages is established to develop a plan and make recommendations to phase out payment of subminimum wages to people with disabilities on or before August 1, 2025.

Subd. 2. **Definitions.** For the purposes of this section, "subminimum wage" means wages authorized under section 14(c) of the federal Fair Labor Standards Act, Minnesota Statutes, section 177.28, subdivision 5, or Minnesota Rules, parts 5200.0030 and 5200.0040.

Subd. 3. **Membership.** (a) The task force consists of 16 members, appointed as follows:

(1) the commissioner of human services or a designee;

(2) the commissioner of labor and industry or a designee;

(3) the commissioner of education or a designee;

(4) the commissioner of employment and economic development or a designee;

(5) a representative of the Department of Employment and Economic Development's Vocational Rehabilitation Services Division appointed by the commissioner of employment and economic development;

(6) one member appointed by the Minnesota Disability Law Center;

(7) one member appointed by The Arc of Minnesota;

(8) three members who are persons with disabilities appointed by the commissioner of human services, at least one of whom must be neurodiverse, and at least one of whom must have a significant physical disability;

(9) two representatives of employers authorized to pay subminimum wage and one representative of an employer who successfully transitioned away from payment of subminimum wages to people with disabilities, appointed by the commissioner of human services;

(10) one member appointed by the Minnesota Organization for Habilitation and Rehabilitation;

(11) one member appointed by ARRM; and

(12) one member appointed by the State Rehabilitation Council.

(b) To the extent possible, membership on the task force under paragraph (a) shall reflect geographic parity throughout the state and representation from Black, Indigenous, and communities of color.

Subd. 4. **Appointment deadline; first meeting; chair.** Appointing authorities must complete member selections by January 1, 2022. The commissioner of human services shall convene the first meeting of the task force by February 15, 2022. The task force shall select a chair from among its members at its first meeting.

Subd. 5. **Compensation.** Members shall be compensated and may be reimbursed for expenses as provided in Minnesota Statutes, section 15.059, subdivision 3.

Subd. 6. **Duties; plan and recommendations.** The task force shall:

(1) develop a plan to phase out the payment of subminimum wages to people with disabilities by August 1, 2025;

(2) consult with and advise the commissioner of human services on statewide plans for limiting subminimum wages in medical assistance home and community-based services waivers under Minnesota Statutes, sections 256B.092 and 256B.49;

(3) engage with employees with disabilities paid subminimum wages and conduct community education on the payment of subminimum wages to people with disabilities in Minnesota;

(4) identify and collaborate with employees, employers, businesses, organizations, agencies, and stakeholders impacted by the phase out of subminimum wage on how to implement the plan and create sustainable work opportunities for employees with disabilities;

(5) propose a plan to establish and evaluate benchmarks for measuring annual progress toward eliminating subminimum wages;

(6) propose a plan to monitor and track outcomes of employees with disabilities;

(7) identify initiatives, investment, training, and services designed to improve wages, reduce unemployment rates, and provide support and sustainable work opportunities for persons with disabilities;

(8) identify benefits to the state in eliminating subminimum wage by August 1, 2025;

(9) identify barriers to eliminating subminimum wage by August 1, 2025, including the cost of implementing and providing ongoing employment services, training, and support for employees with disabilities and the cost of paying minimum wage to employees with disabilities;

(10) make recommendations to eliminate the barriers identified in clause (9); and

(11) identify and make recommendations for sustainable financial support, funding, and resources for eliminating subminimum wage by August 1, 2025.

**Subd. 7. Duties; provider reinvention grants.** (a) The commissioner of human services shall establish a provider reinvention grant program to promote independence and increase opportunities for people with disabilities to earn competitive wages. The commissioner shall make the grants available to at least the following:

(1) providers of disability services under Minnesota Statutes, sections 256B.092 and 256B.49, for developing and implementing a business plan to shift the providers' business models away from paying waiver participants subminimum wages;

(2) organizations to develop peer-to-peer mentoring for people with disabilities who have successfully transitioned to earning competitive wages;

(3) organizations to facilitate provider-to-provider mentoring to promote shifting away from paying employees with disabilities a subminimum wage; and

(4) organizations to conduct family outreach and education on working with people with disabilities who are transitioning from subminimum wage employment to competitive employment.

(b) The provider reinvention grant program must be competitive. The commissioner of human services must develop criteria for evaluating responses to requests for proposals. Criteria for evaluating grant applications must be finalized no later than November 1, 2021. The commissioner of human services shall administer grants in compliance with Minnesota Statutes, sections 16B.97 and 16B.98, and related policies set forth by the Department of Administration's Office of Grants Management.

(c) Grantees must work with the commissioner to develop their business model and, as a condition of receiving grant funds, grantees must fully phase out the use of subminimum wage by April 1, 2024, unless the grantee receives a waiver from the commissioner of human services for a demonstrated need.

(d) Of the total amount available for provider reinvention grants, the commissioner may award up to 25 percent of the grant funds to providers who have already successfully shifted their business model away from paying employees with disabilities subminimum wages to provide provider-to-provider mentoring to providers receiving a provider reinvention grant.

Subd. 8. **Report.** By February 15, 2023, the task force shall submit to the chairs and ranking minority members of the committees and divisions in the senate and house of representatives with jurisdiction over employment and wages and over health and human services a report with recommendations to eliminate by August 1, 2025, the payment of subminimum wage, and any changes to statutes, laws, or rules required to implement the recommendations of the task force. The task force must include in the report a recommendation concerning continuing the task force beyond its scheduled expiration.

Subd. 9. **Administrative support.** The commissioner of human services shall provide meeting space and administrative services to the task force.

