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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **1640**

03/09/2015 Authored by Peterson, Zerwas, Fenton, Christensen, Nornes and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/18/2015 Adoption of Report: Re-referred to the Committee on Civil Law and Data Practices
03/23/2015 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; repealing the TEFRA monetary parental contribution;
1.3 amending Minnesota Statutes 2014, sections 13.46, subdivision 2; 246.511;
1.4 252.27, subdivisions 1, 2a, 3; 270B.14, subdivision 1; repealing Minnesota
1.5 Statutes 2014, section 252.27, subdivisions 2, 2b, 4a, 5, 6.

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

1.7 Section 1. Minnesota Statutes 2014, section 13.46, subdivision 2, is amended to read:

1.8 Subd. 2. **General.** (a) Data on individuals collected, maintained, used, or
1.9 disseminated by the welfare system are private data on individuals, and shall not be
1.10 disclosed except:

1.11 (1) according to section 13.05;
1.12 (2) according to court order;
1.13 (3) according to a statute specifically authorizing access to the private data;
1.14 (4) to an agent of the welfare system and an investigator acting on behalf of a county,
1.15 the state, or the federal government, including a law enforcement person or attorney in the
1.16 investigation or prosecution of a criminal, civil, or administrative proceeding relating to
1.17 the administration of a program;
1.18 (5) to personnel of the welfare system who require the data to verify an individual's
1.19 identity; determine eligibility, amount of assistance, and the need to provide services to
1.20 an individual or family across programs; evaluate the effectiveness of programs; assess
1.21 parental contribution amounts; and investigate suspected fraud;
1.22 (6) to administer federal funds or programs;
1.23 (7) between personnel of the welfare system working in the same program;
1.24 (8) to the Department of Revenue to assess parental contribution amounts for
1.25 purposes of section 252.27, subdivision 2a; administer and evaluate tax refund or tax credit

programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue. Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, the Department of Employment and Economic Development, and when applicable, the Department of Education, for the following purposes:

(i) to monitor the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency;

(ii) to administer any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system;

(iii) to monitor and evaluate the Minnesota family investment program or the child care assistance program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

(iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by sections 144.291 to 144.298 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf

of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

4.1 (A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a
4.2 crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

4.3 (B) is violating a condition of probation or parole imposed under state or federal
4.4 law; or

4.5 (C) has information that is necessary for the officer to conduct an official duty related
4.6 to conduct described in subitem (A) or (B);

4.7 (ii) locating or apprehending the member is within the officer's official duties; and

4.8 (iii) the request is made in writing and in the proper exercise of the officer's official
4.9 duty;

4.10 (19) the current address of a recipient of Minnesota family investment program,
4.11 general assistance, general assistance medical care, or food support may be disclosed to
4.12 law enforcement officers who, in writing, provide the name of the recipient and notify the
4.13 agency that the recipient is a person required to register under section 243.166, but is not
4.14 residing at the address at which the recipient is registered under section 243.166;

4.15 (20) certain information regarding child support obligors who are in arrears may be
4.16 made public according to section 518A.74;

4.17 (21) data on child support payments made by a child support obligor and data on
4.18 the distribution of those payments excluding identifying information on obligees may be
4.19 disclosed to all obligees to whom the obligor owes support, and data on the enforcement
4.20 actions undertaken by the public authority, the status of those actions, and data on the
4.21 income of the obligor or obligee may be disclosed to the other party;

4.22 (22) data in the work reporting system may be disclosed under section 256.998,
4.23 subdivision 7;

4.24 (23) to the Department of Education for the purpose of matching Department of
4.25 Education student data with public assistance data to determine students eligible for free
4.26 and reduced-price meals, meal supplements, and free milk according to United States
4.27 Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and
4.28 state funds that are distributed based on income of the student's family; and to verify
4.29 receipt of energy assistance for the telephone assistance plan;

4.30 (24) the current address and telephone number of program recipients and emergency
4.31 contacts may be released to the commissioner of health or a community health board as
4.32 defined in section 145A.02, subdivision 5, when the commissioner or community health
4.33 board has reason to believe that a program recipient is a disease case, carrier, suspect case,
4.34 or at risk of illness, and the data are necessary to locate the person;

4.35 (25) to other state agencies, statewide systems, and political subdivisions of this
4.36 state, including the attorney general, and agencies of other states, interstate information

networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions;

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education; or

(30) child support data on the child, the parents, and relatives of the child may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act, as authorized by federal law.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but are not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 2. Minnesota Statutes 2014, section 246.511, is amended to read:

246.511 RELATIVE RESPONSIBILITY.

Except for chemical dependency services paid for with funds provided under chapter 254B, a client's relatives shall not, pursuant to the commissioner's authority under section 246.51, be ordered to pay more than the following: (1) for services provided in a community-based service, the noncovered cost of care as determined under the ability to pay determination; and (2) for services provided at a regional treatment center operated by state-operated services, 20 percent of the cost of care, unless they reside outside the state. Parents of children in state facilities shall have their responsibility to pay determined according to section 252.27, subdivision 2 2a, or in rules adopted under chapter 254B if the cost of care is paid under chapter 254B. The commissioner may accept voluntary payments in excess of 20 percent. The commissioner may require full payment of the full per capita cost of care in state facilities for clients whose parent, parents, spouse, guardian, or conservator do not reside in Minnesota.

