

A bill for an act

relating to human services; streamlining county duties; amending Minnesota Statutes 2010, sections 119B.09, by adding a subdivision; 256B.69, by adding a subdivision; 256D.09, subdivision 6; 256D.49, subdivision 3; 256J.38, subdivision 1; 393.07, subdivision 10; proposing coding for new law in Minnesota Statutes, chapter 256; repealing Minnesota Rules, part 9500.1243, subpart 3.

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

Section 1. Minnesota Statutes 2010, section 119B.09, is amended by adding a subdivision to read:

Subd. 4b. **Electronic verification.** County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for the child care assistance under this chapter. The information is sufficient to determine eligibility.

Sec. 2. **[256.0145] COMPUTER SYSTEM SIMPLIFICATION.**

Subdivision 1. **Reprogram MAXIS.** The commissioner of human services, as part of the enterprise architecture project, shall reprogram the MAXIS computer system to automatically apply child support payments entered into the PRISM computer system to a MAXIS case file.

Subd. 2. **Program the social service information system.** The commissioner of human services shall require all prepaid health plans to accept a billing format identical to the MMIS billing format for payment to county agencies for mental health targeted case management claims, elderly waiver claims, and other claim categories as added to the

benefit set. The commissioner shall make any necessary changes to the SSIS system to bill prepaid health plans for those claims.

Sec. 3. [256.0147] COUNTY ELECTRONIC VERIFICATION TO DETERMINE ELIGIBILITY.

County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for child support enforcement, general assistance, Minnesota supplemental aid, and programs, services, and supports under chapter 256J. The information is sufficient to determine eligibility. State and county caseworkers shall not be cited in error, as part of any audit and quality review, for an incorrect eligibility determination based on current but inaccurate information received through a state-approved electronic data source. If there is a potential error, the reviewer must forward a corrective action notice to the caseworker for proper and immediate correction. If the state or county caseworker has data available through client reporting, or other means, that are more accurate than state-approved electronic data, the caseworker should use the more accurate information in making the eligibility determination.

Sec. 4. Minnesota Statutes 2010, section 256B.69, is amended by adding a subdivision to read:

Subd. 30. **Provision of required materials in alternative formats.** (a) For the purposes of this subdivision, "alternative format" means a medium other than paper and "prepaid health plan" means managed care plans and county-based purchasing plans.

(b) A prepaid health plan may provide in an alternative format a provider directory and certificate of coverage, or materials otherwise required to be available in writing under Code of Federal Regulations, title 42, section 438.10, or under the commissioner's contract with the prepaid health plan, if the following conditions are met:

(1) the prepaid health plan, local agency, or commissioner, as applicable, informs the enrollee that:

(i) provision in an alternative format is available and the enrollee affirmatively requests of the prepaid health plan that the provider directory, certificate of coverage, or materials otherwise required under Code of Federal Regulations, title 42, section 438.10, or under the commissioner's contract with the prepaid health plan be provided in an alternative format; and

(ii) a record of the enrollee request is retained by the prepaid health plan in the form of written direction from the enrollee or a documented telephone call followed by a

confirmation letter to the enrollee from the prepaid health plan that explains that the enrollee may change the request at any time;

(2) the materials are sent to a secured mailbox and are made available at a password-protected secured Web site or on a data storage device if the materials contain enrollee data that is individually identifiable;

(3) the enrollee is provided a customer service number on the enrollee's membership card that may be called to request a paper version of the materials provided in an alternative format; and

(4) the materials provided in an alternative format meets all other requirements of the commissioner regarding content, size of the typeface, and any required time frames for distribution. "Required time frames for distribution" must permit sufficient time for prepaid health plans to distribute materials in alternative formats upon receipt of enrollees' requests for such materials.

(c) A prepaid health plan may provide in an alternative format its primary care network list to the commissioner and to local agencies within its service area. The commissioner or local agency, as applicable, shall inform a potential enrollee of the availability of a prepaid health plan's primary care network list in an alternative format. If the potential enrollee requests an alternative format of the prepaid health plan's primary care network list, a record of that request shall be retained by the commissioner or local agency. The potential enrollee is permitted to withdraw the request at any time.

The prepaid health plan shall submit sufficient paper versions of the primary care network list to the commissioner and to local agencies within its service area to accommodate potential enrollee requests for paper versions of the primary care network list.