Subd. 10. **Expiration.** The task force shall conclude their duties and expire on March 31, 2024.

**Sec. 15. MOVING TO INDEPENDENCE: SUBMINIMUM WAGE PHASE-OUT.**

(a) This act includes \$4,300,000 in fiscal year 2022 and \$5,300,000 in fiscal year 2023 for the commissioner of human services to establish a reinvention grant program to promote independence and increase opportunities for people with disabilities to earn competitive wages. The general fund base included in this act for this purpose is \$4,500,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This section expires June 30, 2024.

**Sec. 16. RESEARCH ON ACCESS TO LONG-TERM CARE SERVICES AND FINANCING.**

This act includes \$400,000 in fiscal year 2022 and \$300,000 in fiscal year 2023 for an actuarial research study of public and private financing options for long-term services and supports reform to increase access across the state. The commissioner of human services must conduct the study. Of this amount, the commissioner may transfer up to \$100,000 to the commissioner of commerce for costs related to the requirements of the study. The general fund base included in this act for this purpose is \$0 in fiscal year 2024 and \$0 in fiscal year 2025.

**Sec. 17. ADDITIONAL FUNDING FOR RESPITE SERVICES AND STUDIES.**

Subdivision 1. **Home and community-based service system reform analysis.** This act includes \$200,000 in fiscal year 2022 and \$200,000 in fiscal year 2023 for an analysis to identify future system reforms to strengthen access to respite services and caregiver supports to enhance the Medicaid home and community-based service system for older adults and caregivers in Minnesota. The commissioner of human services must conduct the analysis. The commissioner must examine Minnesota's existing programs serving older adults and identify solutions that provide cost-effective respite services and caregiver supports to an expanding population of older adults. The general fund base included in this act for this purpose is \$0 in fiscal year 2024 and \$0 in fiscal year 2025.

Subd. 2. **Own your own future study.** This act includes \$183,000 in fiscal year 2022 and \$0 in fiscal year 2023 for an analysis of long-term trends in older adults' utilization of Medicaid expenditures and need for long-term care services and supports in Minnesota. The commissioner of human services must conduct

the analysis. The commissioner must examine Minnesota's use of nursing facilities and assisted living facilities and utilize simulation modeling to estimate future demand for long-term services and supports. The funding including in this act for this purpose is available until March 31, 2024.

Subd. 3. **Respite services for older adults grants.** (a) This act includes \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 for the commissioner of human services to establish a grant program for respite services for older adults. The commissioner must award grants on a competitive basis to respite service providers. The general fund base included in this act for this purpose is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This subdivision expires June 30, 2024.

#### Sec. 18. **MEDICAL ASSISTANCE OUTPATIENT AND BEHAVIORAL HEALTH SERVICE RATES STUDY.**

(a) This act includes \$486,000 in fiscal year 2022 and \$696,000 in fiscal year 2023 for an analysis of the current rate-setting methodology for all outpatient services in medical assistance and MinnesotaCare, including rates for behavioral health, substance use disorder treatment, and residential substance use disorder treatment. By January 1, 2022, the commissioner shall issue a request for proposals for frameworks and modeling of behavioral health services rates. Rates must be predicated on a uniform methodology that is transparent, culturally responsive, supports staffing needed to treat a patient's assessed need, and promotes quality service delivery, integration of care, and patient choice. The commissioner must consult with providers across the spectrum of services, from across each region of the state, and culturally responsive providers in the development of the request for proposals and for the duration of the contract. The general fund base included in this act for this purpose is \$599,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) By January 15, 2023, the commissioner of human services shall submit a preliminary report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance on the initial results. By January 15, 2024, the commissioner of human services shall submit a final report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance that includes legislative language necessary to modify existing or implement new rate methodologies, including a new substance use disorder treatment rate methodology, and a detailed fiscal analysis.

#### Sec. 19. **CENTERS FOR INDEPENDENT LIVING HCBS ACCESS GRANT.**

(a) This act includes \$1,200,000 in fiscal year 2022 and \$1,200,000 in fiscal year 2023 for grants to expand services to support people with disabilities from underserved communities who are ineligible for medical assistance to live in their own homes and communities by providing accessibility modifications, independent living services, and public health program facilitation. The commissioner of human services must award the grants in equal amounts to the eight organizations defined in Minnesota Statutes, section 268A.01, subdivision 8. The general fund base included in this act for this purpose is \$0 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This section expires June 30, 2024.

**Sec. 20. HCBS WORKFORCE DEVELOPMENT GRANT.**

(a) This act includes \$0 in fiscal year 2022 and \$5,588,000 in fiscal year 2023 to address challenges related to attracting and maintaining direct care workers who provide home and community-based services for people with disabilities and older adults. The general fund base included in this act for this purpose is \$5,588,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) At least 90 percent of funding for this provision must be directed to workers who earn 200 percent or less of the most current federal poverty level issued by the United States Department of Health and Human Services.

(c) The commissioner must consult with stakeholders to finalize a report detailing the final plan for use of the funds. The commissioner must publish the report by March 1, 2022, and notify the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

**Sec. 21. DIRECTION TO COMMISSIONER; STAKEHOLDER ENGAGEMENT FOR SPENDING PLAN.**

Prior to submitting Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the American Rescue Plan Act of 2021, the commissioner of human services must consult with stakeholders about proposals included in the plan.

**Sec. 22. EFFECTIVE DATE.**

Unless otherwise specified, each section of this article is effective upon federal approval of Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the federal American Rescue Plan Act of 2021. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Presented to the governor June 28, 2021

Signed by the governor June 29, 2021, 1:44 p.m.