Sec. 3. Minnesota Statutes 2014, section 252.27, subdivision 1, is amended to read:

Subdivision 1. **County of financial responsibility.** Whenever any child who has a developmental disability, or a physical disability or emotional disturbance is in 24-hour care outside the home including respite care, in a facility licensed by the commissioner of human services, the cost of services shall be: (1) paid by the county of financial responsibility determined pursuant to chapter 256G; (2) covered by medical assistance if the child is eligible; or (3) covered by other health coverage. If the child's parents or guardians do not reside in this state, the cost shall be paid by the responsible governmental agency in the state from which the child came, by the parents or guardians of the child if they are financially able, or, if no other payment source is available, by the commissioner of human services.

Sec. 4. Minnesota Statutes 2014, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. **Contribution amount.** (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute to the cost of services used by ~~making monthly payments on a sliding scale based on income, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to chapter 259A or through title IV-E of the Social Security Act.~~ The parental contribution is ~~a partial or full payment for medical services provided for diagnostic, therapeutic, curing, treating, mitigating, rehabilitation, maintenance, and personal care services as defined in United States Code, title 26, section 213, needed by the child with a chronic illness or disability~~ maintaining health coverage for the child as required by the Affordable Care Act.

~~(b) For households with adjusted gross income equal to or greater than 275 percent of federal poverty guidelines, the parental contribution shall be computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents:~~

~~(1) if the adjusted gross income is equal to or greater than 275 percent of federal poverty guidelines and less than or equal to 545 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at 2.48 percent of adjusted gross income at 275 percent of federal poverty guidelines and increases to 6.75 percent of adjusted gross income for those with adjusted gross income up to 545 percent of federal poverty guidelines;~~

~~(2) if the adjusted gross income is greater than 545 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be 6.75 percent of adjusted gross income;~~

~~(3) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than 975 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at 6.75 percent of adjusted gross income at 675 percent of federal poverty guidelines and increases to nine percent of adjusted gross income for those with adjusted gross income up to 975 percent of federal poverty guidelines; and~~

~~(4) if the adjusted gross income is equal to or greater than 975 percent of federal poverty guidelines, the parental contribution shall be 11.25 percent of adjusted gross income.~~

~~If the child lives with the parent, the annual adjusted gross income is reduced by \$2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.~~

~~(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.~~

~~(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form,~~

except, effective retroactive to July 1, 2003, taxable capital gains to the extent the funds have been used to purchase a home shall not be counted as income.

(e) (b) The contribution responsibility to maintain health coverage for the child shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted. All reimbursements must include a notice that the amount reimbursed may be taxable income if the parent paid for the parent's fees through an employer's health care flexible spending account under the Internal Revenue Code, section 125, and that the parent is responsible for paying the taxes owed on the amount reimbursed parents shall provide documentation of the child's health coverage upon eligibility determination and annually thereafter.

(f) ~~The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.~~

(g) ~~Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a). An amount equal to the annual court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income of the parent making the payment prior to calculating the parental contribution under paragraph (b).~~

(h) ~~The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, "insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.~~

~~Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay~~

~~a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.~~

~~(i) The contribution under paragraph (b) shall be reduced by \$300 per fiscal year if, in the 12 months prior to July 1:~~

~~(1) the parent applied for insurance for the child;~~

~~(2) the insurer denied insurance;~~

~~(3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal; and~~

~~(4) as a result of the dispute, the insurer reversed its decision and granted insurance.~~

~~For purposes of this section, "insurance" has the meaning given in paragraph (h).~~

~~A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including, but not limited to, the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.~~

Sec. 5. Minnesota Statutes 2014, section 252.27, subdivision 3, is amended to read:

Subd. 3. **Civil actions.** If the parent fails to ~~make appropriate reimbursement as required in subdivisions 2a and 2b~~ provide evidence of the child's health coverage, including medical assistance, the attorney general, at the request of the commissioner, may institute or direct the appropriate county attorney to institute civil action to recover the required reimbursement.