(d) A prepaid health plan may provide in an alternative format materials otherwise required to be available in writing under Code of Federal Regulations, title 42, section 438.10, or under the commissioner's contract with the prepaid health plan, if the conditions of paragraphs (b), (c), and (e), are met for persons who are:

(1) enrolled in integrated Medicare and Medicaid programs under subdivisions 23 and 28;

(2) enrolled in managed care long-term care programs under subdivision 6b;

(3) dually eligible for Medicare and medical assistance; or

(4) in the waiting period for Medicare.

(e) The commissioner shall seek any federal Medicaid waivers within 90 days after the effective date of this subdivision that are necessary to provide alternative formats of required material to enrollees of prepaid health plans as authorized under this subdivision.

(f) The commissioner shall consult with managed care plans, county-based purchasing plans, counties, and other interested parties to determine how materials required to be made available to enrollees under Code of Federal Regulations, title 42, section 438.10, or under the commissioner's contract with a prepaid health plan may be provided in an alternative format on the basis that the enrollee has not opted in to receive the alternative format. The commissioner shall consult with managed care plans, county-based purchasing plans, counties, and other interested parties to develop recommendations relating to the conditions that must be met for an opt-out process to be granted.

Sec. 5. Minnesota Statutes 2010, section 256D.09, subdivision 6, is amended to read:

Subd. 6. **Recovery of overpayments.** (a) If an amount of general assistance or family general assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. The agency shall give written notice to the recipient of its intention to recover the overpayment.

(b) Except as provided for interim assistance in section 256D.06, subdivision 5, when an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member, for one or more monthly assistance payments, until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need in nonfraud cases and ten percent where fraud has occurred, or the amount of the monthly payment, whichever is less, for all overpayments.

(c) In cases when there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

(d) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the aid reductions provided in this subdivision, to include further voluntary reductions in the grant level agreed to in writing by the individual, until the total amount of the overpayment is repaid.

(e) The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance under standards adopted in rule by the commissioner of human services. The county agency need not attempt to recover overpayments of less than \$35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of violating section 256.98.

5.1 (f) Establishment of an overpayment is limited to 12 months prior to the month of
5.2 discovery due to agency error and six years prior to the month of discovery due to client
5.3 error or an intentional program violation determined under section 256.046.

5.4 Sec. 6. Minnesota Statutes 2010, section 256D.49, subdivision 3, is amended to read:

5.5 Subd. 3. **Overpayment of monthly grants and recovery of ATM errors.** (a) When
5.6 the county agency determines that an overpayment of the recipient's monthly payment
5.7 of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment
5.8 to the recipient. If the person is no longer receiving Minnesota supplemental aid, the
5.9 county agency may request voluntary repayment or pursue civil recovery. If the person is
5.10 receiving Minnesota supplemental aid, the county agency shall recover the overpayment
5.11 by withholding an amount equal to three percent of the standard of assistance for the
5.12 recipient or the total amount of the monthly grant, whichever is less.

5.13 (b) Establishment of an overpayment is limited to 12 months from the date of
5.14 discovery due to agency error and six years due to client error. No limit applies to the
5.15 establishment period if the overpayment is due to an intentional program violation or if
5.16 the client wrongfully obtained assistance.

5.17 (c) For recipients receiving benefits via electronic benefit transfer, if the overpayment
5.18 is a result of an automated teller machine (ATM) dispensing funds in error to the recipient,
5.19 the agency may recover the ATM error by immediately withdrawing funds from the
5.20 recipient's electronic benefit transfer account, up to the amount of the error.

5.21 (d) Residents of ~~nursing homes, regional treatment centers, and~~ licensed residential
5.22 ~~facilities with negotiated rates~~ shall not have overpayments recovered from their personal
5.23 needs allowance.

5.24 Sec. 7. Minnesota Statutes 2010, section 256J.38, subdivision 1, is amended to read:

5.25 Subdivision 1. **Scope of overpayment.** (a) When a participant or former participant
5.26 receives an overpayment due to agency, client, or ATM error, or due to assistance received
5.27 while an appeal is pending and the participant or former participant is determined
5.28 ineligible for assistance or for less assistance than was received, the county agency must
5.29 recoup or recover the overpayment using the following methods:

- 5.30 (1) reconstruct each affected budget month and corresponding payment month;
5.31 (2) use the policies and procedures that were in effect for the payment month; and
5.32 (3) do not allow employment disregards in section 256J.21, subdivision 3 or 4, in the
5.33 calculation of the overpayment when the unit has not reported within two calendar months
5.34 following the end of the month in which the income was received.