Sec. 6. Minnesota Statutes 2014, section 270B.14, subdivision 1, is amended to read:

Subdivision 1. **Disclosure to commissioner of human services.** (a) On the request of the commissioner of human services, the commissioner shall disclose return information regarding taxes imposed by chapter 290, and claims for refunds under chapter 290A, to the extent provided in paragraph (b) and for the purposes set forth in paragraph (c).

(b) Data that may be disclosed are limited to data relating to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of child support.

(c) The commissioner of human services may request data only for the purposes of carrying out the child support enforcement program and to assist in the location of parents

who have, or appear to have, deserted their children. Data received may be used only as set forth in section 256.978.

(d) The commissioner shall provide the records and information necessary to administer the supplemental housing allowance to the commissioner of human services.

(e) At the request of the commissioner of human services, the commissioner of revenue shall electronically match the Social Security numbers and names of participants in the telephone assistance plan operated under sections 237.69 to 237.71, with those of property tax refund filers, and determine whether each participant's household income is within the eligibility standards for the telephone assistance plan.

(f) The commissioner may provide records and information collected under sections 295.50 to 295.59 to the commissioner of human services for purposes of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, Public Law 102-234. Upon the written agreement by the United States Department of Health and Human Services to maintain the confidentiality of the data, the commissioner may provide records and information collected under sections 295.50 to 295.59 to the Centers for Medicare and Medicaid Services section of the United States Department of Health and Human Services for purposes of meeting federal reporting requirements.

(g) The commissioner may provide records and information to the commissioner of human services as necessary to administer the early refund of refundable tax credits.

(h) The commissioner may disclose information to the commissioner of human services necessary to verify income for eligibility and premium payment under the MinnesotaCare program, under section 256L.05, subdivision 2.

(i) The commissioner may disclose information to the commissioner of human services necessary to verify whether applicants or recipients for the Minnesota family investment program, general assistance, food support, Minnesota supplemental aid program, and child care assistance have claimed refundable tax credits under chapter 290 and the property tax refund under chapter 290A, and the amounts of the credits.

~~(j) The commissioner may disclose information to the commissioner of human services necessary to verify income for purposes of calculating parental contribution amounts under section 252.27, subdivision 2a.~~

Sec. 7. **REPEALER.**

Minnesota Statutes 2014, section 252.27, subdivisions 2, 2b, 4a, 5, and 6, are repealed.

252.27 CHILDREN'S SERVICES; PARENTAL CONTRIBUTION.

Subd. 2. **Parental responsibility.** Responsibility of the parents for the cost of services shall be based upon ability to pay. The state agency shall adopt rules to determine responsibility of the parents for the cost of services when:

- (1) insurance or other health care benefits pay some but not all of the cost of services; and
- (2) no insurance or other health care benefits are available.

Subd. 2b. **Child's responsibility.** Responsibility of the child for the cost of care shall be up to the maximum amount of the total income and resources attributed to the child except for the clothing and personal needs allowance as provided in section 256B.35, subdivision 1. Reimbursement by the parents and child shall be made to the county making any payments for services. The county board may require payment of the full cost of caring for children whose parents or guardians do not reside in this state.

To the extent that a child described in subdivision 1 is eligible for benefits under chapter 62A, 62C, 62D, 62E, or 64B, the county is not liable for the cost of services.

Subd. 4a. **Order of payment.** If the parental contribution is for reimbursement for the cost of services to both the local agency and the medical assistance program, the local agency shall be reimbursed for its expenses first and the remainder must be deposited in the medical assistance account.

Subd. 5. **Determination; redetermination; notice.** A determination order and notice of parental fee shall be mailed to the parent at least annually, or more frequently as provided in Minnesota Rules, parts 9550.6220 to 9550.6229. The determination order and notice shall contain the following information:

- (1) the amount the parent is required to contribute;
- (2) notice of the right to a redetermination and appeal; and
- (3) the telephone number of the division at the Department of Human Services that is responsible for redeterminations.

Subd. 6. **Appeals.** A parent may appeal the determination or redetermination of an obligation to make a contribution under this section, according to section 256.045. The parent must make a request for a hearing in writing within 30 days of the date the determination or redetermination order is mailed, or within 90 days of such written notice if the parent shows good cause why the request was not submitted within the 30-day time limit. The commissioner must provide the parent with a written notice that acknowledges receipt of the request and notifies the parent of the date of the hearing. While the appeal is pending, the parent has the rights regarding making payment that are provided in Minnesota Rules, part 9550.6235. If the commissioner's determination or redetermination is affirmed, the parent shall, within 90 calendar days after the date an order is issued under section 256.045, subdivision 5, pay the total amount due from the effective date of the notice of determination or redetermination that was appealed by the parent. If the commissioner's order under this subdivision results in a decrease in the parental fee amount, any payments made by the parent that result in an overpayment shall be credited to the parent as provided in Minnesota Rules, part 9550.6235, subpart 3.