(b) Establishment of an overpayment is limited to 12 months prior to the month of discovery due to agency error and six years prior to the month of discovery due to client error or an intentional program violation determined under section 256.046.

Sec. 8. Minnesota Statutes 2010, section 393.07, subdivision 10, is amended to read:

Subd. 10. **Food stamp program; Maternal and Child Nutrition Act.** (a) The local social services agency shall establish and administer the food stamp program according to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 or 609.821, or both, and is subject to both the criminal and civil penalties provided under those sections:

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willful statement or misrepresentation, or intentional concealment of a material fact, food stamps or vouchers issued according to sections 145.891 to 145.897 to which the person is not entitled or in an amount greater than that to which that person is entitled or which specify nutritional supplements to which that person is not entitled; or

(2) presents or causes to be presented, coupons or vouchers issued according to sections 145.891 to 145.897 for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) willfully uses, possesses, or transfers food stamp coupons, authorization to purchase cards or vouchers issued according to sections 145.891 to 145.897 in any manner contrary to existing state or federal law, rules, or regulations; or

(4) buys or sells food stamp coupons, authorization to purchase cards, other assistance transaction devices, vouchers issued according to sections 145.891 to 145.897, or any food obtained through the redemption of vouchers issued according to sections 145.891 to 145.897 for cash or consideration other than eligible food.

(d) A peace officer or welfare fraud investigator may confiscate food stamps, authorization to purchase cards, or other assistance transaction devices found in the possession of any person who is neither a recipient of the food stamp program nor otherwise authorized to possess and use such materials. Confiscated property shall be disposed of as the commissioner may direct and consistent with state and federal food stamp law. The confiscated property must be retained for a period of not less than 30 days to allow any affected person to appeal the confiscation under section 256.045.

~~(e) Food stamp overpayment claims which are due in whole or in part to client error shall be established by the county agency for a period of six years from the date of any resultant overpayment~~ Establishment of an overpayment is limited to 12 months prior to the month of discovery due to agency error and six years prior to the month of discovery due to client error or an intentional program violation determined under section 256.046.

(f) With regard to the federal tax revenue offset program only, recovery incentives authorized by the federal food and consumer service shall be retained at the rate of 50 percent by the state agency and 50 percent by the certifying county agency.

(g) A peace officer, welfare fraud investigator, federal law enforcement official, or the commissioner of health may confiscate vouchers found in the possession of any person who is neither issued vouchers under sections 145.891 to 145.897, nor otherwise authorized to possess and use such vouchers. Confiscated property shall be disposed of as the commissioner of health may direct and consistent with state and federal law. The confiscated property must be retained for a period of not less than 30 days.

(h) The commissioner of human services may seek a waiver from the United States Department of Agriculture to allow the state to specify foods that may and may not be purchased in Minnesota with benefits funded by the federal Food Stamp Program. The commissioner shall consult with the members of the house of representatives and senate policy committees having jurisdiction over food support issues in developing the waiver. The commissioner, in consultation with the commissioners of health and education, shall develop a broad public health policy related to improved nutrition and health status. The commissioner must seek legislative approval prior to implementing the waiver.

8.1 Sec. 9. **ALIGNMENT OF VERIFICATION AND REDETERMINATION**
8.2 **POLICIES.**

8.3 The commissioner of human services shall develop recommendations to align
8.4 eligibility verification procedures for all health care, economic assistance, food support,
8.5 child support enforcement, and child care programs. The commissioner shall report back
8.6 to the chairs of the legislative committees with jurisdiction over these issues by January
8.7 15, 2012, with recommendations and draft legislation to implement the alignment of
8.8 eligibility verifications.

8.9 Sec. 10. **ALTERNATIVE STRATEGIES FOR CERTAIN**
8.10 **REDETERMINATIONS.**

8.11 The commissioner of human services shall develop and implement by January 15,
8.12 2012, a simplified process to redetermine eligibility for recipient populations in the medical
8.13 assistance, Minnesota supplemental aid, food support, and group residential housing
8.14 programs who are eligible based upon disability, age, or chronic medical conditions, and
8.15 who are expected to experience minimal change in income or assets from month to month.
8.16 The commissioner shall apply for any federal waivers needed to implement this section.

8.17 Sec. 11. **REPEALER.**

8.18 Minnesota Rules, part 9500.1243, subpart 3, is repealed.